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SPECIAL INSPECTOR GENERAL FOR AFGHANISTAN RECONSTRUCTION

5 CFR Part 9301

Freedom of Information Act and Privacy Act Procedures

AGENCY: Special Inspector General for Afghanistan Reconstruction.

ACTION: Interim final rule.

SUMMARY: Notice is hereby given that the Special Inspector General for Afghanistan Reconstruction (SIGAR) proposes to amend its Privacy Act regulation exempting portions of an existing system of records from certain provisions of the Privacy Act of 1974, as amended. Certain portions of the Investigations Records, SIGAR–08, system of records contain criminal investigation records, investigatory material for law enforcement purposes, confidential source information and are proposed to be exempted under the Privacy Act.

DATES: This interim final rule is effective July 3, 2014. Written comments may be submitted by August 4, 2014.

ADDRESSES: Any persons interested in commenting on the proposed exemptions to SIGAR's system of records may do so by writing to Adam Weaver, Special Inspector General for Afghanistan Reconstruction, 2530 Crystal Drive, Arlington, VA 22202–3934. Comments will be made available for inspection up written request. SIGAR will make such comments available for public inspection in the Office of Privacy, Records, and Disclosure, 9th Floor, 1550 Crystal Drive, Arlington, VA 22202, on official business days between the hours of 9 a.m. and 5 p.m. Eastern time. You can make an appointment to inspect comments by telephoning (703) 545–6000. All comments, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Shamelle Tarver, Special Inspector General for Afghanistan Reconstruction, 2530 Crystal Drive, Arlington, VA 22202–3934, (703) 545–6046.

SUPPLEMENTARY INFORMATION: On January 28, 2008, the President signed into law the National Defense Authorization Act for Fiscal Year 2008 (Pub. L. 110–181), which created SIGAR. The Freedom of Information Act (FOIA), the Privacy Act of 1974, as amended (5 U.S.C. 522a) (PA), and certain portions of the Ethics in Government Act and Executive Order 12958, as amended, provide for access by the public to records of executive branch agencies, subject to certain restrictions and exemptions. In order to establish procedures to facilitate public interaction with SIGAR, 5 CFR part 9301 sets forth the SIGAR's regulations implementing the access provisions of those statutes and the Executive Order. The modification to the system, Investigations Records, SIGAR–08, will support the vetting of directors, officers, or other employees of organizations who apply for U.S. Government contracts, grants, cooperative agreements, or other funding. The information collected from these organizations and individuals is specifically used to conduct screening to ensure that U.S. Government funds are not used to provide support to entities or individuals deemed to be a risk to U.S. national security interests. The records may contain criminal investigation records, investigatory material for law enforcement purposes, and confidential source information. SIGAR proposes to amend 5 CFR part 9301 to exempt portions of the Investigations Records system of records from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G), (H), and (I), (e)(5) and (8), (f), (g), and (h) of the Privacy Act of 1974, as amended (5 U.S.C. 552a), pursuant to 5 U.S.C. 552a (j)(2) and from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5).

II. The Interim Final Rule

This interim final rule establishes exemptions to SIGAR's existing regulations implementing the provisions of the FOIA (5 U.S.C. 552) and the PA. The provisions of this subpart shall apply to all components of SIGAR. The FOIA provides for the disclosure of agency records and information to the public, unless that information is exempted under delineated statutory exemptions under the FOIA. The Privacy Act serves to safeguard public interest in informational privacy by delineating the duties and responsibilities of federal agencies that collect, store, and disseminate personal information about individuals. The procedures established here are intended to ensure that SIGAR fully satisfies its responsibility to the public to disclose agency information while simultaneously safeguarding individual privacy.

The Privacy Act serves to balance the Government's need to maintain information about individuals with the rights of individuals to be protected against unwarranted invasions of their privacy stemming from federal agencies' collection, maintenance, use, and disclosure of personal information about them. Agencies are required to issue regulations outlining the agency's rules and procedures for implementation of the Privacy Act and its provisions within the agency. This includes procedures on how individuals may request access to information about themselves, request amendment or correction of those records, and request an accounting of disclosures of their records by SIGAR.

Procedural Requirements

This Interim Final rule amends SIGAR's implementing the FOIA and the Privacy Act to facilitate the interaction of the public with SIGAR. SIGAR's policy of disclosure follows the Presidential Memorandum of January 21, 2009, ''Transparency and Openness,'' 74 FR 4685, and the Attorney General's March 19, 2009 FOIA policy guidance, advising Federal agencies to apply a presumption of disclosure in FOIA decision making. This Interim Final Rule parallels the procedures currently used by other agencies to implement the FOIA and the Privacy Act. SIGAR has determined that good cause exists to publish this amendment to its FOIA and Privacy Act regulations as an interim final rule. This amendment clarifies exemptions regarding the public's access to

information about SIGAR and about themselves maintained by SIGAR. The absence of well-defined exemptions to the Privacy Act regulations could impair the confidentiality and privacy rights of those who submit sensitive information to SIGAR as well as the ability of SIGAR to use that information to carry out its statutory mission. SIGAR has determined that this interim rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

Finally, notice of proposed rulemaking is not required, because the provisions of the Regulatory Flexibility Act (5 U.S.C. Chapter 6) do not apply. It has been determined that this rulemaking is not a significant regulatory action for the purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

Dated: June 6, 2014.

John F. Sopko,

Inspector General.

List of Subjects in 5 CFR Part 9301

Administrative practice and procedure, Freedom of information, Privacy.

Authority and Issuance

For the reasons set forth above, SIGAR amends 5 CFR part 9301 as follows:

PART 9301—[AMENDED]

■ 1. The authority citation for part 9301 continues to read as follows:

Authority: 5 U.S.C. 552; Pub. L. 110–175, 121 Stat. 2524 (2007); 5 U.S.C. 301 and 552; Exec. Order 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; Exec. Order No. 13392, 70 FR 75373–75377, 3 CFR, 2006 Comp., pp. 216–200.

■ 2. Section 9301.20 is added to read as follows:

§ 9301.20 Exemptions.

Systems of records maintained by SIGAR are authorized to be exempted from certain provisions of the Privacy Act under the general and specific exemptions set forth in the Act. In utilizing these exemptions, SIGAR is exempting only those portions of systems that are necessary for the proper functioning of SIGAR and that are consistent with the Privacy Act. Where compliance would not appear to interfere with or adversely affect the law enforcement process, and/or where it may be appropriate to permit individuals to contest the accuracy of the information collected, *e.g.,* public source materials, the applicable exemption may be waived, either partially or totally, by SIGAR, in the sole discretion of SIGAR, as appropriate.

(a) *General exemptions.* (1) Individuals may not have access to records maintained by SIGAR that were provided by another agency that has determined by regulation that such information is subject to general exemption under 5 U.S.C. 552a(j)(1). If such exempt records are the subject of an access request, SIGAR will advise the requester of their existence and of the name and address of the source agency, unless that information is itself exempt from disclosure.

(2) The systems of records maintained by the Investigations Directorate (SIGAR–08), are subject to general exemption under 5 U.S.C. 552a(j)(2). All records contained in record system SIGAR–08, Investigations Records, are exempt from all provisions of the Privacy Act except sections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) to the extent to which they meet the criteria of section (j)(2). These exemptions are necessary to ensure the effectiveness of the investigative, judicial, and protective processes. These exemptions are necessary to ensure the proper functions of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to prevent interference with the enforcement of criminal laws, to avoid the disclosure of investigative techniques, to avoid the endangering of the life and safety of any individual, to avoid premature disclosure of the knowledge of potential criminal activity and the evidentiary bases of possible enforcement actions, and to maintain the integrity of the law enforcement process.

(3) The systems of records maintained by the Investigations Directorate (SIGAR–08) are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) pursuant to the provisions of 5 U.S.C. 552a(k)(1), (2), and (5). These exemptions are necessary to protect material required to be kept secret in the interest of national defense and foreign policy; to prevent individuals that are the subject of investigation from frustrating the investigatory process; to ensure the proper functioning and integrity of law enforcement activities; to prevent disclosure of investigative techniques; to maintain the confidence of foreign governments in the integrity of the procedures under which privileged or confidential information may be provided; to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources and law enforcement personnel; and to ensure the proper functioning of the investigatory process, to ensure effective determination of suitability, eligibility, and qualification for employment and to protect the confidentiality of sources of information.

(b) [Reserved]

[FR Doc. 2014–14194 Filed 7–2–14; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 906

[Doc. No. AMS–FV–14–0015; FV14–906–2 FIR]

Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Change in Size and Grade Requirements for Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that relaxed the minimum size and grade requirements prescribed for grapefruit under the marketing order for oranges and grapefruit grown the Lower Rio Grande Valley in Texas (order). The interim rule relaxed the minimum size requirement for grapefruit from 3–5/16 inches to 3 inches in diameter and reduced the minimum grade requirement for small-sized grapefruit. This rule provides additional grapefruit to meet market demand, helping to maximize fresh shipments.

DATES: Effective July 7, 2014.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or Email: *Doris.Jamieson@ams.usda.gov* or *Christian.Nissen@ams.usda.gov*.

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

2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 906, as amended (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

The handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas is regulated by 7 CFR part 906. Prior to this change, the minimum size requirement for grapefruit was 3–5/16 inches in diameter (size 56) and size 56 fruit had to meet a minimum grade of a U.S. No. 1. The Texas Valley Citrus Committee (Committee) believes there is a shortage of fruit available to supply the fresh fruit market, which the Texas citrus growers and handlers should fill. The Committee also recognized that consumers are now showing a preference for smaller-sized fruit. The Committee believes relaxing the requirements makes more fruit available to fill the market shortfall and provides smaller-sized fruit to meet consumer demand. Therefore, this rule continues in effect the rule that relaxed the minimum size requirement for grapefruit from 3–5/16 inches (size 56) to 3 inches (size 64) in diameter and relaxed the minimum grade for a size 56, establishing a minimum grade of ''Texas Choice'' for both size 56 and size 64 grapefruit.

In an interim rule published in the **Federal Register** on February 28, 2014, and effective March 1, 2014, (79 FR 11295, Doc. No. AMS–FV–14–0015, FV14–906–2 IR), § 906.356 was amended by changing the minimum size requirement for grapefruit from 3–5/16 inches (size 56) to 3 inches (size 64) in diameter. Section 906.340 was also revised by adding size 64 to the available pack sizes for grapefruit listed under Table II, and by adding language concerning pack and sizing requirements as appropriate. In addition, this rule changed the minimum grade requirement for size 56 fruit from a U.S. No. 1 to a ''Texas Choice'' and established the minimum grade for a size 64 as a ''Texas Choice.''

Final Regulatory Flexibility Analysis

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

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

There are 13 registered handlers of Texas citrus who are subject to regulation under the marketing order and approximately 150 producers of grapefruit in the regulated area. Small agricultural service firms, which include handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

According to National Agricultural Statistics Service data, the average f.o.b. price for Texas grapefruit during the 2012–13 season was $24.10 per box, and total fresh shipments were approximately 3 million boxes. Using the average f.o.b. price and shipment data, and considering a normal distribution, the majority of Texas grapefruit handlers could be considered small businesses under SBA's definition. In addition, based on production data, grower prices, and the total number of Texas citrus growers, the average annual grower revenue is below $750,000. Thus, the majority of handlers and producers of grapefruit may be classified as small entities.

This rule continues in effect the action that relaxed the size and grade requirements for grapefruit prescribed under the order. This rule relaxes the minimum size requirement for grapefruit from 3 5/16 inches (size 56) to 3 inches (size 64). This action also relaxes the minimum grade requirement for size 56 fruit from a U.S. No. 1 to a ''Texas Choice'' and establishes the minimum grade for size 64 as a ''Texas Choice.'' These changes make additional fruit available for shipment to the fresh market, maximize shipments, provide additional returns to handlers and growers, and respond to consumer demand for small-sized fruit. This rule amends the provisions in §§ 906.340 and 906.356. Authority for these changes is provided in § 906.40.

This action is not expected to increase costs associated with the order's requirements. Rather, it is anticipated that this action will have a beneficial impact. Reducing size and grade requirements makes additional fruit available for shipment to the fresh market. The Committee believes that this provides additional fruit to fill a shortage in the fresh market and provides the opportunity to fulfill a growing consumer demand for smaller sized fruit. This action also provides an outlet for fruit that may otherwise go unharvested, maximizing fresh shipments and increasing returns to handlers and growers. The benefits of this rule are expected to be equally available to all fresh grapefruit growers and handlers, regardless of their size.

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

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

Further, the Committee's meeting was widely publicized throughout the Texas citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the December 11, 2013, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before April 29, 2014. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: *http://www.regulations.gov/#!documentDetail;D=AMS-FV-14-0015-0001*.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (79 FR 11295, February 28, 2014) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements.

Accordingly, the interim rule that amended 7 CFR part 906 and was published at 79 FR 11295 on February 28, 2014, is adopted as a final rule, without change.

Dated: June 27, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–15594 Filed 7–2–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Doc. No. AMS–FV–12–0068; FV13–983–1 FR]

Pistachios Grown in California, Arizona, and New Mexico; Modification of Aflatoxin Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the aflatoxin sampling regulations currently prescribed under the California, Arizona, and New Mexico pistachio marketing order (order). The order regulates the handling of pistachios grown in California, Arizona, and New Mexico, and is administered locally by the Administrative Committee for Pistachios (Committee). This rule allows the use of mechanical samplers (auto-samplers) for in-line sampling as a method to obtain samples for aflatoxin analysis. The use of auto-samplers is expected to reduce handler costs by providing a more efficient and cost-effective process.

DATES: *Effective Date:* August 4, 2014.

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

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 983, both as amended (7 CFR part 983), regulating the handling of pistachios grown in California, Arizona, and New Mexico, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13175, and 13563.

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

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

This final rule revises the aflatoxin sampling regulations currently prescribed under the order. This rule allows the use of mechanical samplers (auto-samplers) as an additional method to obtain lot samples for aflatoxin analysis. All auto-samplers will need to be approved by and be subject to procedures and requirements established by the USDA Federal-State Inspection Service prior to their use. This rule will be in effect indefinitely until amended, suspended, or terminated, and was unanimously recommended by the Committee at its meeting held on August 19, 2013.

Section 983.50 of the order provides authority for aflatoxin regulations that establish aflatoxin sampling, analysis, and inspection requirements applicable to pistachios to be shipped for human consumption in domestic and export markets. Aflatoxin regulations are currently in effect for pistachios shipped to domestic markets.

Section 983.150 of the order's rules and regulations contains specific requirements regarding sampling and testing of pistachios for aflatoxin. Paragraph (d)(1) of that section provides that a sample shall be drawn from each lot of pistachios and such samples shall meet specific weight requirements according to the size of the lot.

The current method of collecting samples of pistachios to be tested requires hand sampling of static lots by, or under the supervision of, an inspector of the Federal-State Inspection Service (inspector). This process requires handler personnel to stage the lots to be sampled, which requires moving large containers around with a forklift. This process utilizes a considerable amount of time and warehouse space. Inspectors are then required to manually conduct the sampling by drawing samples from the containers, which is very labor intensive. Once the lot sample is collected, the inspector prepares test samples for aflatoxin analysis.

Since the order's promulgation in 2004, the volume of open inshell pistachios processed annually has increased significantly, from 165 million pounds to 385 million pounds in the 2012–13 production year. This change in volume has significantly increased the amount of warehouse space and handler labor needed to stage lots for sampling. It has also driven up the total labor costs associated with sampling, as the number of lots to be sampled has increased significantly.

With the implementation of this rule, handlers will have the option of using mechanized sampling instead of manual sampling. Automatic samplers in handlers' processing facilities will mechanically draw samples of pistachios as they are being processed. This will make the sampling process more efficient by eliminating the extra warehouse space and handler labor needed for staging static lots for sampling. In addition, the labor costs of manual sampling will be eliminated, further reducing handler costs. A discussion of the costs is included in the Final Regulatory Flexibility Analysis section of this document.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural

Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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

There are approximately 20 handlers of California, Arizona, and New Mexico pistachios subject to regulation under the order and approximately 1,040 pistachio producers in the regulated area. Small agricultural service firms are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

Currently, about 70 percent of handlers ship less than $7,000,000 worth of pistachios on an annual basis and would be considered small businesses under the SBA definition. Data provided by the Committee regarding the 2013 crop indicates that approximately 80 percent of producers delivered less than 300,000 pounds of assessable dry weight pistachios. Using an estimated price of $2.50 per pound of pistachios, this would equate to less than $750,000 in receipts; thus, 80 percent of producers would be considered small businesses according to the SBA definition.

This final rule modifies the aflatoxin sampling regulations currently prescribed under § 983.150(d) of the order's rules and regulations. This rule allows the use of auto-samplers as a method to obtain samples for aflatoxin analysis. Previously, only manual hand-drawn sampling from static lots was permitted. Allowing the use of auto-samplers for in-line sampling will streamline the sampling process for pistachios. It is expected to make the sampling process more efficient by eliminating the time and space needed for staging and inspecting static lots, reducing the amount of labor, and therefore reducing handler costs. Authority for this action is provided in § 983.50 of the order.

The Committee estimates the current method of sampling to range in cost from $135 to $170 per lot. This expense includes the warehouse space and employee labor needed to stage a lot for inspection and the costs of the inspection. The initial expense of purchasing an auto-sampler ranges from as low as $1,000 to as high as $5,000. The cost of collecting samples with the auto-sampler is estimated at about $5 per lot, which is significantly lower than the static lot sampling method, which ranges from $135 to $170 per lot.

The following example is used to illustrate potential savings for a handler that processes 3,000,000 pounds of pistachios per year. Assuming a lot size of 50,000 pounds, this handler would require inspection on 60 lots of pistachios (3,000,000 / 50,000). Under the current manual sampling method, this would result in a total sampling cost of $8,100 (60 × $135). If this handler purchased an automatic sampler for $5,000, the total sampling cost (including equipment) would be $5,300 ($5,000 + $5 cost per lot to pull the samples). Thus, in this example the handler would save $2,800 in the first year of operation. After the first year, the savings would increase because there would be no additional equipment cost. Applying this on an industry-wide basis, the aggregate cost savings could be significant, considering recent shipment levels have exceeded 300,000,000 pounds of pistachios.

Based on these cost estimates and the example provided, use of automatic samplers can provide a significant cost saving to the industry. The potential cost savings for individual handlers will vary, depending on the size and structure of their operation. Each handler will need to evaluate their operation to determine which method of sampling best fits their needs. This rule will provide an additional option for sampling that does not currently exist for handlers.

The Committee discussed alternatives to this change, including continuing to operate under the current aflatoxin sampling procedures. However, the Committee unanimously agreed that adding the option to use mechanical sampling equipment will provide handlers with a more efficient and cost-effective sampling alternative to the manual sampling process.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0215, Pistachios Grown in California, Arizona, and New Mexico. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule modifies aflatoxin sampling regulations currently prescribed under the California, Arizona, and New Mexico pistachio marketing order. Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large pistachios handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

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

In addition, the Committee's meeting was widely publicized throughout the pistachio industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 19, 2013, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on March 18, 2014 (79 FR 15050). Copies of the rule were emailed to all Committee members and pistachio handlers. Finally, the rule was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending April 17, 2014, was provided to allow interested persons to respond to the proposal. One comment was received after the designated comment period closed. Accordingly, no changes were made to the rule as proposed.

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

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

List of Subjects in 7 CFR Part 983

Marketing agreements and orders, Pistachios, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 983 is amended as follows:

PART 983–PISTACHIOS GROWN IN CALIFORNIA, ARIZONA, AND NEW MEXICO

■ 1. The authority citation for 7 CFR part 983 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 983.150 is amended by revising paragraph (d)(1) to read as follows:

§ 983.150 Aflatoxin regulations.

* * * * *

(d)* * *

(1) *Samples for testing.* Prior to testing, each handler shall cause a representative sample to be drawn from each lot (''lot samples'') of sufficient weight to comply with Tables 1 and 2 of this section.

(i) At premises with mechanical sampling equipment (auto-samplers) approved by the USDA Federal-State Inspection Service, samples shall be drawn by the handler in a manner acceptable to the Committee and the USDA Federal-State Inspection Service.

(ii) At premises without mechanical sampling equipment, sampling shall be conducted by or under the supervision of an inspector, or as approved under an alternative USDA-recognized inspection program.

* * * * *

Dated: June 27, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–15596 Filed 7–2–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS–FV–13–0088; FV14–985–2 FR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of Administrative Rules and Regulations Governing Issuance of Additional Allotment Base

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the procedure currently prescribed for issuing additional allotment base for Class 1 (Scotch) and Class 3 (Native) spearmint oil to new and existing producers under the Far West spearmint oil marketing order (order). The order regulates the handling of spearmint oil produced in the Far West and is administered locally by the Spearmint Oil Administrative Committee (Committee). This action reduces the number of new producers that are issued additional allotment bases each year from three to two for each class of oil; temporarily changes the method by which additional allotment base is allocated to existing producers to take into account small production operations; and amends the requirements for eligibility, retention, and transfer of additional allotment base issued to new and existing producers. Revising the procedure for issuing additional allotment base will help to ensure that new and existing spearmint oil producers have sufficient allotment base to be economically viable in the future.

DATES: *Effective Date:* July 7, 2014.

FOR FURTHER INFORMATION CONTACT: Manuel Michel or Gary D. Olson, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Manuel.Michel@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 985 (7 CFR part 985), as amended, regulating the handling of spearmint oil produced in the Far West (Washington, Idaho, Oregon, and designated parts of Nevada and Utah), hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

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

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

This final rule revises the procedure currently prescribed for issuing additional allotment base for Class 1 (Scotch) and Class 3 (Native) spearmint oil to new and existing producers under the order's volume control provisions. This rule: (1) Reduces the number of allocations of additional allotment base issued to new producers each year from three to two for each class of oil; (2) temporarily changes the method by which additional allotment base is issued to existing producers to take into account producers whose total allotment base is below the size of the minimum economic enterprise (MEE) required to produce each class of spearmint oil; (3) provides that additional allotment base issued to existing producers under the revised procedure cannot be used to replace allotment base that has been previously transferred away; and (4) provides that additional allotment base issued under the revised procedure cannot be transferred to another producer for at least five years following issuance. This rule was recommended unanimously by the Committee at a meeting on November 6, 2013.

Under the order, volume control measures are authorized to regulate the marketing of spearmint oil. Regulation is currently effectuated through the issuance of allotment bases to producers, the establishment of annual salable quantities and allotment percentages, and the reserve pooling of excess production. Allotment base is each producer's quantified share of the spearmint oil market based on a statistical representation of past spearmint oil production, with accommodation for reasonable and normal adjustments to such base. The

order's provisions allow for the regulation of spearmint oil volume available to the market. The objective of regulation is to establish orderly marketing conditions for spearmint oil and to ensure that there is sufficient spearmint oil supply available to meet market requirements. Since the program's inception, volume regulation has been instrumental in promoting market and price stability within the industry.

The order contains provisions to ensure that there is orderly market expansion and that new producers are able to produce and market spearmint oil. Section 985.53(d)(1) of the order requires the Committee to annually make additional allotment bases available for each class of oil in the amount of no more than 1 percent of the total allotment base for that class of oil. Fifty percent of these additional allotment bases shall be made available to new producers and 50 percent made available to existing producers.

Section 985.53(d)(3) requires the Committee, with the approval of the Secretary, to establish rules and regulations to be used for determining the distribution of additional allotment bases. In 1982, these rules and regulations were established and have been subsequently revised on several occasions, most recently in 2003. Each time a revision is made, the Committee considers several important factors which include; the size of the MEE required for spearmint oil production, the applicant's ability to produce spearmint oil, the area where the spearmint oil will be produced, and other economic and marketing factors that have a direct impact on spearmint oil producers. The Committee reviews regularly and updates as needed, the size of the MEE required for spearmint oil production. Under the order, MEE is the minimum size of production operation that the Committee has determined to be economically viable for each class of spearmint oil. Between 1982 and 1997, the Committee revised the MEE for Scotch spearmint oil production three times and Native spearmint oil production four times. As a result, the MEE increased from 1,200 pounds to 3,000 pounds for Scotch spearmint oil, and from 1,800 pounds to 3,400 pounds for Native spearmint oil.

Section 985.153(c)(1) of the order's administrative rules and regulations prescribes the method by which additional allotment base is issued to new producers. In addition, § 985.153(c)(2) prescribes the procedure by which additional allotment base is issued to existing producers. Lastly, § 985.153(d) specifies certain requirements for spearmint oil producers who are issued additional allotment base pursuant to § 985.153(c)(1) and (c)(2).

The Committee met on November 6, 2013, to consider the procedures for issuing additional allotment base to new and existing producers and to make recommendations regarding the revision of those procedures. As required by § 985.153(c)(1)(ii), the Committee first considered the size of the MEE required to produce each class of spearmint oil. The Committee determined that the MEE levels for both classes of spearmint oil were no longer representative and needed to be revised. The Committee recognized that, as production and cultural practices for spearmint oil have continued to change and production costs per acre have increased, the Committee's previously established MEE levels are too low and should be revised. As such, the Committee concluded that the MEE thresholds had increased to 5,121 pounds for Scotch spearmint oil and 5,812 pounds for Native spearmint oil.

As a result of the Committee's determination that the MEE thresholds have increased, and given the quantity of additional allotment base available to new producers each year (½ of 1 percent of the total allotment base for each class of oil), the additional allotment base issued each year is only enough for two new producers, instead of three for each class of oil.

The Committee's initial calculation of the total allotment base of Scotch spearmint oil during the 2014–2015 marketing year is approximately 2,089,146 pounds. One half of one percent of this amount is 10,445 pounds. With the MEE for Scotch spearmint oil determined to be 5,121 pounds, issuing allotment base to two new producers will require 10,242 pounds, which is within the amount of additional allotment base that will be available for the year.

Likewise, the Committee's initial calculation of the total allotment base of Native spearmint oil during the 2014–2015 marketing year is approximately 2,371,350 pounds. One half of one percent of this amount is 11,856 pounds. With the MEE for Native spearmint oil determined to be 5,812 pounds, issuing allotment base to two new producers will require 11,624 pounds, which is within the amount of additional allotment base that will be available for the year.

Based on the above information, the Committee unanimously recommended reducing the number of new producers that are issued additional allotment base each year from three to two for each class of oil. The Committee also recommended that the additional allotment base issued to new producers not be transferrable for at least five years following issuance. The current retention period prior to transferability is two years. New producers issued additional allotment base under this rule will continue to be required to submit evidence of an ability to produce and sell oil from such allotment base in the first marketing year following issuance of such base.

The Committee also gave consideration to existing producers with regards to the size of the MEE required to produce spearmint oil and the allocation of additional allotment base. After analyzing the Committee's records, the Committee found that some existing producers hold allotment bases that are below the revised MEE levels. As a result, the Committee unanimously recommended that the additional allotment base that is made available each year to existing producers be temporarily allocated first to those eligible producers who hold allotment bases that are less than the MEE threshold in order to bring their total up to that level.

Under this final rule, existing Scotch spearmint oil producers whose allotment bases are less than 5,121 pounds as of October 17, 2012, who apply and who have the ability to produce additional quantities of spearmint oil, will be issued sufficient additional allotment base to bring them up to the MEE threshold over a three-year period extending through the 2016–2017 marketing year. In addition, existing Native spearmint oil producers who hold allotment bases of less than 5,812 pounds as of October 17, 2012, who apply and who have the ability to produce additional quantities of spearmint oil, will be issued sufficient additional allotment base to bring them up to the MEE threshold over a four-year period extending through the 2017–2018 marketing year.

The Committee estimates there will be 21 producers of Scotch spearmint oil and 30 producers of Native spearmint oil eligible for additional allotment base under this final rule. It is expected that eligible existing producers of both Scotch and Native spearmint oil will apply for the full amount of additional allotment base made available to them. If there is any unallocated additional allotment base remaining for either Scotch spearmint oil during the 2016–2017 marketing year, or Native spearmint oil during the 2017–2018 marketing year, such amount will be distributed on a prorated basis among

all existing producers of each respective class of spearmint oil.

The Committee also recommended that additional allotment base issued to producers under the revised procedure not be used to replace allotment base that has been previously transferred away by that producer and that additional allotment base issued under the revised procedure not be transferrable for at least five years following issuance.

Since the establishment of the order, one of the Committee's primary objectives has been to help ensure that all spearmint oil producers are economically viable, as evidenced by holding allotment bases that are above the minimum economic threshold required for spearmint oil production. The Committee has worked to meet this objective by regularly determining the size of the MEE and issuing additional allotment base accordingly. Specifically, the Committee has raised the quantity of allotment base issued to new producers and increased the allotment bases of those existing producers who hold allotment bases that are below the levels that comprise the minimum economic threshold required for spearmint oil production.

Another Committee objective has been to issue as many additional allotment bases as possible to new producers, at levels considered economically viable to each recipient. However, since the order limits the amount of additional allotment base issued to new producers, and because the size of the MEE required for spearmint oil production must be considered, the Committee has found it necessary to limit the number of new producers that are issued additional allotment base each year. Therefore, given the circumstances, the Committee believes the combination of these actions provides the best method available for optimizing the number of new producers that enter and remain in business, and also helps assure that there will continue to be a broad base of spearmint oil production.

The procedure for issuing additional allotment base to new and existing producers has been modified several times since the inception of the order. Between 1982 and 1991, the entire Far West spearmint oil production area was treated as a single region for the purpose of issuing additional allotment base to new producers. The Committee determined the size and number of economic enterprises of additional allotment base for each class of spearmint oil to be made available to new producers. The additional allotment bases were then issued to new producers drawn from the lot of eligible individuals who had requested additional allotment base.

In 1991, the order's administrative rules and regulations were modified through the rulemaking process to divide the production area into four regions for purposes of issuing additional allotment base to new producers. An equal number of allotment bases were issued to new producers in each region based on the amount of additional allotment base available and the MEE determined by the Committee. Based on the Committee's determinations, this effectively allowed one new producer annually from each of the four regions to be issued additional allotment base, for each class of spearmint oil.

Again in 1997, rulemaking action was taken to reorganize and reduce the number of regions within the Far West production area from four to three. This revision had the effect of reducing the number of new producers that were issued additional allotment bases each year from four to three for each class of spearmint oil. The Committee recommended the revision with the purpose of distributing additional allotment bases within the production area and to increase the size of allotment bases issued to new producers to correspond to the size of the MEE. The Committee had determined that the size of the MEE for spearmint oil production had increased to a point where there was insufficient additional allotment base to issue economically sufficient quantities of base to new producers in all four regions. By reorganizing and reducing the number of regions to three, there was adequate additional allotment base to issue base to three new producers of each class of spearmint oil. In reaching its recommendation, the Committee weighed the importance of issuing as many additional allotment bases as possible against the need to issue such bases at levels considered economically viable to each recipient.

In 2000, the three regions of the Far West production area were further reduced to two regions through the rulemaking process. However, the number of new producers issued additional allotment bases each year was maintained at three for each class of spearmint oil. As before, the Committee recommended the revision with the purpose of distributing additional allotment bases to new spearmint oil producers throughout the production area.

This final rule reduces the number of new producers issued additional allotment base each year from three to two for each class of spearmint oil and is consistent with previous rulemaking. The Committee's purpose, previously and now, is to ensure that a maximum number of eligible new producers are issued additional allotment bases each year at levels that are economically viable to produce each class of spearmint oil.

Consistent with actions taken in the past, the Committee made its recommendation after carefully considering information available from its management records, Federal and State government sources, and industry participants. The Committee also considered the size of the MEE required for the production of each class of spearmint oil, historical statistics relating to the locations of the producers applying for the annual additional allotment base, and other factors, such as number of producers in the regulated production area and the amount of allotment base held by such producers. Based on its review, the Committee believes that the revision effectuated by this final rule is the most effective option available in order to continue fulfilling the order's objectives.

Final Regulatory Flexibility Analysis

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

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

There are eight spearmint oil handlers subject to regulation under the order. In addition, there are approximately 36 producers of Scotch spearmint oil and approximately 91 producers of Native spearmint oil in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on the SBA's definition of small entities, the Committee estimates that two of the eight handlers regulated by the order could be considered small

entities. Most of the handlers are large corporations involved in the manufacture and trade of essential oils and the products of essential oils in the international market. In addition, the Committee estimates that 19 of the 36 Scotch spearmint oil producers and 29 of the 91 Native spearmint oil producers could be classified as small entities under the SBA definition. Thus, many handlers and producers of Far West spearmint oil may not be classified as small entities.

The Far West spearmint oil industry is characterized by producers whose farming operations generally involve more than one commodity, and whose income from farming operations is not exclusively dependent on the production of spearmint oil. A typical spearmint oil-producing operation has enough acreage for rotation such that the total acreage required to produce the crop is about one-third spearmint and two-thirds rotational crops. Thus, the typical spearmint oil producer has to have considerably more acreage than is planted with spearmint during any given season. Crop rotation is an essential cultural practice in the production of spearmint oil for purposes of weed, insect, and disease control. To remain economically viable with the added costs associated with spearmint oil production, a majority of spearmint oil-producing farms fall into the SBA category of large businesses.

Small spearmint oil producers generally are not as extensively diversified as larger ones and as such, are more at risk from market fluctuations. Such small producers generally need to market their entire annual allotment and do not have the luxury of having other crops to cushion seasons with poor spearmint oil returns. Conversely, large diversified producers have the potential to endure one or more seasons of poor spearmint oil markets because income from alternate crops could support the operation for a period of time. Being reasonably assured of a stable market and price provides small producing entities with the ability to maintain sufficient cash flow and to meet annual expenses. Thus, the market and price stability provided by the order potentially benefits small producers more than the large producers.

This final rule revises the procedure for issuing additional allotment base by reducing the number of additional allotment bases issued to new producers from three to two, for each class of spearmint oil. In addition, this rule increases the required retention period prior to transferability of additional allotment base issued to new producers from two years to five years following issuance.

This final rule also temporarily changes the procedures for the allocation of additional allotment base by class to take into account existing producers that are below the MEE threshold. This revision is intended to help existing small spearmint oil producers by increasing their individual allotment bases to a level that approximates the MEE required for spearmint oil production. The action will help ensure that small existing spearmint oil producers have sufficient allotment base to remain economically viable in the future. Also, this rule provides that additional allotment base issued to existing small producers cannot be used to replace allotment base which has been previously transferred away. Finally, this rule provides that additional allotment base issued under the revised procedure cannot be transferred for at least five years following issuance. The revised procedure by which additional allotment base is allocated to existing producers will be in effect temporarily through May 31, 2017, for Scotch spearmint oil, and May 31, 2018, for Native spearmint oil, or until all producers who are eligible and apply have received enough allotment base to bring them up to the respective MEE level for each class of oil. Authority for this action is provided in § 985.53(d)(3) of the order.

At the meeting on November 6, 2013, the Committee discussed the impact of the recommended revisions on handlers and producers in terms of costs and returns. Under the order, the Committee is responsible for determining how much MEE is required to produce each class of spearmint oil. The Committee determined the MEE size for the 2014–2015 and subsequent marketing years to be 5,121 pounds for Scotch spearmint oil and 5,812 pounds for Native spearmint oil. Taking this information into consideration, the Committee calculated that the number of new producers issued additional allotment bases each year would need to be reduced from three to two for each class of oil. While this action reduces the number of new producers issued additional allotment bases each year, each new producer will have a larger initial allotment base, thereby enhancing their long term economic viability in the spearmint oil industry.

Additionally, the Committee estimates there are 21 producers of Scotch spearmint oil whose allotment bases are below the MEE threshold and it will take a total of 21,913 pounds of additional allotment base to raise these producers' allotment bases up to the Scotch spearmint oil MEE threshold. Likewise, the Committee estimates there are 30 producers of Native spearmint oil whose allotment bases are below the MEE level and that it will take a total of 43,456 pounds of additional allotment base to raise these producers' allotment bases to the size of the MEE required to make Native spearmint oil.

While the amount of additional allotment base necessary to bring all spearmint oil producers' allotment bases up to the MEE threshold is a fraction of the total allotment base, the benefits of this final rule will be significant to these small producers, as it may contribute to their potential economic viability well into the future. Without this revision, small spearmint oil producers may have been at a greater risk of not being able to continue to produce spearmint oil. Therefore, the benefits of this rule are expected to be greater for small producers than for larger entities.

The Committee discussed several alternatives to the recommendations contained in this rule including not making any changes to the procedures as currently prescribed in the order. However, the Committee determined that not taking the MEE threshold into consideration when issuing additional base would have negatively impacted new and existing small producers. The Committee concluded that the most effective option was to revise the procedure for issuing additional allotment base in order to improve the economic viability of new and existing producers whose allotment bases are below the MEE threshold.

The Committee also considered alternative MEE thresholds before deciding on the levels that were most representative of the production economics for each class of spearmint oil. The Committee believes the size of the MEE determined for the production of each class of spearmint oil is accurate and appropriate given the information available.

In addition, the Committee considered the length of time that new and existing producers should be expected to hold onto additional allotment base issued under the revised procedure before such allotment base is able to be transferred to another producer. The Committee considered other retention periods other than the five year period recommended, including maintaining the two year retention period. However, it concluded that a five year retention requirement prior to transfer of additional allotment base issued under the revised procedure was a sufficient period for new and existing producers to demonstrate

viability in spearmint oil production and should not present an undue hardship on the producers being issued the additional allotment base.

In its deliberations, the Committee considered all available information, including its determination of the size of the MEE required for spearmint oil production, historical statistics relating to the locations of the producers applying for the annual additional allotment base, and other factors such as the number of producers in the regulated production area and the amount of allotment base held by such producers. Based on those determinations, the full eight-member Committee unanimously recommended revising the procedure for issuing additional allotment base to new and existing spearmint oil producers for each class of oil.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements is currently approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, Generic Vegetable and Specialty Crops. Upon publication of this final rule, a Justification of Change will be submitted to make minor modifications and updates to the appearance of two forms and adjust the burden, accordingly.

This final rule revises the procedure currently prescribed for issuing additional allotment base for Class 1 (Scotch) and Class 3 (Native) spearmint oil to new and existing producers under the Far West spearmint oil marketing order. Accordingly, this action will not impose any additional reporting or recordkeeping requirements on either small or large spearmint oil producers or handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant federal rules that duplicate, overlap or conflict with this final rule.

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

In addition, the Committee meetings were widely publicized throughout the spearmint oil industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the March 6, 2013, and the November 6, 2013, meetings were public meetings and all entities, both large and small, were able to express views on this issue.

A proposed rule concerning this action was published in the **Federal Register** on May 6, 2014 (79 FR 25710). A copy of the rule was provided to Committee staff, which in turn made it available to all Far West spearmint oil producers, handlers, and interested persons. Finally, the rule was made available through the internet by USDA and the Office of the Federal Register. A 15-day comment period ending May 21, 2014, was provided to allow interested persons to respond to the proposal. No comments were received.

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

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because applications for additional allotment base are made available in June and the drawing for new spearmint oil producers is held in August. In addition, existing producers need to be notified of the revision to the issuance of additional allotment base so they may plan their plantings accordingly. Further, producers are aware of this rule, which was recommended at a public meeting. Also, a 15-day comment period was provided for in the proposed rule and no comments were received.

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR Part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 985.153:

■ a. Redesignate paragraphs (c)(1)(ii) and (c)(2)(ii) as (c)(1)(iii) and (c)(2)(iv) respectively;

■ b. Add new paragraphs (c)(1)(ii), (c)(2)(ii) and (c)(2)(iii);

■ c. Revise newly redesignated paragraphs (c)(1)(iii) and (c)(2)(iv); and

■ Revise paragraph (d).

The additions and revisions read as follows:

§ 985.153 Issuance of additional allotment base to new and existing producers.

* * * * *

(c) * * *

(1) * * *

(ii) The Committee shall review all requests from new producers for additional allotment base made available pursuant to § 985.53(d)(1).

(iii) Each year, the Committee shall determine the size of the minimum economic enterprise required to produce each class of oil. The Committee shall thereafter calculate the number of new producers who will receive allotment base under this section for each class of oil. The Committee shall include that information in its announcements to new producers in each region informing them when to submit requests for allotment base. The Committee shall determine whether the new producers requesting additional base have the ability to produce spearmint oil. The names of all eligible new producers from each region shall be placed in separate lots per class of oil. For each class of oil, separate drawings shall be held from a list of all applicants from Region A and from a list of all applicants from Region B. If, in any marketing year, there are no requests for additional base in a class of oil from eligible new producers in a region, such unallocated additional allotment base shall be issued to an eligible new producer whose name is selected by drawing from a list containing the names of all remaining eligible new producers from the other region for that class of oil. The Committee shall immediately notify each new producer whose name was drawn and issue that producer an allotment base in the appropriate amount. Allotment base issued to new producers under this section shall not be transferred for at least five years following issuance.

(2) * * *

(ii) *Class 1 base.* With respect to the issuance of additional Class 1 allotment base to existing producers for the 2014–2015 through the 2016–2017 marketing years, existing producers with less than 5,121 pounds of allotment base as of October 17, 2012, who request additional allotment base and who have the ability to produce additional quantities of Class 1 spearmint oil, shall be issued additional allotment base sufficient to bring them up to a level not to exceed 5,121 pounds: *Provided,* That such additional Class 1 allotment base shall be allocated to eligible producers on a pro-rata basis from available additional Class 1 allotment base: *Provided further,* That additional allotment base shall not be issued to any person if such additional allotment base would replace all or part of an allotment base that such person has previously transferred to another producer. Additional allotment base in excess of the amount needed to bring eligible producers up to 5,121 pounds of Class 1 allotment base shall be distributed on a prorated basis among all existing producers who apply and who have the ability to produce additional quantities of spearmint oil.

(iii) *Class 3 base.* With respect to the issuance of additional Class 3 allotment base for existing producers for the 2014–2015 through the 2017–2018 marketing years, existing producers with less than 5,812 pounds of allotment base as of October 17, 2012, who request additional allotment base and who have the ability to produce additional quantities of Class 3 spearmint oil, shall be issued additional allotment base sufficient to bring them up to a level not to exceed 5,812 pounds: *Provided,* That such additional Class 3 allotment base shall be allocated to eligible producers on a pro-rata basis from available additional Class 3 allotment base: *Provided further,* That additional allotment base shall not be issued to any person if such additional allotment base would replace all or part of an allotment base that such person has previously transferred to another producer. Additional allotment base in excess of the amount needed to bring eligible producers up to 5,812 pounds of Class 3 allotment base shall be distributed on a prorated basis among all existing producers who apply and who have the ability to produce additional quantities of spearmint oil.

(iv) For each marketing year after 2016–2017 for Class 1 oil and 2017–2018 for Class 3 oil, each existing producer of a class of spearmint oil who requests additional allotment base, and who has the ability to produce additional quantities of that class of spearmint oil, shall be eligible to receive a share of the additional allotment base issued for that class of oil. Additional allotment base issued by the Committee for a class of oil shall be distributed on a prorated basis among the eligible producers for that class of oil. The Committee shall immediately notify each producer who is to receive additional allotment base by issuing that producer an allotment base in the appropriate amount. Allotment base issued to existing producers under this section shall not be transferred for at least two years following issuance, except that additional allotment base allocated pursuant to paragraph (c)(2)(ii) and (c)(2)(iii) of this section shall not be transferred for at least five years following issuance.

(d) The person receiving additional allotment base pursuant to this section shall submit to the Committee evidence of an ability to produce and sell oil from such allotment base in the first marketing year following issuance of such base.

Dated: June 27, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–15598 Filed 7–2–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2010–BT–TP–0010]

RIN 1904–AC21

Energy Conservation Program for Consumer Products: Test Procedures for Residential Furnaces Fans; Correction

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; technical correction.

SUMMARY: On January 3, 2014 the U.S. Department of Energy (DOE) published a final rule in the **Federal Register** that established the test procedure for residential furnace fans. Due to drafting errors, that document inadvertently removed necessary incorporation by reference material in the Code of Federal Regulations (CFR). This final rule rectifies this error by once again adding the removed material.

DATES: *Effective Date:* July 3, 2014.

The incorporation by reference of a certain standard listed in this rulemaking was approved by the Director of the Office of the Federal Register on October 4, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 586–7935. Email: *residential_furnace_fans@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. Email: *Eric.Stas@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 3, 2014, DOE's Office of Energy Efficiency and Renewable Energy published a test procedure final rule in the **Federal Register** titled, ''Test Procedures for Residential Furnace Fans'' (hereafter referred to as the ''January 2014 final rule''). 79 FR 500. Since the publication of that final rule, it has come to DOE's attention that, due to a technical oversight, the January 2014 final rule incorrectly deleted the incorporation by reference of ASHRAE 103–1993 within 10 CFR 430.3. The January 2014 final rule removed the existing reference to ASHRAE 103–1993 and inserted a reference to ASHRAE 103–2007; however, DOE intended to maintain the existing reference to ASHRAE 103–1993 (applicable to residential furnaces and boiler) while adding the incorporation by reference to ASHRAE 103–2007 (applicable to residential furnace fans). This final rule corrects this error by once again adding ASHRAE 103–1993 to the list of materials incorporated by reference at 10 CFR 430.3. This final rule also renumbers section 430.3 to account for the additional reference.

II. Need for Correction

As published, the identified provisions in 10 CFR 430.3 (which only reference ASHRAE 103–2007 and do not reference ASHRAE 103–1993) will likely cause confusion and may mislead interested parties regarding how to properly conduct testing under DOE's residential furnaces and boilers test procedure. The January 2014 final rule for furnace fans removed the incorporation by reference of ASHRAE 103–1993. However, the incorporation by reference of ASHRAE 103–1993 into the CFR remains required because that standard is referenced by Appendix N to subpart B of 10 CFR part 430, ''Uniform Test Method for Measuring the Energy

Consumption of Furnaces and Boilers.'' It was clearly not DOE's intention to change or eliminate reference materials for other products as part of the furnace fans rulemaking. At no place in the January 2014 final rule did DOE discuss such modifications. This final rule would simply incorporate once again into the CFR the intended and proper reference materials that were erroneously deleted without making substantive changes to any previously established provisions. Accordingly, DOE finds that there is good cause under 5 U.S.C. 553(b)(B) to not issue a separate notice to solicit public comment on the changes contained in this document. Issuing a separate document to solicit public comment would be impractical, unnecessary, and contrary to the public interest.

III. Procedural Requirements

DOE has concluded that the determinations made pursuant to the various procedural requirements applicable to the January 3, 2014 test procedure final rule for residential furnace fans remain unchanged for this final rule technical correction. These determinations are set forth in the January 3, 2014 final rule. 79 FR 500, 517–520.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on June 27, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE amends part 430 of Chapter II, subchapter D of title 10, Code of Federal Regulations as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.3 is amended by:

■ a. Redesignating paragraphs (f)(10) through (f)(11) as (f)(11) through (f)(12); and

■ b. Adding new paragraph (f)(10).

The addition reads as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(f) * * *

(10) ASHRAE Standard 103–1993, (''ASHRAE 103–1993''), Methods of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers, (with Errata of October 24, 1996) except for sections 3.0, 7.2.2.5, 8.6.1.1, 9.1.2.2, 9.5.1.1, 9.5.1.2.1, 9.5.1.2.2, 9.5.2.1, 9.7.1, 10.0, 11.2.12, 11.3.12, 11.4.12, 11.5.12 and appendices B and C, approved October 4, 1993, IBR approved for § 430.23 and appendix N to subpart B.

* * * * *

[FR Doc. 2014–15654 Filed 7–2–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 234 and 235

[Docket No. DOT–OST–2010–0211]

RIN 2105–AE07

Reports by Air Carriers on Incidents Involving Animals During Air Transport

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The Department of Transportation (DOT or Department) is issuing a final rule to amend the requirement for air carriers to report incidents involving the loss, injury, or death of an animal during air transport. The final rule will: Expand the reporting requirement to U.S. carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats; expand the definition of ''animal'' to include all cats and dogs transported by covered carriers, regardless of whether the cat or dog is transported as a pet by its owner or as part of a commercial shipment (e.g., shipped by a breeder); require covered carriers to file a calendar-year report in December, even if the carrier did not have any reportable incidents during the calendar year; require covered carriers to provide in their December reports the total number of animals that were lost, injured, or died during air transport in the calendar year; and require covered carriers to provide in their December reports the total number of animals transported in the calendar year.

DATES: This rule is effective January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Blane Workie, Tim Kelly, or Vinh Q. Nguyen, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, 202–366–9342 (phone), 202–366–7152 (fax), *blane.workie@dot.gov, tim.kelly@dot.gov,* or *vinh.nguyen@dot.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

1. Purpose of the Regulatory Action

The Department is issuing a final rule to amend the requirement for air carriers to report incidents involving the loss, injury, or death of an animal during air transport. The Department is taking action to provide consumers with a fuller picture of the safety record of airlines in the transportation of animals and to clarify which entities are subject to the reporting requirement (i.e., any U.S. air carriers that provide scheduled passenger air transportation or only reporting carriers), as well as which flights are covered (i.e., only domestic scheduled passenger flights or all scheduled passenger flights, including international flights). The legal authority for the Department's regulatory action is 49 U.S.C. 41721.

2. Summary of Regulatory Provisions

The final rule: (1) Expands the reporting requirement to U.S. carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats (''covered carriers''); (2) expands the definition of ''animal'' to any warm- or cold-blooded animal which, at the time of transportation, is being kept as a pet in a family household in the United States and any dog or cat which, at the time of transportation, is shipped as part of a commercial shipment on a scheduled passenger flight, including shipments by trainers and breeders; (3) requires covered carriers to file a calendar-year report for December, even if the carrier did not have any reportable incidents during the calendar year; (4) requires covered carriers to provide in their December reports the total number of animals that were lost, injured, or died during air transport in the calendar year; (5) requires covered carriers to provide in their December reports the total number of animals transported in the calendar year; and (6) requires covered carriers to provide in their December reports a certification signed by an authorized carrier representative affirming that the report is true, correct, and complete.

3. Summary of Regulatory Analysis

The quantifiable costs of this rulemaking exceed the quantifiable

benefits. The present value of monetized net benefits for a 20-year analysis period is estimated to be −$729,166 at a 7% discount rate. However, when unquantified costs and benefits are taken into account, we anticipate that the benefits of this final rule will justify the costs. Unquantifiable benefits of the final rule include providing consumers with a fuller picture of the safety record of airlines in the transportation of animals and producing opportunities for more comprehensive enforcement of the Animal Welfare Act (AWA), 7 U.S.C. 54, since the Department shares the reports involving animal incidents with the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS), the government entity that enforces the AWA.

Background

The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century or ''AIR–21'' (Pub. L. 106–181), which was signed into law on April 5, 2000, includes section 710, ''Reports by Carriers on Incidents Involving Animals During Air Transport.'' This provision was codified as 49 U.S.C. 41721. Section 41721 states than an air carrier that provides scheduled passenger air transportation shall submit monthly to the Secretary a report on any incidents involving the loss, injury, or death of an animal (as defined by the Secretary of Transportation) during air transport provided by the air carrier and that the Secretary of transportation shall publish data on incidents and complaints involving the loss, injury, or death of an animal during air transport in a manner comparable to other consumer complaint and incident data.

On August 11, 2003, DOT, through its Federal Aviation Administration (FAA), issued a final rule implementing section 710 of AIR–21. *See* 68 FR 47798. The rule required air carriers that provide scheduled passenger air transportation to submit a report to APHIS on any incident involving the loss, injury, or death of an animal during air transportation provided by the air carrier. Under the rule, the reports would then be shared with DOT, which would publish the data, as required by AIR–21, in a format similar to the manner in which it publishes data on consumer complaints and other incidents. However, issues arose regarding whether APHIS had the capability to accept such information directly from the carriers and pass it on to DOT. In order to resolve such issues, on February 14, 2005, DOT made a technical change in the rule to require reporting airlines to submit the required information directly to DOT's Aviation Consumer Protection Division (ACPD) rather than APHIS and to make the rule part of DOT's economic regulations. *See* 70 FR 7392. The rule was codified at 14 CFR 234.13.

Section 234.13 required air carriers that provide scheduled passenger air transportation to submit a report to the ACPD on any incidents involving the loss, injury, or death of an animal during air transportation within 15 days after the end of the month during which the incident occurred. It defined ''animal'' as any warm- or cold-blooded animal which, at the time of transportation, is being kept as a pet in a family household in the United States. The air transport of an animal covered the entire period during which an animal is in the custody of an air carrier, from check-in or delivery of the animal to the carrier prior to departure until the animal is returned to the owner or guardian of the animal at the final destination of the animal.[1] Section 234.13 also listed the information that is to be included in each report (e.g., carrier and flight number, date and time of the incident). However, because § 234.13 is contained in part 234 of Title 14 and that part applies only to the domestic scheduled passenger flights of carriers that account for at least 1 percent of domestic scheduled passenger revenue (''reporting carriers''), there was confusion regarding which entities are required to submit a report to the ACPD on incidents involving loss, injury, or death of an animal during air transportation as well as which flights are covered (i.e., only domestic scheduled passenger flights or all scheduled passenger flights, including international flights).

In August 2010, the Department received a petition for rulemaking on this matter from the Animal Legal Defense Fund (ALDF), an advocacy group which works to protect the lives and advance the interest of animals through the legal system. In its petition, ALDF requests that the Department's regulation requiring the reporting of loss, injury, or death of animals in air transport be revised to require airlines to report any such incident involving any animal they carry. It contends that the data that are currently collected by the Department capture only incidents affecting pets, even though pets make up only part of the total number of animals transported by airlines. The ALDF proposed that the rules should apply to all species of animals, not just cats and dogs. At about the same time, Senators Richard Durbin, Robert Menendez, and Joseph Lieberman wrote to the Secretary of Transportation urging the Department to amend the rule so that airlines would be required to report all incidents involving the loss, injury, or death of cats and dogs that occur while they are traveling in an airline's care, custody, or control, regardless of whether the cat or dog is being kept as a pet in a family household in the United States or is part of a commercial shipment.

On June 29, 2012, the Department published in the **Federal Register** a Notice of Proposed Rulemaking (NPRM) entitled ''Reports by Air Carriers on Incidents Involving Animals During Air Transport.'' *See* 77 FR 38747. The Department announced in the NPRM that it was proposing to amend the rule regarding the reporting of incidents involving animals during air transport. The Department sought comment on whether it should: (1) Expand the reporting requirement to U.S. carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats; (2) expand the definition of ''animal'' to include all cats and dogs transported by the carrier, regardless of whether the cat or dog is transported as a pet by its owner or as part of a commercial shipment (e.g., shipped by a breeder); (3) require covered carriers to provide in their December reports the total number of animals that were lost, injured, or died during air transport that year; and (4) require covered carriers to report the total number of animals transported in the calendar year in the December reports. We also solicited comments on whether covered carriers should be required to file negative reports if the carrier did not have any incidents involving the loss, injury, or death of an animal during a particular month or year—i.e., reporting ''0'' for any

[1] There are three categories for animals transported in scheduled passenger air transportation: ''unassigned in the cabin;'' ''accompanied baggage;'' and ''live cargo shipments.'' Animals categorized as ''unassigned in the cabin'' are usually small pets that remain with the owner in the cabin for the duration of the flight. Air carriers may allow a limited number of passengers per flight to transport their animals as ''unassigned in the cabin.'' Pursuant to 14 CFR part 382, service animals accompanying individuals with a disability are not included in this category. Animals categorized as ''accompanied baggage'' are pets traveling with passengers on the flight that are checked as baggage, remain in the custody of the air carrier for the duration of the flight, and are transported in the cargo compartment. Animals categorized as ''live cargo shipments'' are animals that are not associated with passengers on the flight and are transported in the cargo compartment. While ''accompanied baggage'' and ''live cargo shipments'' may or may not be in different areas of the cargo hold of an aircraft, the primary differences between these two categories are shipping procedures and price points.

reporting category where there were no such incidents.

The Department received 5,414 comments in response to the NPRM. Of these, two comments were from airlines, representing the views of Delta Air Lines (Delta) and Spirit Airlines (Spirit). Two airline associations, Airlines for America (A4A) and the Air Carrier Association of America (ACAA), submitted a joint comment. Six animal rights organizations each submitted a comment: the ALDF, the American Anti-Vivisection Society (AAVS), the Animal Welfare Institute (AWI), the American Society for the Prevention of Cruelty to Animals (ASPCA), People for the Ethical Treatment of Animals (PETA), and Where is Jack? Inc. We also received comments from two scientific research organizations: The Association of Zoos and Aquariums (AZA) and the National Association for Biomedical Research (NABR). Finally, 5,403 individual consumers submitted comments. The Department has carefully reviewed and considered the comments received. The commenters' positions that are germane to the specific issues raised in the NPRM are set forth below, as are the Department's responses.

Summary of Final Regulatory Analysis

The regulatory analysis summarized in the table below shows that the estimated monetized costs of the reporting requirement exceed the estimated monetized benefits at a 7% discount rate. The present value of monetized net benefits for a 20-year analysis period is estimated to be −$729,166 at a 7% discount rate. Additional benefits were also identified for which quantitative estimates could not be developed. The Department believes that the non-quantifiable benefits of the reporting requirement justify the costs and cause the total benefits of the rule to exceed its total costs. Non-quantifiable benefits include providing consumers with a fuller picture of the safety record of airlines in the transportation of animals and producing opportunities for more comprehensive enforcement of the AWA, 7 U.S.C. 54, since the Department shares the reports involving animal incidents with APHIS, the government entity that enforces the AWA. A more detailed discussion of the monetized benefits and costs of the final rule is provided in the Regulatory Analysis and Notices section below.

VALUE OF QUANTITATIVE NET BENEFITS FOR RULE REQUIREMENTS

	Discounting period/rate	Present value
Monetized Benefits.	20 years, 7% discounting.	$0
Monetized Costs *.	20 years, 7% discounting.	$729,769
Monetized Net Benefits.	20 years, 7% discounting.	($729,769)

* This rule will only impose monetary costs on covered air carriers.

Comments and Responses

1. Entities Covered

Question posed in the NPRM: The NPRM proposed to require all U.S. carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats to submit a report to the ACPD on any incidents involving the loss, injury, or death of an animal during air transport within 15 days after the end of the month during which the incident occurred. The then-existing reporting requirement only applied to the domestic scheduled passenger flights of carriers that account for at least 1 percent of domestic scheduled passenger revenue. We also invited comments on whether there is any benefit to expanding the applicability of the rule any further to encompass more U.S. carriers and whether the reporting requirements should apply to indirect cargo air carriers operating under the provisions of 14 CFR part 296.

Comments: Most of the comments the Department received do not address whether the rule should be applicable to all U.S. carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats.

A number of animal rights advocacy groups, such as ASPCA, AWI, and AAVS, expressed support for expanding the applicability of the rule further to encompass more carriers. AWI states that there has been confusion over the airlines and flights covered under the law, and this change would clarify the coverage and provide the public with more information. AAVS states the change would be an important step to ensure an accurate picture of how animals are protected while in air transport. AAVS is also in favor of covering indirect cargo air carriers that cater only to pets.

A4A generally objects to the proposals in the NPRM and states that there would be no benefit to expanding the applicability of the rule to encompass more U.S. carriers. A4A also states that indirect cargo air carriers operating under the provisions of 14 CFR part 296 should not be covered. Spirit, the only carrier to comment on this issue, does not object to expanding the reporting requirement to include passenger carriers operating at least one aircraft with more than 60 seats.

DOT response: We carefully considered all of the comments filed on the various issues in this rulemaking. On the issue of which entities should be covered we have decided to require all U.S. carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats to submit a report to the ACPD on any incidents involving the loss, injury, or death of an animal during air transportation within 15 days after the end of the month during which the incident occurred.

As discussed above, the 49 U.S.C. 41721 states, ''An air carrier that provides scheduled passenger air transportation shall submit monthly to the Secretary a report on any incidents involving the loss, injury, or death of an animal (as defined by the Secretary of Transportation) during air transport provided by the air carrier.'' 49 U.S.C. 40102 defines ''air carrier'' as ''a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation.'' Section 41721 does not contain any language that would limit the applicability of the reporting obligation to only large carriers or ''reporting carriers'' (i.e., U.S. carriers that account for at least 1 percent of domestic scheduled passenger revenue). For these reasons, we believe that expanding the applicability of the reporting requirement to all U.S. carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats is more consistent with the language of section 41721.

Contrary to A4A's assertions, we believe that expanding the applicability of the requirement from just the ''reporting carriers'' (i.e., U.S. carriers that account for at least 1 percent of domestic scheduled passenger revenue) to all carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats will provide consumers and other interested parties a more complete picture of the treatment of animals on scheduled passenger flights. However, we agree with A4A in regards to excluding indirect cargo air carriers from the reporting requirement. Pursuant to 14 CFR part 296, an indirect cargo air carrier is any U.S. citizen who undertakes to engage indirectly in air transportation of property, and uses for the whole or any part of such transportation the services of air carrier or a foreign air carrier that has received

DOT authorization. We have concluded that requiring indirect cargo air carriers to report incidents involving animals would exceed the scope of 49 U.S.C. 41721, which, as discussed above, states: ''An air carrier that provides scheduled passenger air transportation shall submit monthly to the Secretary a report on any incidents involving the loss, injury, or death of an animal (as defined by the Secretary of Transportation) during air transport provided by the air carrier.'' Therefore, we will not require such entities to submit a report on any incidents involving the loss, injury, or death of an animal during air transportation.

2. Expand the Definition of ''Animal''

Question posed in the NPRM: The NPRM proposed to continue to define ''animal'' as any warm- or cold-blooded animal which, at the time of transportation, is being kept as a pet in a family household in the United States (i.e., the definition in effect up to this time), but also expand the definition to include any dog or cat which, at the time of transportation, is shipped as part of a commercial shipment on a scheduled passenger flight. We also invited comments on whether the definition of ''animal'' should be expanded further to include not only dogs and cats in commercial shipments but all species of animals in commercial air transportation.

Comments: This proposal is the most contentious topic of the NPRM. All the animal rights advocacy groups believe that ''animal'' should include all species of animals in commercial air transportation, not just cats and dogs. The animal rights advocacy groups state that cats, dogs, and household pets make up only a portion of all the animals that are transported by carriers. They assert that carriers transport a wide variety of animal species, such as primates, rabbits, ferrets, mice, and rats, for research facilities, zoos, and pet retailers. These groups argue that carriers should be required to report incidents involving all types of animal, not just cats, dogs, and household pets, in order to provide complete and reliable data that will allow consumers, carriers, and legislators to make informed decisions regarding the safety of the transport of all animals.

Most individual comments also urge the Department to include all species of animals in commercial air transportation, not just cats and dogs, in the definition of ''animal.'' (The vast majority of these individual comments appear to be form letters from members of the animal rights advocacy groups.)

Senators Richard Durbin, Robert Menendez, and Joseph Lieberman filed a comment in response to the NPRM reiterating the support expressed in their 2010 letter for expanding the definition of ''animal'' to include all cats and dogs that are in an airline's care, custody, or control, regardless of whether the cat or dog is being transported as a pet by its owner or as part of a commercial shipment.

The scientific research organizations adamantly oppose expanding the definition of ''animal.'' AZA argues that it strongly believes the Congressional intent of the underlying authorizing legislation is to focus on the loss, injury, or death of family pets through air transportation. AZA states that if the definition of ''animal'' is expanded to include all species, the resource and logistical burden placed upon the airlines could effectively force airlines to completely discontinue the transport of all animals, creating catastrophic consequences for the AZA zoo and aquarium community and the sustainability of the animal collections in their care.

NABR urges that any changes to the existing definition of ''animal'' recognize that the term should not apply to dogs and cats bred for use in research. NABR states that the Department assumes that dogs and cats that are transported as part of a commercial shipment are likely being transported for the purpose of being sold as a pet in a family household and that this assumption is flawed as dogs and cats being transported to research facilities in the United States are not intended to be sold as pets. NABR states that commercial dealers that breed dogs, cats, and other species needed for research purposes must be licensed by the USDA and are subject to the standards and regulations mandated by the AWA. NABR states that these commercial dealers are inspected by APHIS and reports of the inspections are already available to the public on the USDA Web site. NABR also states that it opposes expanding the definition of ''animal'' to include all species of animals because such an expansion would conflict with the legislative history of AIR–21, which does not show an intent to require this type of reporting.

A4A also opposes expanding the definition of ''animal'' on the basis that doing so would conflict with Congressional intent. A4A argues that the original regulations published in 2003 specifically analyzed Congress' intent when it used the term ''animal,'' and that the Department's research into the statute's legislative history found that when Congress used the term animal, it meant pets. A4A asserts further that passengers care most about pet incidents and do not want nor are interested in expanding the definition of ''animal.'' A4A states that passengers are satisfied with the current reporting program and that complaints about animal policies regularly ranks last in the 12 categories of complaints that the Department lists every month in its consumer report. A4A argues that this indicates that passengers are satisfied with the balance the current regulation strikes (i.e., full disclosure of pet incidents without including information on commercial animal shipments that A4A says passengers do not care about).

DOT response: We have decided to define ''animal'' as any warm- or cold-blooded animal which, at the time of transportation, is being kept as a pet in a family household in the United States and any dog or cat which, at the time of transportation, is shipped as part of a commercial shipment on a scheduled passenger flight. We are not expanding the definition of ''animal'' to cover all species of animals. We believe it would be unduly burdensome to require covered carriers to report the death, loss, or injury of all species of animals because there potentially could be thousands of individual animals such as fish, rodents, and insects that are transported by air carriers in a single commercial shipment.

As explained below, we do not agree with A4A's arguments. We believe that expanding the definition of ''animal'' to include any dog or cat which, at the time of transportation, is shipped as part of a commercial shipment will provide consumers with a fuller picture of the safety record of airlines in the transportation of animals. Many dogs and cats that are being shipped on scheduled passenger flights other than as pets by their owners are likely being transported for the purpose of being sold as a pet in a family household in the United States. Moreover, even though the old definition of ''animal'' only included any warm- or cold-blooded animal which, at the time of transportation, is being kept as a pet in a family household, virtually all of the reports of deaths, injuries, and loss involved cats and dogs. Specifically, cats and dogs accounted for 95% of deaths, 100% of the injuries, and 98% of the losses. Based on these considerations, we believe that expanding the definition of ''animal'' to include all cats and dogs will provide consumers with more complete data that will allow them to make more informed decision.

3. Require Covered Carriers To Provide in Their December Reports the Total Number of Animals That Were Lost, Injured, or Died During Air Transport

Question posed in the NPRM: The NPRM proposed to require each covered carrier to provide in its December report a summary of the total number of animal losses, injuries, and deaths for the calendar year. The then-existing requirement did not require covered carriers to provide any summary of the total number of animal losses, injuries, and deaths for the calendar year.

Comments: Most of the comments the Department received did not address whether carriers should be required to provide in their December report a summary of the total number of animal losses, injuries, and deaths.

Only one of the animal rights advocacy groups specifically addresses this proposal. AWI states that the public will benefit from having the airlines' December reports include the total number of animals lost, injured, or killed.

NABR, the only scientific research organization to address this issue, opposes any additional monthly or annual incident reports. NABR asserts that additional monthly or annual incident reports are unnecessary for laboratory animal breeders to evaluate carriers, comply with current AWA requirements, and carry out their responsibilities to animals and customers.

A4A also opposes requiring carriers to provide in its December report a summary of the total number of animal losses, injuries, and deaths. A4A states that this proposal provides no benefit beyond the current requirements. A4A asserts that current animal incident reporting practices already provide passengers with very detailed information providing transparency on pet incidents, which was the intent of the Act and is what passengers care about most.

DOT response: We have decided to require covered carriers to provide in their December report a summary of the total number of animal losses, injuries, and deaths for the year. We do not believe it to be burdensome for the covered carriers to submit this data. To comply with this requirement, a covered carrier must simply add up the number of animal incidents in each category that it reported in the previous months. This complements the requirement to report the total number of animals transported (see below). We have included in the final rule a standardized table that covered carriers must use in the December reports when reporting the total number of animal losses, injuries, and deaths in the calendar year.

4. Require Covered Carriers To Include in the December Report the Total Number of Animals Transported in the Calendar Year

Question posed in the NPRM: We invited comments on whether carriers should be required to report the total number of animals transported during that year. The then-existing rule did not require covered carriers to report the total number of animals transported during that year. We also asked whether covered carriers should be required to report only once per year (in the December reports) on the total number of animals transported during that year, or whether the total number of animals transported should be reported each month.

Comments: A number of animal rights advocacy groups and U.S. carriers support requiring covered carriers to report the total number of animals transported during that year. These commenters agree that providing the total number of animal transported will allow consumers to calculate rates of animal loss, injury, and death per unit of animals transported for each airline (e.g., 1.04 deaths per 10,000 animals transported) and that would help consumers and other interested parties to compare the rate of animal incidents from one carrier to another or one year to another. AWI states that the public will benefit from having the airlines' December reports include the total number of animals transported during the year. AAVS asserts that this information would give consumers information that can be used to correctly compare air carriers and their records. AAVS also states that information should be provided monthly as well as in December to provide an accurate and up to date understanding of air carriers' record with regards to animal transport.

ALDF states that requiring carriers to report on the total number of animals transported will provide the context necessary to understand the incident reports. ALDF argues that, among other benefits, determining the number of incidents per unit of animals transported will allow covered carriers to determine whether their practices are reducing the rate of incidents, help consumers make more informed decisions on which carrier to entrust their animals to, and provide legislators critical information with which to determine if there is a problem that warrants stronger legislative remedies. ALDF adds that the carriers should provide this data monthly.

Spirit states that it does not object to the proposal to require airlines to report the total number of animals transported annually. Spirit believes that this information would allow consumers to compare the total number of animals transported against the number of incidents involving animals in air transport, further highlighting the infrequency of these incidents. Spirit adds that the Department should not require monthly reporting of the total number of animals transported. Spirit argues that incidents involving animals in air transport are random and extremely infrequent, and the number of incidents per unit of animals transported in any given month has little if any value because the rate of incidents is so low.

Delta states that it supports requiring carriers to report the total number of animals transported during the year, but with two qualifications: (1) The existing definition of ''animal'' should remain unchanged (i.e., any warm- or cold-blooded animal which, at the time of transportation, is being kept as a pet in a family household in the United States); and (2) the rate calculated by the Department should not be the number of animal incidents ''per unit of animals transported,'' but rather, the number of incidents per passenger enplanement. Delta's argument regarding the definition of ''animal'' is discussed above. With respect to the rate calculated, Delta argues that the process proposed by the Department would lead to the gathering of data that can be easily skewed by small sample sizes. Delta asserts that calculating the number of incidents per unit of passenger enplanements takes all relevant data into account and conveys an incident rate in the full context of each carrier's operation. Delta believes that this approach would be consistent with other data reported by carriers to the Department, e.g., oversales, mishandled baggage, consumer complaints, all of which are calculated per passenger enplanement. Delta states that since carriers already report these other issues per enplanement, the data are readily available and would not require any new data-gathering processes.

A4A, on the other hand, opposes requiring covered carriers to include in the December report the total number of animals transported in the calendar year. A4A argues that the monthly consumer report provides very detailed information on every animal incident to consumers and that providing general statistics that include commercial animal shipments is not relevant to what passengers care about most—transporting pets in the baggage

compartment on a flight. A4A asserts that carriers would need to reconfigure their systems because current procedures for tracking animal incidents are inadequate for tracking the total number of animals transported. A4A argues further that the Department vastly underestimates the cost of this proposal.

DOT response: We have decided to require covered carriers to include in the December reports the total number of animals transported in the calendar year. We believe the requirement to report the total number of animals transported is important for providing consumers a complete picture of a covered carrier's animal transport record, as the number of animals transported by each airline may vary widely. Consumers can use this data to calculate rates of animal loss, injury, and death per unit of animals transported for each airline (e.g., 1.04 deaths per 10,000 animals transported). While we recognize changes may be needed, we do not agree with A4A's assertion that current procedures for tracking animal incidents are inadequate for tracking the total number of animals transported. One of the two air carriers that submitted comments in response to the NPRM, Spirit, does not believe it is burdensome to report the total number of animals transported in the calendar year. Additionally, for many years the former Continental Airlines voluntarily included this information in the animal incident reports that it filed with the Department.

5. Require Covered Carriers To File Negative Reports

Question posed in the NPRM: We solicited comments on whether carriers should be required to file negative reports if the carrier did not have any incidents involving the loss, injury, or death of an animal during a particular month or year—i.e., reporting ''0'' for any reporting category where there were no such incidents. The then-existing rule did not require covered carriers to file negative reports.

Comments: Most of the comments the Department received did not address whether carriers should be required to provide negative reports if the carrier did not have any incidents involving the loss, injury, or death of an animal during a particular month or year.

A couple of animal rights advocacy groups expressed support for negative reporting by carriers. Specifically, AWI states that it endorses the proposal to have airlines file reports in December even if they have had no animal-related incidents at any time during the year. AWI agrees with the Department's reasoning that ''[r]equiring negative reporting in the recap in the December report over a signature and certification of an official of the airline provides an additional incentive for complete and accurate reporting by carriers.'' ALDF asserts that negative reporting would improve reporting accuracy and reinforce the importance of these requirements. ALDF argues that the negative reports should be provided monthly because it would further the goals of accuracy and clarity in the reporting process and help to keep the safety of animals as an important issue for carriers every month, rather than simply at the end of the year during a busy reporting and travel season.

A4A and Spirit oppose the negative reporting requirement. A4A argues that a requirement to file a ''negative'' report when there are no animal incidents to report will provide no benefit to the public and will incur unnecessary cost to carriers. Spirit asserts that completing, filing, and processing negative reports will create an unnecessary burden on the carrier and the Department because the reports will not provide the Department with any information that it did not already know. Spirit further states that monthly negative reporting would impose an undue burden on all air carriers covered by the rule.

DOT response: We have decided to require covered carriers to file negative reports in their December reports if the carrier did not have any incidents involving the loss, injury, or death of an animal during the calendar year. Thus, each covered carrier would be required to file a report for the previous calendar year by January 15 even if the carrier did not experience any incidents involving animals and/or carried no animals during that year. We do not believe it to be unduly burdensome for covered carriers that did not have any incidents involving the loss, injury, or death of an animal to enter ''0'' into the appropriate categories and submit their December report. In addition, we believe that requiring covered carriers to affirmatively certify that there were no reportable animal incidents during the calendar year provides an additional incentive to ensure that the reports are complete and accurate. Covered carriers will not be required to file negative reports in any other monthly report (i.e., January through November).

Regulatory Analysis and Notices

A. Executive Order 12866 (Regulatory Planning and Review), DOT Regulatory Policies and Procedures, and Executive Order 13563 (Improving Regulation and Regulatory Review)

This action has been determined not to be significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures. As a result, it has not been reviewed by the Office of Management and Budget in accordance with Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review) and is consistent with the requirements in both orders. Executive Order 13563 refers to non-quantifiable values, including equity and fairness. A summary of the costs and benefits of this final rule follows. For more details, please refer to a copy of the final regulatory evaluation, which has been placed in the docket.

1. Cost of Monthly Reports Other Than December Report

The cost of filing monthly reports is minimal. Aside from the December report, a carrier is required to report only during the months where the carrier experiences a reportable animal incident. Currently, 15 of the 27 carriers that are affected are already required to collect information on incidents involving the loss, injury, or death of an animal. For these 15 carriers, which account for approximately 90 percent of the domestic market, there are no additional costs. For the 12 other carriers that do not currently have to report, the cost varies depending on whether or not there is a reportable incident during any given month. For example, if a carrier experiences no reportable incidents all year, then the recurrent cost of filing monthly reports for January to November is $0. However, if the carrier experiences a reportable incident every month of the year, the cost would be $466.32 per year. This is based on our estimate that it would take a paralegal working in scheduled air transportation making $38.86 per hour (the average wage rate including benefits) one hour to prepare and submit one monthly report. So, if all 12 carriers that do not currently have to report were to each experience a reportable incident every month of the year, the total cost would be $5,595.84. Therefore, the cost of monthly reports will be between $0 and $5,595.84 per year depending on the number of reportable incidents. Even the high estimate would still be a minimal cost.

2. Cost of the December Report

Covered carriers are required to submit a December report. In addition to including information on any incidents involving the loss, injury, or death of an animal during air transport that occurred in the month of December, the December report must include the total number of animals that were lost, injured, or died during air transport in the calendar year and the total number of animals that were transported in the calendar year.

The burden on covered carriers to submit in their December report the total number of animals that were lost, injured, or died during air transport in the calendar year is minimal. The cost varies depending on whether or not a carrier experienced any reportable incidents during the calendar year. For example, if a carrier experiences no reportable incidents all year, then the cost is $38.86, the estimated cost of a paralegal working in scheduled air transportation to prepare and submit one report. If a carrier had one or more animal incidents in a year, it will be required add up all the values in any report that it filed throughout the year. We estimate that it will take a paralegal working in scheduled air transportation 0.5 hour to find the sum of all the values the carrier filed throughout the year. If all 27 covered carriers each experienced a reportable incident in the calendar year, the total cost will be $1,573.83 ($524.61 for the carriers to add together all the reportable incidents in the calendar year and $1,049.22 for the carriers to prepare and submit one report). Therefore, the cost of the December reports will be between $38.86 and $1,573.83 per year depending on the number of reportable incidents.

The burden on covered carriers to submit in their December reports the total number of animals that were transported in the calendar year is more substantial because it will require covered carriers that transport covered animals in the baggage/cargo compartment to create and maintain systems that will record and keep track of the number of animals transported throughout the year. At the same time, some carriers, such as Spirit Airlines, do not transport animals. Additionally, some covered carriers may already have a system in place. These carriers will incur no costs. Therefore, we estimate that first year start-up costs for the computer hardware and software would be approximately $270,000 for the entire industry.[2]

We estimate that the subsequent yearly costs to maintain the systems will be minimal. If a carrier does not transport animals in the calendar year, such as Spirit Airlines, then there will be no cost. If we assumed that annual maintenance costs averaged $40,000 for the entire industry, the total cost of maintenance over 20 years discounted at 7% would be about $424,000. Factoring in the initial $270,000 start-up cost brings the total cost of the requirement to report in the December reports the total number of animals transported in the calendar year to be about $694,000.

3. Cost of Expanded Definition of an Animal

The cost of the proposed expanded definition of an animal would impact airlines, but the cost would still be minimal. Since 2008, the average number of reported incidents per year is 47. If we were to assume that it takes a paralegal one hour to prepare and submit a report per incident, then we have estimated that the cost to the industry is $1,826.42 per year. This is based on our estimate of a paralegal's salary discussed above. Various trade sources indicate that dogs and cats transported as part of a commercial shipment may account for as much as half of all dogs, cats, and other household pets that are transported by covered carriers. If we were to assume that expanding the definition to include dogs and cats transported as part of a commercial shipment would result in an additional 47 reported incidents per year (i.e., a total of 94 incidents), the additional cost of $1,826.42 is still minimal.

The benefits of the rule, while difficult to quantify, exceed the costs. Comprehensive data are not immediately available as to the total number of animals that air carriers currently transport. Neither trade associations for animal transportation providers nor most airlines collect data on the number of animals transported annually by air. Trade association (e.g., pet transportation firms) and industry (airlines) sources estimate the actual number of pets that carriers transport annually at up to 800,000. This rule will provide consumers with a fuller picture of the safety record of airlines in the transportation of animals. If the benefit of expanding reporting requirements to dogs and cats transported as a commercial shipment were as little as a $0.34 per animal shipped, the benefits of the rule would exceed the costs.

B. Executive Order 13132 (Federalism)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). This final rule does not include any provision that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. States are already preempted from regulating in this area by the Airline Deregulation Act. *See* 49 U.S.C. 41713. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities. I certify that this final rule does not have a significant economic impact on a substantial number of small entities. A direct air carrier or a foreign air carrier is a small business if it provides air transportation only with small aircraft (i.e., aircraft designed to have a maximum passenger capacity of not more than 60 seats or a maximum payload capacity of not more than 18,000 pounds). *See* 14 CFR 399.73. This rule does not impose new duties or obligations on small entities. The rule applies only to U.S. carriers that operate scheduled service with at least one aircraft with a design capacity of more than 60 seats. Therefore, this requirement does not affect small entities.

D. Executive Order 13084

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13084 do not apply.

[2] This estimate is based on the 2007 Supporting Statement for the obligation of U.S. and foreign carriers to file with the Department an annual report detailing disability-related complaints the carriers received from passengers in the calendar year, as required by 14 CFR part 382, the Department's rule implementing the Air Carrier Access Act (ACAA) in the Department's Nondiscrimination on the Basis of Disability in Air Travel 14 CFR part 382.

E. Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995, the Department has submitted the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB). Before OMB decides whether to approve those proposed collections of information that are part of this final rule and issue a control number, the public must be provided 30 days to comment. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, Office of Information and Regulatory Affairs, Washington, DC 20503, and should also send a copy of their comments to: Department of Transportation, Office of Aviation Enforcement and Proceedings, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590. OMB is required to make a decision concerning the collection of information requirements contained in this rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

We will respond to any OMB or public comments on the information collection requirements contained in this rule. The Department may not impose a penalty on persons for violating information collection requirements which do not display a current OMB control number, if required. The Department intends to renew the OMB control number for the information collection requirements resulting from this rulemaking action. The OMB control number, when renewed, will be announced by separate notice in the **Federal Register**.

The ICR was previously published in the **Federal Register** as part of the NPRM. *See* 77 FR 38750. The Department invited interested persons to submit comments on any aspect of each of these three information collections, including the following: (1) The necessity and utility of the information collection; (2) the accuracy of the estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collection without reducing the quality of the collected information.

The final rule renews and modifies the information collection titled ''Reports by Carriers on Incidents Involving Animals During Air Transport'' (OMB No. 2105–0552). The collection of information contained in the final rule is a requirement that U.S. carriers that operate scheduled passenger service with at least one aircraft having a designed seating capacity of more than 60 passenger seats report to the Department's ACPD any incidents involving the loss, injury, or death during air transport of cats and dogs that were part of a commercial shipment. (Cats and dogs that were being kept as a household pet at the time of such a loss, injury, or death are already required to be reported by these airlines.) As discussed above, this requirement expands the reporting requirement from 15 carriers to 27 carriers, an increase of 12 carriers. The collection of information also requires covered carriers to state in their report for the month of December the total number of animals that were lost, injured, or died during air transport in the calendar year and the total number of animals that were transported in the calendar year.

Title: Reports by Carriers on Incidents involving Animals During Air Transport.

OMB Control Number: 2105–0552.

Type of Request: Modification of expired Information Collection Request.

Respondents: U.S. carriers that operate scheduled passenger service with at least one aircraft having a designed seating capacity of more than 60 seats (27).

Frequency: For each respondent, one information set for the month of December, plus one information set during some other months (1 to 12).

Estimated Annual Burden on Respondents: 27 to 324 hours (Respondents [27] × Frequency [1 to 12 per year]).

F. National Environmental Policy Act

The Department has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (NEPA) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). *See* 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 4.c.6.i of DOT Order 5610.1C provides that ''actions relating to consumer protection, including regulations'' are categorically excluded. The purpose of this rulemaking is to amend the requirement for air carriers to report incidents involving the loss, injury, or death of an animal during air transport. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

G. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this notice.

Issued in Washington, DC, on the 24th day of June, 2014, under the authority delegated at 49 CFR 1.27(n).

Kathryn B. Thomson,

General Counsel.

List of Subjects

14 CFR Part 234

Air carriers, Consumer protection, Reporting and recordkeeping requirements.

14 CFR Part 235

Air carriers, Animal incidents, Consumer protection, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Transportation amends 14 CFR Chapter II as follows:

PART 234—AIRLINE SERVICE QUALITY PERFORMANCE REPORTS

■ 1. The authority citation for part 234 continues to read as follows:

Authority: 49 U.S.C. 329 and Sections 41708 and 41709.

§ 234.13 [Removed]

■ 2. Section 234.13 is removed.

■ 3. Part 235 is added to read as follows:

PART 235—REPORTS BY AIR CARRIERS ON INCIDENTS INVOLVING ANIMALS DURING AIR TRANSPORT

Sec.
235.1 Definitions.
235.2 Applicability.
235.3 Reports by air carriers on incidents involving animals during air transport.

Authority: 49 U.S.C. 41721.

§ 235.1 Definitions.

For the purposes of this part:

Air transport includes the entire period during which an animal is in the custody of an air carrier, from the time

that the animal is tendered to the air carrier prior to departure until the air carrier tenders the animal to the owner, guardian or representative of the shipper of the animal at the animal's final destination. It does not include animals that accompany a passenger at his or her seat in the cabin and of which the air carrier does not take custody.

Animal means any warm- or cold-blooded animal which, at the time of transportation, is being kept as a pet in a family household in the United States and any dog or cat which, at the time of transportation, is shipped as part of a commercial shipment on a scheduled passenger flight, including shipments by trainers and breeders.

§ 235.2 Applicability.

This part applies to the scheduled domestic and international passenger service of any U.S. air carrier that operates such service with at least one aircraft having a designed seating capacity of more than 60 passenger seats. The reporting requirements of this part apply to all scheduled-service passenger flights of such carriers, including flights that are operated with aircraft having 60 or fewer seats.

§ 235.3 Reports by air carriers on incidents involving animals during air transport.

(a) Each covered carrier shall, within 15 days after the end of the month to which the information applies, submit to the United States Department of Transportation's Aviation Consumer Protection Division a report on any incidents involving the loss, injury, or death of an animal during air transport provided by the air carrier, including incidents on flights by that carrier that are operated with aircraft having 60 or fewer seats. The report shall be made in the form and manner set forth in reporting directives issued by the Deputy General Counsel for the U.S. Department of Transportation and shall contain the following information:

(1) Carrier and flight number;

(2) Date and time of the incident;

(3) Description of the animal, including name, if known;

(4) Name and contact information of the owner(s), guardian, and/or shipper of the animal;

(5) Narrative description of the incident;

(6) Narrative description of the cause of the incident;

(7) Narrative description of any corrective action taken in response to the incident; and

(8) Name, title, address, and telephone number of the individual filing the report on behalf of the air carrier.

(b) Within 15 days after the end of December of each year, each covered carrier shall submit the following information (this information may be included in any report that the carrier may file for the loss, injury, or death of animals during the month of December):

(1) The total number of incidents involving an animal during air transport provided by the air carrier for the entire calendar year, including incidents on flights by that carrier that are operated with aircraft having 60 or fewer seats. The report shall include subtotals for loss, injury, and death of animals. Report ''0'' for any category for which there were no such incidents. If the carrier had no reportable incidents for that calendar year, it shall report ''0'' in each category. Covered carriers shall use the following data table when reporting the total number of animal incidents during air transport provided by the air carrier for the entire calendar year:

	Total number in the calendar year
Deaths Injuries Loss	

(2) The total number of animals transported in the calendar year. If the carrier did not transport any animals for that calendar year, it shall report ''0.''

(3) The December report must contain the following certification signed by the carrier's authorized representative: ''I, the undersigned, do certify that this report has been prepared under my direction in accordance with the regulations in 14 CFR part 235. I affirm that, to the best of my knowledge and belief, this is a true, correct and complete report.''

[FR Doc. 2014–15503 Filed 7–2–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. FDA–2014–M–0799]

Medical Devices; Neurological Devices; Classification of the Transcutaneous Electrical Nerve Stimulator to Treat Headache

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the transcutaneous electrical nerve stimulator to treat headache into class II (special controls). The special controls that will apply to the device are identified in this order, and will be part of the codified language for the transcutaneous electrical nerve stimulator to treat headache classification. The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective August 4, 2014. The classification was applicable on March 11, 2014.

FOR FURTHER INFORMATION CONTACT: Michael Hoffmann, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1434, Silver Spring, MD 20993–0002, 301–796–6476, *michael.hoffmann@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1) of the FD&C Act, the person requests a classification under section 513(f)(2). Under the

second procedure, rather than first submitting a premarket notification under section 510(k) and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of ''low-moderate risk'' or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA will classify the device by written order within 120 days. This classification will be the initial classification of the device.

In accordance with section 513(f)(1) of the FD&C Act, FDA issued an order on November 20, 2012, classifying the Cefaly Device, into class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device which was subsequently reclassified into class I or class II. On December 13, 2012, STX–Med SPRL, submitted a request for classification of the Cefaly Device under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act. FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the de novo request, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on March 11, 2014, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 882.5891.

Following the effective date of this final classification administrative order, any firm submitting a premarket notification (510(k)) for a transcutaneous electrical nerve stimulator to treat headache will need to comply with the special controls named in the final administrative order.

The device is assigned the generic name transcutaneous electrical nerve stimulator to treat headache, and it is identified as a device used to apply an electrical current to a patient's cranium through electrodes placed on the skin.

FDA has identified the following risks to health associated with this type of device and the measures required to mitigate these risks in table 1:

TABLE 1—TRANSCUTANEOUS ELECTRICAL NERVE STIMULATOR TO TREAT HEADACHE RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Adverse reactions to skin-contacting materials	Biocompatibility testing. Labeling.
Electrical, mechanical, or thermal hazards that may result in user discomfort or injury.	Electromagnetic compatibility testing. Electrical, mechanical, and thermal safety testing. Technical parameters. Electrode performance testing. Software verification, validation, and hazard analysis. Labeling.
Ineffective treatment	Clinical performance data. Labeling.
Failure to identify the correct population	Clinical performance data. Labeling.
Misuse that may result in user discomfort, injury, or delay treatment for headaches.	Labeling.

FDA believes that the following special controls, in addition to the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness:

- The patient-contacting components of the device must be demonstrated to be biocompatible.
- Appropriate analysis/testing must validate electromagnetic compatibility and electrical, mechanical, and thermal safety.
- The technical parameters of the device, including waveform, output modes, maximum output voltage and current (with 500, 2,000, and 10,000 ohm loads), pulse duration, frequency, net charge (μC) per pulse, maximum phase charge at 500 ohms, maximum current density (mA/cm^2, r.m.s.), maximum average current (mA), maximum average power density (W/cm^2), and the type of impedance monitoring system must be fully characterized.
- Electrical performance, adhesive integrity, shelf life, reusability, and current distribution testing of the electrodes must be conducted.
- Appropriate software verification, validation, and hazard analysis must be performed.
- Clinical performance data must demonstrate that the device is safe and effective as a treatment for headache in the indicated patient population.
- Labeling must include the following:
  - Appropriate contraindications such as not for use in subjects with an implanted metallic or electronic device in the head, a cardiac pacemaker, or an implanted or wearable defibrillator;
  - appropriate warnings such as not to apply the device on the neck or chest, not to use the device in the presence of electronic monitoring equipment, not to use in the bath or shower, not to use while sleeping, not to use while driving, not to use while operating machinery;
  - appropriate precautions such as the long-term effects of chronic use of the device are unknown;

○ a summary of the expected risks and benefits of using the device;

○ a summary of the clinical performance data, including information on the patient population for which the device has and has not been demonstrated to be effective, and any adverse events and complications;

○ information on how the device operates and the typical sensations experienced during treatment;

○ a detailed summary of the device technical parameters;

○ an expiration date/shelf life for the electrodes and the number of times they can be reused; and

○ disposal instructions.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification prior to marketing the device, which contains information about the transcutaneous electrical nerve stimulator to treat headache device they intend to market.

II. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

IV. Reference

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov*.

1. K122566 De Novo Petition for the Cefaly Device From STX–Med SPRL, dated December 13, 2012.

List of Subjects in 21 CFR Part 882

Medical devices, Neurological devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 882 is amended as follows:

PART 882—NEUROLOGICAL DEVICES

■ 1. The authority citation for 21 CFR part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Add § 882.5891 to subpart F to read as follows:

§ 882.5891 Transcutaneous electrical nerve stimulator to treat headache.

(a) *Identification.* A transcutaneous electrical nerve stimulator to treat headache is a device used to apply an electrical current to a patient's cranium through electrodes placed on the skin.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The patient-contacting components of the device must be demonstrated to be biocompatible.

(2) Appropriate analysis/testing must validate electromagnetic compatibility and electrical, mechanical, and thermal safety.

(3) The technical parameters of the device, including waveform, output modes, maximum output voltage and current (with 500, 2,000, and 10,000 ohm loads), pulse duration, frequency, net charge (μC) per pulse, maximum phase charge at 500 ohms, maximum current density (mA/cm^2, r.m.s.), maximum average current (mA), maximum average power density (W/cm^2), and the type of impedance monitoring system must be fully characterized.

(4) Electrical performance, adhesive integrity, shelf life, reusability, and current distribution testing of the electrodes must be conducted.

(5) Appropriate software verification, validation, and hazard analysis must be performed.

(6) Clinical performance data must demonstrate that the device is safe and effective as a treatment for headache in the indicated patient population.

(7) Labeling must include the following:

(i) Appropriate contraindications such as not for use in subjects with an implanted metallic or electronic device in the head, a cardiac pacemaker, or an implanted or wearable defibrillator.

(ii) Appropriate warnings such as not to apply the device on the neck or chest, not to use the device in the presence of electronic monitoring equipment, not to use in the bath or shower, not to use while sleeping, not to use while driving, not to use while operating machinery.

(iii) Appropriate precautions such as the long-term effects of chronic use of the device are unknown.

(iv) A summary of the expected risks and benefits of using the device.

(v) A summary of the clinical performance data, including information on the patient population for which the device has and has not been demonstrated to be effective, and any adverse events and complications.

(vi) Information on how the device operates and the typical sensations experienced during treatment.

(vii) A detailed summary of the device technical parameters.

(viii) An expiration date/shelf life for the electrodes and the number of times they can be reused.

(ix) Disposal instructions.

Dated: June 27, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15625 Filed 7–2–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 890

[Docket No. FDA–2014–M–0701]

Medical Devices; Physical Medicine Devices; Classification of the Nonpowered Lower Extremity Pressure Wrap

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the nonpowered lower extremity pressure

wrap into class I (general controls). The Agency is classifying the device into class I (general controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective August 4, 2014. The classification was applicable on December 18, 2013.

FOR FURTHER INFORMATION CONTACT: Michael Hoffmann, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1434, Silver Spring, MD 20993–0002, 301–796–6476, *michael.hoffmann@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and 21 CFR part 807 of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1) of the FD&C Act, the person requests a classification under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of ''low-moderate risk'' or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA will classify the device by written order within 120 days. This classification will be the initial classification of the device. In accordance with section 513(f)(1) of the FD&C Act, FDA issued an order on January 7, 2011, classifying the Restless Legs Device, into class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device which was subsequently reclassified into class I or class II. On January 23, 2011, Mary M. Sorg dba PJ Sleeper's, submitted a request for classification of the Restless Leg Device under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class I (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act. FDA classifies devices into class I if general controls by themselves are sufficient to provide reasonable assurance of safety and effectiveness of the device for its intended use. After review of the information submitted in the de novo request, FDA determined that the device can be classified into class I. FDA believes general controls will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on December 18, 2013, FDA issued an order to the requester classifying the device into class I. FDA is codifying the classification of the device by adding § 890.5760. The device is assigned the generic name nonpowered lower extremity pressure wrap, and it is identified as a prescription device that applies mechanical pressure by wrapping around the lower extremity, such as the leg or foot, and is intended for primary Restless Leg Syndrome.

FDA believes that general controls provide reasonable assurance of safety and effectiveness. Nonpowered lower extremity pressure wraps are prescription devices restricted to patient use only upon the authorization of a practitioner licensed by law to administer or use the device. ((21 CFR 882.1440(a)); see section 520(e) of the FD&C Act (21 U.S.C. 360j(e)) and 21 CFR 801.109 (*Prescription devices*).) Prescription-use restrictions are a type of general controls as defined in section 513(a)(1)(A)(i) of the FD&C Act.

II. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

IV. Reference

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov*.

1. Request for automatic Class III designation under (De Novo) 513(f)(2) 510(k)# K102707, from Mary M. Sorg dba PJ Sleeper's, January 23, 2011.

List of Subjects in 21 CFR Part 890

Medical devices, Physical medicine devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 890 is amended as follows:

PART 890—PHYSICAL MEDICINE DEVICES

■ 1. The authority citation for 21 CFR part 890 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Add § 890.5760 to subpart F to read as follows:

§ 890.5760 Nonpowered lower extremity pressure wrap.

(a) *Identification.* A nonpowered lower extremity pressure wrap is a prescription device that applies mechanical pressure by wrapping around the lower extremity, such as the leg or foot, and is intended for primary Restless Leg Syndrome.

(b) *Classification.* Class I (general controls). The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter, subject to the limitations in § 890.9.

Dated: June 27, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15626 Filed 7–2–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2014–0360]

Special Local Regulation; Eleventh Coast Guard District Annual Marine Events

AGENCY: Coast Guard, DHS.

ACTION: Notice of Enforcement of Regulation.

SUMMARY: The Coast Guard will enforce the San Diego Maritime Museum Tall Ship Festival of Sail special local regulations during this year's event on August 29, 2014 through September 1, 2014. This event occurs on the navigable waters of the San Diego Bay in San Diego, CA. These special local regulations are necessary to provide for the safety of the participants, crew, spectators, sponsor vessels of the boat parade, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 9 a.m. to 7 p.m. on August 29, 2014 through September 1, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278–7656, email *D11-PF-MarineEventsSanDiego@uscg.mil.*

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 in support of San Diego Maritime Museum Tall Ship Festival of Sail (Item 15 on Table 1 of 33 CFR 100.1101), held on a weekend in September. The Coast Guard will enforce the special local regulations on the San Diego Bay in San Diego, CA on Friday August 29, 2014 through Monday September 1, 2014 from 9 a.m. to 7 p.m.

Under the provisions of 33 CFR 100.1101, persons and vessels are prohibited from entering into, transiting through or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in the patrol and notification of the regulation.

This document is issued under authority of 5 U.S.C. 552(a) and 33 CFR 100.1101. In addition to this document in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this notice, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: June 5, 2014.

J.A. Janszen,

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

[FR Doc. 2014–15543 Filed 7–2–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0160]

RIN 1625–AA00

Safety Zone; Swim Around Charleston, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone during the Swim Around Charleston, a swimming race occurring on waters of the Wando River, the Cooper River, Charleston Harbor, and the Ashley River, in Charleston, South Carolina. The Swim Around Charleston is scheduled to take place on September 21, 2014. The temporary safety zone is necessary for the safety of the swimmers, participant vessels, spectators, and the general public during the event. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule will be effective from 11:30 a.m. until 6:30 p.m. on September 21, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0160. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Warrant Officer Christopher Ruleman, Sector Charleston Waterways Management, U.S. Coast Guard; telephone (843) 740–3184, email *christopher.l.ruleman@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On April 22, 2014, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Swim Around Charleston, Charleston, SC in the **Federal Register**. We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to ensure the safety of the swimmers, participant vessels, spectators, and the general public during the Swim Around Charleston.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard did not receive any comments to the proposed rule, and no changes were made to the regulatory text.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The office of Management and Budget has not reviewed it under those Orders. The economic impact of this rule is not significant for the following reasons: (1) The safety zone will only be enforced for a total of seven hours; (2) the safety zone will move with the participant vessels so that once the swimmers clear a portion of the waterway, the safety zone will no longer be enforced in that portion of the waterway; (3) although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the enforcement period; (4) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Charleston or a designated representative; and (5) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

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

(1) This rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Wando River, the Cooper River, Charleston Harbor, or the Ashley River in Charleston, South Carolina from 11:30 a.m. until 6:30 p.m. on September 21, 2014.

(2) For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to

minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. An environmental analysis checklist and a Categorical Exclusion Determination were completed for this event in previous years. Since this event has remained materially unchanged from the time of the prior determinations, a new environmental analysis checklist and Categorical Exclusion Determination were not completed for 2014. The previously completed environmental analysis checklist and Categorical Exclusion Determination can be found in docket folder for USCG–2013–0322 at *www.regulations.gov.* This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a temporary § 165.T07–0160 to read as follows:

§ 165.T07–0160 Safety Zone; Swim Around Charleston, Charleston, SC.

(a) *Regulated area.* The following regulated area is a moving safety zone: All waters within a 75-yard radius around Swim Around Charleston participant vessels that are officially associated with the swim. The Swim Around Charleston swimming race consists of a 10-mile course that starts at Remley's Point on the Wando River in approximate position 32°48′49″ N, 79°54′27″ W, crosses the main shipping channel of Charleston Harbor, and finishes at the General William B. Westmoreland Bridge on the Ashley River in approximate position 32°50′14″ N, 80°01′23″ W. All coordinates are North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective date.* This rule is effective on September 21, 2014 and will be enforced from 11:30 a.m. until 6:30 p.m.

Dated: June 2, 2014.

R.R. Rodriguez,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2014–15545 Filed 7–2–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–1033]

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone–Miesfeld's Lakeshore Weekend Fireworks, Sheboygan, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on Lake Michigan in Sheboygan, WI, for the Miesfeld's Lakeshore Weekend fireworks. This zone will be enforced from 8:30 p.m. until 9:45 p.m. on July 25, 2014. This action is necessary and intended to ensure the safety of life on navigable waters during a fireworks display.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (e)(49), Table 165.929, from 8:30 p.m. until 9:45 p.m. on July 25, 2014.

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

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the Miesfeld's Lakeshore Weekend fireworks safety zone listed as item (e)(49) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. The Miesfeld's Lakeshore Weekend fireworks display zone will encompass all waters of Lake Michigan and Sheboygan Harbor within an 800-foot radius from the fireworks launch site located at the south pier in approximate position 43°44′55″ N, 087°41′58″ W (NAD 83). This zone will be enforced from 8:30 p.m. until 9:45 p.m. on July 25, 2014.

All vessels must obtain permission from the Captain of the Port, Lake Michigan, or the on-scene representative to enter, move within, or exit the safety zone. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port, Lake Michigan, or a designated representative. Vessels that wish to transit through the safety zone may request permission from the Captain of the Port Lake Michigan. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this event via Broadcast Notice to Mariners or Local Notice to Mariners that the regulation is in effect. The Captain of the Port, Lake Michigan, or his or her on-scene representative may be contacted via Channel 16, VHF–FM.

Dated: June 18, 2014.

A.B. Cocanour,

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

[FR Doc. 2014–15672 Filed 7–2–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–1033]

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Manistee Independence Day Fireworks, Manistee, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone on Lake Michigan in Manistee, MI. for the Manistee Independence Day fireworks. This zone will be enforced from 9 p.m. until 11 p.m. on July 4, 2014. This action is necessary and intended to ensure the safety of life on navigable waters during a fireworks display.

DATES: The regulations in 33 CFR 165.929 will be enforced for safety zone (e)(7), Table 165.929, from 9 p.m. until 11 p.m. on July 4, 2014.

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

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the Manistee Independence Day fireworks safety zone listed as item (e)(7) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists many annual events requiring safety zones in the Captain of the Port Lake Michigan zone. The Manistee Independence Day fireworks zone will encompass all waters of Lake Michigan, in the vicinity of the First Street Beach, within the arc of a circle with a 1,000-foot radius from the fireworks launch site located in position 44°14′51″ N, 086°20′46″ W (NAD 83). This zone will be enforced from 9 p.m. until 11 p.m. on July 4, 2014.

All vessels must obtain permission from the Captain of the Port, Lake Michigan, or the on-scene representative to enter, move within, or exit the safety zone. Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port, Lake Michigan, or a designated representative. Vessels that wish to transit through the safety zone may request permission from the Captain of the Port Lake Michigan. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. Approvals will be granted on a case by case basis.

This document is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register,** the Coast Guard will provide the maritime community with advance notification of this event via Broadcast Notice to Mariners or Local Notice to Mariners that the regulation is in effect. The Captain of the Port, Lake Michigan, or his or her on-scene representative may be contacted via Channel 16, VHF–FM.

Dated: June 18, 2014.

A.B. Cocanour,

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

[FR Doc. 2014–15706 Filed 7–2–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0476]

RIN 1625–AA00

Safety Zone; Summer Fireworks Displays in the Captain of the Port Lake Michigan Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones on waterways in the Captain of the Port Lake Michigan Zone. These safety zones are intended to restrict vessels from a portion of the waterways due to fireworks displays. The temporary safety zones established by this rule are necessary to protect the surrounding public and vessels from the hazards associated with the fireworks displays.

DATES: This rule is effective from July 5, 2014, until 11 p.m. August 2, 2014. This rule will be enforced on July 5, 2014, and August 2, 2014, at times specified in § 165.T09–0476.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0476. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414–747–7148 or *Joseph.P.McCollum@uscg.mil*. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for the three displays within this rule were not known to the Coast Guard until there was insufficient time remaining before the displays to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect vessels from the hazards associated with three fireworks displays, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** for the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for this rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas under 33 U.S.C. 1231, 33 CFR 1.05–1, and Department of Homeland Security Delegation No. 0170.1.

On July 5, 2014, between 9:30 p.m. and 10:45 p.m. the Coast Guard anticipates that fireworks will be fired from a barge on Spring Lake in the vicinity of Jerusalem Bayou as part of a private party wedding ceremony near Spring Lake, Michigan. A second fireworks display is anticipated on July 5, 2014. Between 10 p.m. and 11:30 p.m. on that day, the Coast Guard anticipates that fireworks will be fired as part of the ''Salute the Troops'' Festival on Muskegon Lake in Muskegon, Michigan. Lastly, on August 2, 2014 between 9 p.m. and 11 p.m., the Coast Guard anticipates that a fireworks display will be fired from a barge on the waters of Sturgeon Bay as part of the ''Venetian Night'' event in Sturgeon Bay, Wisconsin. The Captain of the Port, Lake Michigan, has determined that these fireworks displays will pose a significant risk to public safety and property. Hazards presented by these displays include falling and/or flaming debris, and collisions among transiting or spectator vessels.

C. Discussion of the Final Rule

With the aforementioned hazards in mind, the Captain of the Port, Lake Michigan, has determined that 3 temporary safety zones are necessary to ensure the safety of persons and vessels during the aforementioned fireworks displays on and around Lake Michigan. As such, the following safety zones will be established for the listed events:

1. Private Party Fireworks; Spring Lake, MI

The safety zone will encompass all waters of Spring Lake in Spring Lake, Michigan, in the vicinity of Jerusalem Bayou, within the arc of a circle with a 500-foot radius from the fireworks launch site located on a barge in approximate position 43°06′39″ N, 086°10′56″ W. (NAD 83). This zone will be enforced from 9:30 p.m. until 10:45 p.m. on July 5, 2014.

2. Salute the Troops Fireworks; Muskegon, MI

The safety zone will encompass all waters of Muskegon Lake, in the vicinity of Lafarge Corporation, within the arc of a circle with a 1000-foot radius from a fireworks launch site in approximate position 43°14′00″ N, 086°15′50″ W. (NAD 83). This zone will be enforced from 10 p.m. until 11:30 p.m. on July 5, 2014.

3. Venetian Night Fireworks; Sturgeon Bay, WI

The safety zone will encompass all waters of Sturgeon Bay, in the vicinity of Sturgeon Bay Yacht Harbor, within the arc of a circle with a 800-foot radius from the fireworks launch site located on a barge in approximate position 44°49′41″ N, 087°22′20″ W. (NAD 83). This zone will be enforced from 9 p.m. until 11 p.m. on August 2, 2014.

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

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zones created by this rule will be relatively small and enforced for only a short time on the indicated day. Under certain conditions, moreover, vessels may still transit through the safety zones when permitted by the Captain of the Port.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will

not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the affected portion of the waters to which each safety zone applies during the time in which each safety zone is enforced.

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

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0476 to read as follows:

§ 165.T09–0476 Safety Zone; Summer Fireworks Displays in the Captain of the Port Lake Michigan Zone.

(a) *Safety Zones.* The following are designated as safety zones:

(1) *Private Party Fireworks; Spring Lake, MI.* All waters of Spring Lake in Spring Lake, Michigan, in the vicinity of Jerusalem Bayou, within the arc of a

circle with a 500-foot radius from the fireworks launch site located on a barge in approximate position 43°06′39″ N, 086°10′56″ W. (NAD 83); 9:30 p.m. until 10:45 p.m. on July 5, 2014.

(2) *Salute the Troops Fireworks; Muskegon, MI.* All waters of Muskegon Lake, in the vicinity of Lafarge Corporation, within the arc of a circle with a 1000-foot radius from a fireworks launch site located in approximate position 43°14′00″ N, 086°15′50″ W. (NAD 83); 10 p.m. until 11:30 p.m. on July 5, 2014.

(3) *Venetian Night Fireworks; Sturgeon Bay, WI.* All waters of Sturgeon Bay, in the vicinity of Sturgeon Bay Yacht Harbor, within the arc of a circle with a 800-foot radius from the fireworks launch site located on a barge in approximate position 44°49′41″ N, 087°22′20″ W. (NAD 83); 9 p.m. until 11 p.m. on August 2, 2014.

(b) *Effective and enforcement period.* This section is effective from July 5, 2014 until 11 p.m. on August 2, 2014. This section will be enforced at the times specified in paragraph (a) of this section.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within these safety zones is prohibited unless authorized by the Captain of the Port, Lake Michigan or his or her designated on-scene representative.

(2) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port, Lake Michigan or his or her designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port, Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Lake Michigan, to act on his or her behalf.

(4) Vessel operators desiring to enter or operate within the safety zones must contact the Captain of the Port, Lake Michigan, or his or her on-scene representative to obtain permission to do so. The Captain of the Port, Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

Dated: June 18, 2014.

A.B. Cocanaour,

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

[FR Doc. 2014–15707 Filed 7–2–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0269; FRL–9910–99–Region 9]

Revisions to the California State Implementation Plan, Placer County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Placer County portion of the California State Implementation Plan (SIP). This revision concerns the necessary procedures to create emission reduction credits from the reduction of volatile organic compound (VOC), oxides of nitrogen (NO_X), oxides of sulfur (SO_X), particulate matter (PM), and carbon monoxide (CO) emissions due to the permanent curtailment of burning rice straw.

We are approving a local rule that provides administrative procedures for creating emissions reduction credits, consistent with Clean Air Act (CAA or the Act) requirements.

DATES: This rule is effective on September 2, 2014 without further notice, unless EPA receives adverse comments by August 4, 2014. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0269, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or Deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, (415) 942–3848, *levin.nancy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule we are approving with the dates that it was adopted by the Placer County Air Pollution Control District (PCAPCD) and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
PCAPCD	516	Rice Straw Emission Reduction Credits	02–19–2009	04–06–2009

On May 13, 2009, the submittal for PCAPCD Rule 516 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There are no previous versions of Rule 516 in the SIP.

C. What is the purpose of the submitted rule?

Historically, the practice of rice growing included burning the field stubble or straw following harvest to kill weeds and insects and prepare the field for next year's plantings. The purpose of Rule 516 is to provide procedures to quantify, certify, and issue emission reduction credits (ERCs) that have resulted from the permanent curtailment of rice straw burning in the PCAPCD. Approval of Rule 516 into the SIP would allow these ERCs to be used as offsets under PCAPCD's New Source Review (NSR) rule. EPA's technical support document (TSD) has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), and must not relax existing requirements (see sections 110(l) and 193). In addition, a rule of this type that generates emission reduction credits for use as offsets in the NSR program must meet the NSR requirement for valid offsets (see section 173(c)) and should meet the criteria set forth in EPA's guidance concerning economic incentive programs.

Guidance and policy documents that we use to evaluate enforceability and other requirements consistently include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NOx Supplement), 57 FR 55620, November 25, 1992.
3. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).
4. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
5. New Source Review—Section 173(c) of the CAA and 40 CFR part 51, appendix S, ''Emission Offset Interpretative Ruling'' require certain sources to obtain emission reductions to offset increased emissions from new projects.
6. ''Improving Air Quality with Economic Incentive Programs,'' EPA–452/R–01–001, January 2001.
7. ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).
8. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.
9. ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,'' EPA 450/2–92–004, September 1992.

B. Does the rule meet the evaluation criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability and economic incentive programs; and ensures that the emission reductions are real, surplus, quantifiable, enforceable, and permanent. This rule includes detailed emissions quantification protocols and enforceable procedures which provide the necessary assurance that the emission reduction credits issued will meet the criteria for valid NSR offsets. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by August 4, 2014, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on September 2, 2014. This will incorporate the rule into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 2, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: April 25, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(366)(i)(D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(366) * * *

(i) * * *

(D) Placer County Air Pollution Control District.

(*1*) Rule 516, ''Rice Straw Emission Reduction Credits,'' adopted on February 19, 2009.

* * * * *

[FR Doc. 2014–15565 Filed 7–2–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1516 and 1552

[EPA–HQ–OARM–2013–0149; FRL–9913–36–OARM]

EPAAR Clause for Ordering by Designated Ordering Officers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) amends the EPA Acquisition Regulation (EPAAR) to update policy, procedures, and contract clauses. The final rule updates the *Ordering—By Designated Ordering Officers* clause and a corresponding prescription.

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

ADDRESSES: *Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov,* or in hard copy at the Office of Environmental Information (OEI) Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1752. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Thomas Valentino, Policy, Training, and Oversight Division, Office of Acquisition Management (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–4522; email address: *valentino.thomas@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The subject clause is currently codified in the EPAAR as the April 1984 basic clause without any alternates. The basic clause only contemplates order issuance prior to receiving formal input from the contractor. On December 21, 1989, a class deviation was issued to prescribe an alternate to the clause that provides for negotiating the terms and conditions of a task/delivery order prior to order issuance. There are several benefits to negotiation prior to order issuance: The Government is not charged directly for the time involved in negotiations and the associated costs are part of bid and proposal costs which are indirect charges spread across all Government contracts; it allows for more accurate pricing for the order, and it enables the Government to hold the Contractor to negotiated requirements as soon as the order is issued. As a result, the subject clause and corresponding prescription are being updated to add the 1989 class deviation. Because the class deviation provides several benefits that the basic clause does not, it will be designated as the basic form of the Ordering clause, and the previous basic form is being re-designated as Alternate

I. In addition, the EPAAR 1516.505(a) subject clause prescription is being updated accordingly. On April 7, 2014 (79 FR 19039) EPA sought comments on the proposed rule and received no comments.

II. Final Rule

This final rule updates the EPAAR 1516.505(a) clause prescription, and amends EPAAR 1552.216–72 to add an alternate version to the *Ordering—By Designated Ordering Officers* clause. It also provides additional information in Section (III)(C) below relating to the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act of 1996.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO)12866 (58 FR 51735, October 4, 1993) and therefore, not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. No information is collected under this action.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute; unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's final rule on small entities, ''small entity'' is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action revises a current EPAAR clause and does not impose requirements involving capital investment, implementing procedures, or record keeping. The previous basic form of the clause (which is now Alternate I) is already codified in the EPAAR, and the form that is being re-designated as the basic form has already been in wide use as an EPA clause deviation since 1989. Depending on procurement specifics, EPA uses the basic form of the clause about twice as often as the alternate form, because the basic form provides several benefits to negotiation prior to order issuance, as discussed in the *Background* section above. Therefore this rule will not have a significant economic impact on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Local, and Tribal governments and the private sector.

This rule contains no Federal mandates (under the regulatory provisions of the Title II of the UMRA) for State, Local, and Tribal governments or the private sector. The rule imposes no enforceable duty on any State, Local or Tribal governments or the private sector. Thus, the rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and Local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications as specified in Executive Order 13175.

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

Executive Order 13045, entitled ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12886, and (2) concerns an environmental health or safety risk that may have a proportionate effect on children. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

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

This final rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution of Use'' (66 FR 28335 (MAY 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) (15 U.S.C 272 note) of NTTA, Public Law 104–113, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTA directs EPA to provide Congress, through OMB, explanations when the Agency decides

not to use available and applicable voluntary consensus standards.

This final rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This final rulemaking does not involve human health or environmental effects.

List of Subjects

48 CFR Part 1516

Government procurement.

48 CFR Part 1522

Equal employment opportunity, Government procurement, Individuals with disabilities, Labor, Veterans.

Dated: June 11, 2014.

John R. Bashista,

Director, Office of Acquisition Management.

Therefore, 48 CFR Chapter 15 is amended as set forth below:

■ 1. The authority citation for 48 CFR parts 1516 and 1552 continues to read as follows:

Authority: 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); and 41 U.S.C. 418b.

PART 1516—TYPES OF CONTRACTS

■ 2. Revise 1516.505(a) as follows:

1516.505 Contract clauses.

(a) The Contracting Officer shall insert the clause in 1552.216–72, *Ordering—By Designated Ordering Officers,* or a clause substantially similar to the subject clause, in indefinite delivery/indefinite quantity type solicitations and contracts. The Contracting Officer shall insert Alternate I when formal input from the Contractor will not be obtained prior to order issuance.

* * * * *

PART 1552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Revise 1552.216–72 to read as follows:

1552.216–72 Ordering—by designated ordering officers.

As prescribed in 1516.505(a), insert the subject clause, or a clause substantially similar to the subject clause, in indefinite delivery/indefinite quantity type solicitations and contracts.

ORDERING—BY DESIGNATED ORDERING OFFICERS (____2014)

(a) The Government will order any supplies and services to be furnished under this contract by issuing task/delivery orders on Optional Form 347, or an agency prescribed form, from _____ through _____. In addition to the Contracting Officer, the following individuals are authorized ordering officers.

_____

_____

(b) A Standard Form 30 will be the method of amending task/delivery orders.

(c) The Contractor shall acknowledge receipt of each order by having an authorized company officer sign either a copy of a transmittal letter or signature block on page 3 of the task/delivery order, depending upon which is provided, within ____ calendar days of receipt.

(d) Prior to the placement of any task/delivery order, the Contractor will be provided with a proposed Performance Work Statement/Statement of Work and will be asked to respond with detailed technical and cost proposals within ____ calendar days or less. The technical proposal will delineate the Contractor's interpretation for the execution of the PWS/SOW, and the pricing proposal will be the Contractor's best estimate for the hours, labor categories and all costs associated with the execution. The proposals are subject to negotiation. The Ordering Officer and the Contractor shall reach agreement on all the material terms of each order prior to the order being issued.

(e) Each task/delivery order issued will incorporate the Contractor's technical and cost proposals as negotiated with the Government, and will have a ceiling price which the contractor shall not exceed. When the Contractor has reason to believe that the labor payment and support costs for the order which will accrue in the next thirty (30) days will bring total cost to over 85 percent of the ceiling price specified in the order, the Contractor shall notify the Ordering Officer.

(f) Under no circumstances will the Contractor start work prior to the issue date of the task/delivery order unless specifically authorized to do so by the Ordering Officer. Any verbal authorization will be confirmed in writing by the Ordering Officer or Contracting Officer within ____ calendar days.

(End of clause)

Alternate I. As prescribed in 1516.505(a), insert the subject clause, or a clause substantially similar to the subject clause, in indefinite delivery/indefinite quantity contracts when formal input from the Contractor will not be obtained prior to order issuance.

(a) The Government will order any supplies and services to be furnished under this contract by issuing task/delivery orders on Optional Form 347, or any agency prescribed form, from ____ through ____. In addition to the Contracting Officer, the following individuals are authorized ordering officers:

_____

_____

(b) A Standard Form 30 will be the method of amending task/delivery orders.

(c) The Contractor shall acknowledge receipt of each order and shall prepare and forward to the Ordering Officer within ____ calendar days the proposed staffing plan for accomplishing the assigned task within the period specified.

(d) If the Contractor considers the estimated labor hours or specified work completion date to be unreasonable, the Contractor shall promptly notify the Ordering Officer and Contracting Officer in writing within ____ calendar days, stating why the estimated labor hours or specified completion date is considered unreasonable.

(e) Each task/delivery order will have a ceiling price, which the Contractor may not exceed. When the Contractor has reason to believe that the labor payment and support costs for the order, which will accrue in the next thirty (30) days, will bring total cost to over 85 percent of the ceiling price specified in the order, the Contractor shall notify the Ordering Officer.

(f) Paragraphs (c), (d), and (e) of this clause apply only when services are being ordered.

(End of clause)

[FR Doc. 2014–15688 Filed 7–2–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130925836–4174–02]

RIN 0648–XD358

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2014 total allowable catch of Pacific ocean perch in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 1, 2014, through 2400 hours, A.l.t., December 31, 2014.

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

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

The 2014 total allowable catch (TAC) of Pacific ocean perch in the Western Regulatory Area of the GOA is 2,399 metric tons (mt) as established by the final 2014 and 2015 harvest specifications for groundfish of the (79 FR 12890, March 6, 2014).

In accordance with § 679.20(d)(1)(i) and (ii)(B), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2014 TAC of Pacific ocean perch in the Western Regulatory Area of the GOA will be taken as incidental catch in directed fisheries for other species. Therefore, the Regional Administrator is establishing a directed fishing allowance of 99 mt, and is setting aside 2,300 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Regulatory Area of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for Pacific ocean perch in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 26, 2014.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: June 30, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–15658 Filed 6–30–14; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130925836–4174–02]

RIN 0648–XD359

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2014 total allowable catch of northern rockfish in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 1, 2014, through 2400 hours, A.l.t., December 31, 2014.

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

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

The 2014 total allowable catch (TAC) of northern rockfish in the Western Regulatory Area of the GOA is 1,305 metric tons (mt) as established by the final 2014 and 2015 harvest specifications for groundfish of the (79 FR 12890, March 6, 2014).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2014 TAC of northern rockfish in the Western Regulatory Area of the GOA will be soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 50 mt, and is setting aside 1,255 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for northern rockfish in the Western Regulatory Area of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for northern rockfish in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 26, 2014.

The AA also finds good cause to waive the 30-day delay in the effective

date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: June 30, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–15663 Filed 6–30–14; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130925836–4174–02]

RIN 0648–XD360

Fisheries of the Exclusive Economic Zone Off Alaska; Dusky Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for dusky rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2014 total allowable catch of dusky rockfish in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 1, 2014, through 2400 hours, A.l.t., December 31, 2014.

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

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

The 2014 total allowable catch (TAC) of dusky rockfish in the Western Regulatory Area of the GOA is 317 metric tons (mt) as established by the final 2014 and 2015 harvest specifications for groundfish of the (79 FR 12890, March 6, 2014).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2014 TAC of dusky rockfish in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 50 mt, and is setting aside the remaining 267 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for dusky rockfish in the Western Regulatory Area of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for dusky rockfish in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 26, 2014.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: June 30, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–15665 Filed 6–30–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 79, No. 128

Thursday, July 3, 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 ENERGY

10 CFR Part 429

[Docket No. EERE–2013–BT–NOC–0039]

Appliance Standards and Rulemaking Federal Advisory Committee: Cancellation of Open Meetings

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of cancellation of open meetings.

SUMMARY: The Department of Energy (DOE) announces the cancellation of open meetings for the Commercial and Industrial Pumps Working Group of the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) scheduled for July 23 through July 25, 2014.

DATES: The open meetings scheduled for July 23, July 24, and July 25, 2014 are cancelled.

FOR FURTHER INFORMATION CONTACT: John Cymbalsky, ASRAC Designated Federal Officer, U.S. Department of Energy (DOE), Office of Energy Efficiency and Renewable Energy, 950 L'Enfant Plaza SW., Washington, DC, 20024, (202) 287–1692. Email: *asrac@ee.doe.gov*.

SUPPLEMENTARY INFORMATION: DOE published a notice of open meetings for the Commercial and Industrial Pumps Working Group of the ASRAC to be held in June and July of 2014 (79 FR 2383, Jan. 14, 2014) and a second notice adding an extra day to both series of meetings (79 FR 29692, May 23, 2014). Since that time, the working group has concluded its activities and determined the second series of meetings, scheduled for July 23 through July 25, is no longer necessary. Through this notice, DOE announces cancellation of those meetings.

Issued in Washington, DC, on June 27, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–15646 Filed 7–2–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

5 CFR Chapter XXII

10 CFR Chapters II, III, and X

Reducing Regulatory Burden

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Request for information.

SUMMARY: As part of its implementation of Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued by the President on January 18, 2011, the Department of Energy (Department or DOE) is seeking comments and information from interested parties to assist DOE in reviewing its existing regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed. The purpose of DOE's review is to make the agency's regulatory program more effective and less burdensome in achieving its regulatory objectives. In this request for information (RFI), DOE also highlights its regulatory review and reform efforts conducted to date in light of comments from interested parties.

DATES: Written comments and information are requested on or before July 18, 2014.

ADDRESSES: Interested persons are encouraged to submit comments, identified by ''Regulatory Burden RFI,'' by any of the following methods:

White House Web site: http://www.whitehouse.gov/advise.

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Email: Regulatory.Review@hq.doe.gov. Include ''Regulatory Burden RFI'' in the subject line of the message.

Mail: U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW., Room 6A245, Washington, DC 20585.

Docket: For access to the docket to read background documents, or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov*.

That Department's plan for retrospective review of its regulations and its subsequent update reports can be accessed at *http://energy.gov/gc/services/open-government/restrospective-regulatory-review*.

FOR FURTHER INFORMATION CONTACT: Jengeih Tamba, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Avenue SW., Washington, DC 20585, 202–586–5000. Email: *Regulatory.Review@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: On January 18, 2011, the President issued Executive Order 13563, ''Improving Regulation and Regulatory Review,'' to ensure that Federal regulations seek more affordable, less intrusive means to achieve policy goals, and that agencies give careful consideration to the benefits and costs of those regulations. To that end, the Executive Order requires, among other things, that:

- Agencies propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; and that agencies tailor regulations to impose the least burden on society, consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; and that, consistent with applicable law, agencies 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).
- The regulatory process encourages public participation and an open exchange of views, with an opportunity for the public to comment.
- Agencies coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public.
- Agencies consider low-cost approaches that reduce burdens and maintain flexibility.
- Regulations be guided by objective scientific evidence.

Additionally, the Executive Order directs agencies to consider how best to promote retrospective analyses of existing rules. Specifically, agencies were required to develop a plan under

which the agency will periodically review existing regulations to determine which should be maintained, modified, strengthened, or repealed to increase the effectiveness and decrease the burdens of the agency's regulatory program. DOE's plan and its subsequent update reports can be accessed at *http://energy.gov/gc/services/open-government/restrospective-regulatory-review*.

The Department is committed to maintaining a consistent culture of retrospective review and analysis. DOE will continually engage in review of its rules to determine whether there are burdens on the public that can be avoided by amending or rescinding existing requirements. To that end, DOE is publishing today's RFI to again explicitly solicit public input. In addition, DOE is always open to receiving information about the impact of its regulations. To facilitate both this RFI and the ongoing submission of comments, interested parties can identify regulations that may be in need of review at the following recently established White House Web site: *http://www.whitehouse.gov/advise*. DOE has also created a link on the Web page of DOE's Office of the General Counsel to an email in-box for the submission of comments, *Regulatory.Review@hq.doe.gov*.

While the Department promulgates rules in accordance with the law and to the best of its analytic capability, it is difficult to be certain of the consequences of a rule, including its costs and benefits, until it has been tested. Because knowledge about the full effects of a rule is widely dispersed in society, members of the public are likely to have useful information and perspectives on the benefits and burdens of existing requirements and how regulatory obligations may be updated, streamlined, revised, or repealed to better achieve regulatory objectives, while minimizing regulatory burdens. Interested parties may also be well-positioned to identify those rules that are most in need of review and, thus, assist the Department in prioritizing and properly tailoring its retrospective review process. In short, engaging the public in an open, transparent process is a crucial step in DOE's review of its existing regulations.

Recent Successes

Two items on the most recent, January 2014 update are the Alternative Efficiency Determination Methods and Alternate Rating Methods rule (AEDM), and the Test Procedure Waiver rule. Just prior to release of the update, DOE published the final AEDM rule; the final test procedure waiver rule was published shortly after release of the update. Both of these final rules were issued in furtherance of DOE's commitment to the retrospective review of its regulations. In the AEDM rule, DOE revised its regulations on the use of alternatives to testing to certify compliance with applicable energy conservation standards and the reporting of related ratings for covered commercial and industrial equipment. These regulations arose from a negotiated rulemaking effort on issues regarding certification of commercial heating, ventilating, air-conditioning (HVAC), water heating (WH), and refrigeration equipment. In addition, DOE extended the compliance dates for the initial certification of commercial HVAC, WH, and refrigeration equipment. In the Test Procedure Waiver rule, DOE amends portions of its regulations governing petitions for waiver and interim waiver from DOE test procedures to improve the waiver process. The final rule restores, with minor amendments, text inadvertently omitted in the March 7, 2011 certification, compliance, and enforcement final rule. Additionally, the rule adopts a process by which other manufacturers of a product employing a specific technology or characteristic, for which DOE has granted a waiver to another manufacturer for a product employing that particular technology, would petition for a waiver. The rule also sets forth a process for manufacturers to request rescission or modification of a waiver if they determine that the waiver is no longer needed, or for other appropriate reasons; adopts other minor modifications to the waiver provisions for both consumer products and industrial equipment; and clarifies certain aspects related to the submission and processing of a waiver petition.

List of Questions for Commenters

The following list of questions is intended to assist in the formulation of comments and not to restrict the issues that may be addressed. In addressing these questions or others, DOE requests that commenters identify with specificity the regulation or reporting requirement at issue, providing legal citation where available. The Department also requests that the submitter provide, in as much detail as possible, an explanation why a regulation or reporting requirement should be modified, streamlined, expanded, or repealed, as well as specific suggestions of ways the Department can better achieve its regulatory objectives.

(1) How can the Department best promote meaningful periodic reviews of its existing rules and how can it best identify those rules that might be modified, streamlined, expanded, or repealed?

(2) What factors should the agency consider in selecting and prioritizing rules and reporting requirements for review?

(3) Are there regulations that are or have become unnecessary, ineffective, or ill advised and, if so, what are they? Are there rules that can simply be repealed without impairing the Department's regulatory programs and, if so, what are they?

(4) Are there rules or reporting requirements that have become outdated and, if so, how can they be modernized to accomplish their regulatory objectives better?

(5) Are there rules that are still necessary, but have not operated as well as expected such that a modified, stronger, or slightly different approach is justified?

(6) Does the Department currently collect information that it does not need or use effectively to achieve regulatory objectives?

(7) Are there regulations, reporting requirements, or regulatory processes that are unnecessarily complicated or could be streamlined to achieve regulatory objectives in more efficient ways?

(8) Are there rules or reporting requirements that have been overtaken by technological developments? Can new technologies be leveraged to modify, streamline, or do away with existing regulatory or reporting requirements?

(9) How can the Department best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of existing regulations? Are there existing sources of data the Department can use to evaluate the post-promulgation effects of regulations over time? We invite interested parties to provide data that may be in their possession that documents the costs, burdens, and benefits of existing requirements.

(10) Are there regulations that are working well that can be expanded or used as a model to fill gaps in other DOE regulatory programs?

The Department notes that this RFI is issued solely for information and program-planning purposes. Responses to this RFI do not bind DOE to any further actions related to the response. All submissions will be made publically available on. *http://www.regulations.gov*.

Issued in Washington, DC on June 25, 2014.

Steven P. Croley,

General Counsel.

[FR Doc. 2014–15644 Filed 7–2–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0363; Directorate Identifier 2014–NE–08–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Rolls-Royce plc (RR) RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines. This proposed AD was prompted by fuel leaks caused by damage to the fan case low-pressure (LP) fuel tube. This proposed AD would require inspection of the fan case LP fuel tubes and associated clips and the fuel oil heat exchanger (FOHE) mounts and associated hardware. We are proposing this AD to prevent failure of the fan case LP fuel tube, which could lead to an in-flight shutdown of one or more engines due to fuel starvation, loss of thrust control, and damage to the airplane.

DATES: We must receive comments on this proposed AD by September 2, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

For service information identified in this proposed AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Web site: *https://www.aeromanager.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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–2014–0363; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The 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: Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7134; fax: 781–238–7199; email: *wego.wang@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0363; Directorate Identifier 2014–NE–08–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 with FAA personnel concerning this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2014–0089, dated April 15, 2014 (referred to hereinafter as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Fuel leaks from the engine have occurred in-service due to damage to sections of the fan case low-pressure (LP) fuel tube which runs between the fuel oil heat exchanger (FOHE) and the high pressure fuel pump. Frettage damage between the securing clips and the tube outer surface has been caused by excessive movement within the system that resulted from deterioration of the FOHE mounting hardware. The thinning of the tube wall causes the tube to fracture and fuel loss to occur.
>
> This condition, if not detected and corrected, could lead to a critical fuel imbalance or in-flight fuel starvation, possibly resulting engine in-flight shut-down and, consequently, reduced control of the aeroplane.
>
> For the reasons described above, this AD requires repetitive on-wing and in-shop inspections and, depending on findings, replacement of fan case LP fuel tubes, clips and FOHE mounting hardware.

You may obtain further information by examining the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0363.

Relevant Service Information

RR has issued Alert Non-Modification Service Bulletin (NMSB) No. RB.211–73–AH522, Revision 1, dated March 18, 2014. The Alert NMSB describes procedures for on-wing and in-shop inspection and replacement if necessary, of the LP fuel tubes and FOHE mounts and associated hardware.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require inspection of affected LP fuel tubes and FOHE mounts and associated hardware and, if necessary, replacement with a part eligible for installation.

Costs of Compliance

We estimate that this proposed AD would affect about 50 engines installed on airplanes of U.S. registry. We also estimate that it would take about 6 hours per engine to comply with this proposed AD. The average labor rate is $85 per hour. Based on these figures, we

estimate the cost of this proposed AD on U.S. operators to be $25,500.

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 to the extent that it justifies making a regulatory distinction, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce plc: Docket No. FAA–2014–0363; Directorate Identifier 2014–NE–08–AD.

(a) Comments Due Date

We must receive comments by September 2, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce plc (RR) RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines.

(d) Reason

This AD was prompted by fuel leaks caused by damage to the fan case low-pressure (LP) fuel tube. We are issuing this AD to prevent failure of the fan case LP fuel tube, which could lead to an in-flight shutdown of one or more engines due to fuel starvation, loss of thrust control, and damage to the airplane.

(e) Actions and Compliance

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

(1) For engines that have 3,200 or more flight hours since new (FHSN) on the effective date of this AD, within 800 flight hours (FHs) after the effective date of this AD, accomplish an on-wing inspection of fan case LP fuel tubes, part number (P/N) FW53576, and associated clips, and the fuel oil heat exchanger (FOHE) mounts and associated hardware. Use paragraph 3.A. of RR Alert Non-Modification Service Bulletin (NMSB) No. RB.211–73–AH522, Revision 1, dated March 18, 2014, to do the inspection. Thereafter, inspect at intervals not to exceed 4,000 FHs.

(2) For engines that have less than 3,200 FHSN on the effective date of this AD, before exceeding 4,000 FHSN, accomplish an on-wing inspection of fan case LP fuel tubes, P/N FW53576, and associated clips, and the FOHE mounts and associated hardware. Use paragraph 3.A. of RR Alert NMSB No. RB.211–73–AH522, Revision 1, dated March 18, 2014, to do the inspection. Thereafter, inspect at intervals not to exceed 4,000 FHs.

(3) After the effective date of this AD, during each engine shop visit, inspect the fan case LP fuel tubes, P/Ns FW26589, FW36335, FW26587, FW535776, and FW53577, and associated clips, and the FOHE mounts and associated hardware. Use paragraph 3.B. of RR Alert NMSB No. RB.211–73–AH522, Revision 1, dated March 18, 2014, to do the inspection.

(4) If any inspection required by paragraphs (e)(1), (e)(2), or (e)(3) of this AD fails, replace the affected part with a part eligible for installation.

(f) Credit for Previous Actions

(1) If, before the effective date of this AD, you performed the inspections and corrective actions required by paragraphs (e)(1), (e)(2), or (e)(3) of this AD using RR Alert NMSB No. RB.211–72–AH522, dated September 20, 2013, you met the initial inspection requirements of paragraphs (e)(1), (e)(2), or (e)(3) of this AD.

(2) Any inspections and corrective actions performed before the effective date of this AD are not terminating action for the repetitive inspections required by paragraphs (e)(1), (e)(2), and (e)(3) of this AD.

(g) Definitions

For the purposes of this AD:

(1) An ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance is not an engine shop visit.

(2) The fan case LP fuel tubes and associated clips, and the FOHE mounts and associated hardware are eligible for installation if they have passed the inspection requirements of paragraphs (e)(1), (e)(2), and (e)(3) of this AD.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(i) Related Information

(1) For more information about this AD, contact Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7134; fax: 781–238–7199; email: *wego.wang@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2014–0089, dated April 15, 2014, for more information. 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–2014–0363.

(3) RR Alert NMSB No. RB.211–73–AH522, Revision 1, dated March 18, 2014, which is not incorporated by reference in this AD, can be obtained from Rolls-Royce plc using the contact information in paragraph (i)(4) of this AD.

(4) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Web site: *https://www.aeromanager.com.*

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on June 27, 2014.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–15620 Filed 7–2–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0279; Airspace Docket No. 14–ANM–3]

Proposed Modification of Class D and Class E Airspace; Pasco, WA

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Class D and Class E airspace at Tri-Cities Airport, Pasco, WA. Controlled airspace is necessary to accommodate the new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at the airport. This action, initiated by the biennial review of the Pasco WA, airspace area, would enhance the safety and management of IFR operations at the airport.

DATES: Comments must be received on or before August 18, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2014–0279; Airspace Docket No. 14–ANM–3, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4517.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2014–0279 and Airspace Docket No. 14–ANM–3) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2014–0279 and Airspace Docket No. 14–ANM–3''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

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

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class D airspace, Class E surface airspace and Class E airspace extending upward from 700 feet above the surface at the Tri-Cities Airport, Pasco, WA. After a biennial review of the airspace, the FAA found modification of the airspace necessary for the safety and management of aircraft departing and arriving under IFR operations at the airport. The Class D airspace area would be expanded from the existing 4.3 miles to 4.8 miles, west of the airport, from the 255° radial to the 12° radial and two segments extending 5.8 miles southwest and northeast of the airport would be added. The cutout of the Class D airspace for Vista Airport would be eliminated, as Vista Airport is closed. The Class E surface airspace would be adjusted to coincide with the dimensions of the Class D airspace. The Class E airspace designated as an extension to the Class D and Class E surface area would be removed as they are no longer needed for IFR operations. The Class E airspace extending 700 feet above the surface would be decreased to an 11 mile radius of the airport with segments extending from the 11 mile radius to 13 miles northeast and southeast of the airport and a segment 4 miles south and 9 miles north of a 226 degree bearing from the airport extending to 15 miles southwest of the airport. These actions are necessary to accommodate RNAV (GPS) standard instrument approach procedures and for the safety and management of IFR operations at the airport.

Class D airspace and Class E airspace designations are published in paragraph 5000, 6002, 6004 and 6005 respectively, of FAA Order 7400.9X, dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in this Order.

The FAA has determined this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)

does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D airspace.

* * * * *

ANM WA D Pasco, WA [Modified]

Pasco, Tri-Cities Airport, WA
(Lat. 46°15′53″ N., long. 119°07′09″ W.)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 4.3-mile radius of Tri-Cities Airport, and that airspace within a 4.8-mile radius of the airport from the 256° bearing from the airport clockwise to the 11° bearing from the airport, and that airspace within a 5.8-mile radius of the airport from the 11° bearing from the airport clockwise to the 83° bearing from the airport, and within a 5.8-mile radius of the airport from the 213° bearing clockwise to the 256° bearing from the airport.2sp This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

ANM WA E2 Pasco, WA [Modified]

Pasco, Tri-Cities Airport, WA
(Lat. 46°15′53″ N., long. 119°07′09″ W.)

That airspace extending upward from the surface within a 4.3-mile radius of Tri-Cities Airport and that airspace within 4.8-mile radius of the airport from the 256° bearing from the airport clockwise to the 11° bearing from the airport and that airspace within a 5.8-mile radius of the airport from the 11° bearing from the airport clockwise to the 83° bearing from the airport and within 5.8-mile radius of the airport from 213° bearing clockwise to the 256° bearing from the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E airspace areas designated as an extension to Class D or Class E surface area.

* * * * *

ANM WA E4 Pasco, WA [Removed]

Pasco, Tri-Cities Airport, WA
(Lat. 46°15′53″ N., long. 119°07′09″ W.)
Pasco VOR/DME
(Lat. 46°15′47″ N., long. 119°06′57″ W.)

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

* * * * *

ANM WA E5 Pasco, WA [Modified]

Pasco, Tri-Cities Airport, WA
(Lat. 46°15′53″ N., long. 119°07′09″ W.)

That airspace extending upward from 700 feet above the surface within 7.8-mile radius of the Tri-Cities Airport, and that airspace within an 11-mile radius of the airport from the 265° bearing from the airport clockwise to 16° bearing from the airport, and that airspace from the 54° bearing from the airport clockwise to the 112° from the airport, and that airspace 3.5 miles either side of the 35° bearing of the airport extending from the 11 mile radius to 13mile northeast of the airport, and that airspace and that airspace 4.0 miles either side of the 133° bearing extending from the airport to 13 miles southeast of the airport, and that airspace 4 miles southeast and 9 miles northwest of the 226° bearing from the airport extending from the airport 15 miles southwest; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 45°49′00″ N., long. 118°00′00″ W.; to lat. 45°49′00″ N., long. 119°45′00″ W.; to lat. 47°00′00″ N., long. 119°45′00″ W., to lat. 47°00′00″ N., long. 118°00′00″ W.; thence to the point of origin.

Issued in Seattle, Washington, on June 23, 2014.

Christopher Ramirez,

Manager (A), Operations Support Group, Western Service Center.

[FR Doc. 2014–15692 Filed 7–2–14; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1110

[CPSC Docket No. CPSC–2013–0017]

Workshop on Electronic Filing of Certificates as Included in Proposed Rule on Certificates of Compliance

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of meeting and request for comments.

SUMMARY: The U.S. Consumer Product Safety Commission (CPSC, Commission, or we) staff is holding a workshop on aspects of the Commission's proposed rule on Certificates of Compliance (certificates), which the Commission published on May 13, 2013. Among other things, the Commission proposed to require electronic filing of certificates for regulated imported consumer products with U.S. Customs and Border Protection (CBP) at the time of filing the CBP entry or the time of filing the entry and entry summary, if both are filed together. The workshop will focus on this aspect of the proposed rule. We invite interested parties to participate in, or attend the workshop, and to submit written comments.

DATES: The workshop will be held from 9 a.m. to 4 p.m. on Thursday, September 18, 2014. Individuals interested in presenting information and participating on a panel at the workshop should register by Friday, August 8, 2014; all other individuals who wish to attend the workshop should register by Friday, September 5, 2014. The workshop will be available via webcast, but viewers will not be able to interact with the panelists and presenters.

Written comments must be received by Friday, October 31, 2014.

ADDRESSES: CPSC staff will hold the workshop in the Hearing Room at CPSC's headquarters at: 4330 East West Highway, Bethesda, MD 20814. You may attend the workshop free of charge. Individuals interested in presenting information or attending the workshop should register online at: *http://www.cpsc.gov/meetingsignup.html,* and click on the link titled, ''Workshop on Electronic Filing of Certificates of Compliance for Imported Consumer Products.'' More information about the workshop will be posted at: *http://www.cpsc.gov/meetingsignup.html.*

You may submit comments related to the workshop and electronic filing of certificates, identified by Docket No. CPSC–2013–0017, by any of the methods below:

Electronic Submissions

Submit electronic comments in the following way:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through: *http://www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions

Submit written submissions by:

Mail/Hand delivery/Courier, preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. Submit such information separately in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert ''Docket No. CPSC–2013–0017'', into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Ms. Celestine Kish, Office of Import Surveillance, 4330 East West Highway, Bethesda, MD 20814; telephone 301–987–2547; email: *ckish@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. What is CPSC's authority to regulate importation of consumer products?

Section 17 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2066) and section 14 of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1273) authorize the Commission to regulate the importation of consumer products and substances that are within the CPSC's jurisdiction. Among other authorities, section 17 of the CPSA authorizes the Commission to refuse admission and to destroy any product imported or offered for import that, among other things, is not accompanied by a required certificate, fails to comply with an applicable consumer product safety rule, or has a product defect that constitutes a substantial product hazard within the meaning of section 15(a)(2) of the CPSA (15 U.S.C. 2064(a)(2)). CPSC works with CBP to review and inspect cargo and to clear compliant consumer products offered for importation into the United States. CPSC also works with CBP to enforce CPSC regulations and to destroy products that violate the law and cannot be reconditioned for import.

B. What statutory requirements apply to certificates of compliance?

When a certificate is needed. Section 14(a) of the CPSA (15 U.S.C. 2063(a)), as amended by the Consumer Product Safety Improvement Act of 2008 (CPSIA), requires that regulated consumer products be certified as compliant with CPSC's regulations by the manufacturer (including an importer)[1] and the private labeler of the consumer product (if such product bears a private label). A regulated consumer product is one that is subject to a consumer product safety rule under the CPSA or similar rule, ban, standard, or regulation under any other law enforced by the Commission that is imported for consumption or warehousing, or distributed in commerce. Section 3(a)(8) of the CPSA (15 U.S.C. 2052(a)(8)) defines ''distribute in commerce'' to mean ''to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.'' Section 14(a)(1)(a) of the CPSA requires that a certificate for a regulated non-children's product (General Certificate of Conformity, or GCC) be based on a test of each product or on a reasonable testing program.

Additionally, every manufacturer (including an importer) and private labeler, if there is one, of a children's product that is subject to a children's product safety rule, must have the children's product tested by a CPSC-accepted third party conformity assessment body (laboratory). Based on such third party testing, manufacturers and private labelers must issue a certificate (Children's Product Certificate, or CPC) that certifies that the children's product is compliant with all applicable rules. Section 14(a)(2) of the CPSA requires that testing and certification for regulated children's products be conducted before importing such children's products for consumption or warehousing or before distributing such children's products in commerce.

Content of certificates. Sections 14(g)(1) and (2) of the CPSA contain certificate content requirements. Certificates (''certificates'' collectively refers to GCCs and CPCs) must identify the manufacturer (including the importer) or private labeler issuing the certificate, as well as any third party conformity assessment body on whose testing the certificate depends. At a minimum, certificates are required to include: the date and place of manufacture; The date and place where the product was tested; each party identified on the certificate's name, full mailing address, and telephone number; and contact information for the individual responsible for maintaining records of test results. Additionally, section 14(g) of the CPSA requires that every certificate be legible and that all content be in English. Content may be in any other language as well.

Availability of certificates. Section 14(g)(3) of the CPSA establishes certificate availability requirements. The statute requires that every certificate ''*accompany the applicable product or shipment of products* covered by the same certificate'' and that a copy of the certificate be furnished to each distributor or retailer of the product. (emphasis added). Thus, the statute requires that domestically produced and imported products be accompanied by a certificate. Section 14(g)(3) of the CPSA additionally provides that upon request, the manufacturer (including the importer) or private labeler issuing the certificate must furnish a copy of the certificate to the Commission. Accordingly, *only* presenting a certificate of compliance ''on demand''

[1] Section 3(a)(11) of the CPSA defines ''manufacturer'' as any person who manufactures *or imports* a consumer product. As such, any statutory obligation assigned to a manufacturer, by definition, applies to an importer. Thus, the statutory obligation to issue a certificate for children's and non-children's products falls to the manufacturer, importer, or the private labeler of a consumer product, if the product is privately labeled under section 3(a)(12) of the CPSA.

by the Commission does not satisfy the statutory requirement that the certificate ''accompany'' the product or shipment.

Finally, section 14(g)(4) of the CPSA states that in consultation with the Commissioner of Customs, the CPSC may, by rule, provide for the electronic filing of certificates up to 24 hours before the arrival of an imported product. Upon request, the manufacturer (including the importer) or private labeler issuing the certificate must furnish a copy of the certificate to the Commission or to CBP.

In addition to the statutory authority in section 14 of the CPSA, which requires certificates for regulated products, section 3 of the CPSIA gives the Commission general implementing authority regarding certificates. Section 3 of the CPSIA provides: ''[t]he Commission may issue regulations, as necessary, to implement this Act and the amendments made by this Act.''

C. What regulatory actions has the commission taken regarding certificates?

Existing 1110 rule. The Commission promulgated a direct final rule for ''certificates of compliance'' on November 18, 2008 (73 FR 68328), which is codified at 16 CFR part 1110 (the existing 1110 rule). The Commission published the existing 1110 rule shortly after the CPSIA was enacted on August 14, 2008, to clarify for stakeholders the certificate requirements imposed by the newly amended sections 14(a) and 14(g). The existing part 1110 rule clarified certificate requirements by, for example:

- Limiting the parties who must issue a certificate to the importer, for products manufactured outside the United States, and, in the case of domestically manufactured products, to the manufacturer;
- Allowing certificates to be in hard copy or electronic form;
- Clarifying requirements for an electronic form of certificate; and
- Clarifying certificate content requirements.

The existing 1110 rule did not change the statutory requirement that certificates ''accompany'' the applicable product or shipment of products covered by the certificate. However, the existing 1110 rule provides another means of meeting the ''accompany'' requirement, by allowing use of electronic certificates in lieu of paper certificates. Section 1110.13(a)(1) of the existing 1110 rule states:

> An electronic certificate satisfies the ''accompany'' requirement if the certificate is identified by a unique identifier and can be accessed via a World Wide Web URL or other electronic means, provided the URL or other electronic means and the unique identifier are created in advance and are available, along with access to the electronic certificate itself, to the Commission or to the Customs authorities as soon as the product or shipment itself is available for inspection.

Related Commission rules. Since the existing 1110 rule was promulgated in 2008, the Commission implemented the testing and labeling requirements in section 14 of the CPSA, including two key rules in 2011, which are related to product certification: (1) *Testing and Labeling Pertaining to Product Certification,* 16 CFR part 1107 (the Testing Rule or the 1107 rule); and (2) *Conditions and Requirements for Relying on Component Part Testing or Certification, or Another Party's Finished Product Testing or Certification, to Meet Testing and Certification Requirements,* 16 CFR part 1109 (the Component Part Rule or the 1109 rule). Both rules were published in the **Federal Register** on November 8, 2011 (76 FR 69482 and 76 FR 69546, respectively). The Testing Rule, effective February 8, 2013, sets forth requirements for the testing, certification, and optional labeling of regulated children's products. The Component Part Rule, effective December 8, 2011, allows for component part testing and certification to meet testing and certification requirements for children's and non-children's products. The Component Part Rule also sets forth criteria for a manufacturer, importer, or private labeler to certify a regulated consumer product based on another party's testing or certification.

Proposed amendment to 1110 rule. On May 13, 2013, the Commission issued a notice of proposed rulemaking (NPR) to amend the existing 1110 rule (78 FR 28080). The NPR proposed to clarify certificate requirements in light of the Testing and Component Part Rules and to implement section 14(g)(4) of the CPSA, which allows the Commission, in consultation with the Commissioner of Customs, to require that certificates for imported products be filed electronically with CBP up to 24 hours before arrival of an imported product. As explained in section IV of this notice, the workshop will focus on the requirement for importers to file electronic certificates with CBP upon entry. In the NPR, proposed § 1110.13(a) states that to meet the statutory requirement that certificates ''accompany'' products or product shipments, for regulated finished products that are imported for consumption or warehousing, ''the importer must file the required GCC or CPC electronically with the CBP at the time of filing the CBP entry or the time of filing the entry and entry summary, if both are filed together.'' 78 FR at 28108. The NPR also sought comment on allowing filing certificates at a time earlier than entry, at manifest. 78 FR at 28090.

Regarding the technology involved in filing electronic certificates, the Commission proposed filing certificates in the form of an image, a pdf file, or in the form of data elements that can be uploaded into CBP's database and electronically provided to CPSC for review. *Id.* The NPR stated that the Commission prefers data elements so that the information can be uploaded and searchable in a database. The Commission recognized that electronic filing of certificates would require software upgrades that may need to be completed in stages by CBP, CPSC, and stakeholders. The NPR noted that CBP's technology would be used to file certificates electronically and that the Commission would need CBP's assistance and cooperation in implementing electronic filing of certificates at entry. *Id.*

II. What are we trying to accomplish by requiring electronic certificates to be filed at entry?

The preamble to the NPR states that electronically filing certificate information would aid the Commission in enforcing the certificate requirement and give the Commission the ability to search certificate content information for enforcement and inspection purposes. 78 FR at 28089. Using electronic filing of certificate data would expedite clearance of consumer products at the ports and increase the safety of consumer products entering the United States through improved and more efficient enforcement. Currently, CPSC analyzes certain import data provided by CBP about shipments of consumer products arriving at U.S. ports of entry and then makes risk-based decisions about which products to clear for importation and which products to hold for inspection purposes. In a pilot project initiated in late 2011, CPSC improved its import-related functions by developing a software system known as the RAM (risk assessment methodology), to review CBP's import data. The RAM allows CPSC to analyze CBP's import data more rapidly to identify low-risk cargo to expedite clearance and to focus CPSC's limited resources on high-risk cargo requiring further inspection. CPSC believes that the RAM pilot program successfully allows staff to identify rapidly certain high-risk cargo for hold and inspection

and permit low-risk cargo to be cleared through the ports. CPSC can make this assessment at the time of entry, often before products reach U.S. ports, depending upon when the entry documentation is filed with CBP.

CPSC seeks to implement the RAM program beyond the pilot stage. A fully funded and implemented RAM program would allow CPSC to analyze CBP's import data for all consumer products under CPSC's jurisdiction upon entering the United States. In the NPR to amend 16 CFR part 1110, CPSC proposed to include data elements from certificates in the RAM's import risk analysis because this data will assist CPSC in making better and more efficient risk-based decisions for clearance and inspections. As the RAM is currently being used, the addition of certificate data would enable CPSC to automate review of certificate data and to more efficiently clear low-risk cargo at the time of entry. At the same time, CPSC can identify high-risk cargo for hold and inspection at the ports. For most consumer products, clearance at the ports would be expedited by a fully expanded RAM program that incorporates certificate data.

The proposed timing of filing electronic certificates is significant because this timing would align with the receipt of CBP's import data, by requiring certificates to be filed at a point in the entry process when CBP still has control over the products offered for importation. Along with CBP's data, CPSC would receive certificate data at a time when we can make admissibility decisions more quickly and can react to certificate data to prevent noncompliant goods from potentially being sold to consumers. The earlier that CPSC receives certificate data in the import process, the more quickly CPSC can review and clear products for importation.

Importantly, after the Commission issued the NPR on May 13, 2013, President Obama, on February 19, 2014, issued Executive Order 13659, *Streamlining the Export/Import Process for America's Businesses* (EO 13659), which requires certain federal agencies to significantly enhance their use of technology to modernize and simplify the trade processing infrastructure. Specifically, EO 13659 requires applicable government agencies to use CBP's International Trade Data System (ITDS), and its supporting systems, such as CBP's Automated Commercial Environment (ACE), to create a ''single window'' through which businesses will electronically submit import-related data for clearance. EO 13659 envisions and is working toward a simpler, more efficient portal for trade use, to the benefit of both the trade and those government agencies with related authorities and responsibilities.

Participating agencies have until December 31, 2016, to use systems such as ACE as the primary means of receiving standardized import data. As an independent agency CPSC is not bound by EO 13659. However, importers and CPSC both have a strong interest in CPSC continuing to play a leadership role in this area. Electronic filing of certificate data will further important EO objectives, as well as aid CPSC in focusing the agency's resources to clear products more efficiently and improve enforcement of our safety regulations at the ports.

III. Additional Background on CBP's Automated Commercial Environment (ACE)

Before the NPR was issued, CPSC staff discussed with CBP the capability of CPB's staff to accept certificate data into ACE and provide the information to CPSC's RAM for review. ACE functionality was being upgraded to accept PDF images (Document Imaging System, or DIS) and electronic data elements (PGA Message Set) for participating government agency (PGA) import-related forms or other data collection. Currently, CBP is conducting several test programs for PGAs, using DIS and PGA Message Set. *See, e.g.,* 77 FR 20835 (Apr. 6, 2012) (DIS test); 78 FR 75931 (Dec. 13, 2013) (PGA Message Set test). CPSC staff is discussing the possibility of participating in CBP's PGA Message Set test to pilot submission of electronic certificates of compliance. CPSC and CBP will provide additional notice, if such a pilot program involving CPSC is imminent.

IV. What are we trying to accomplish with the workshop?

The goal of the workshop is for CPSC to receive practical and procedural information from stakeholders, about electronic filing of certificates at entry into CBP's ACE system. CPSC staff has been reviewing the comments received in response to the 1110 rule NPR. Some comments reflect misunderstandings about CPSA certificate requirements, CPSC's ability and intent to implement electronic filing of certificates, and the logistics involved in implementing electronic filing. Moreover, on March 17, 2014, Acting Chairman Adler received a letter from 32 trade associations urging a ''stakeholder forum'' to ''engage with CBP, stakeholders and technical experts'' on implementation of electronic filing. Accordingly, in response to stakeholder feedback and request, CPSC staff is conducting a workshop to:

- Listen closely to stakeholders' concerns related to the electronic filing of certificates, as well as to provide stakeholders the requested opportunity to give CPSC additional information on electronic filing of certificates that may assist the Commission with developing a final rule and with implementing electronic filing, if such a requirement is finalized;
- Clarify for stakeholders certain issues related to the 1110 rulemaking;
- Provide background on CPSC's pilot-scale RAM system and its consistency with the ''single window'' approach for import data and risk management set forth in EO 13659; and
- Provide CBP with an opportunity to discuss ACE and the DIS and PGA Message Set tests with stakeholders.

V. What topics will the workshop and the related comment period address?

Stakeholder comments and presentations should address the topics below:

A. Stakeholders' Current Certificate and Import Procedures

- Current certificate and import procedures, including how manufacturers and importers are meeting the requirement that certificates ''accompany'' products or product shipments.
- Procedures and processes for creating and populating certificates that may influence implementation of an electronic certificate requirement, such as when and where certificates are created and maintained, matching certificates to those product units covered by the certificate, multiple entries for certain data components (*i.e.,* products covered by the certificate, applicable regulations, multiple testing sites for various tests), and complications or efficiencies achieved in certificate creation and maintenance by using component part testing.
- Challenges that certifiers encounter, in particular customs brokers who also serve as importers of record, in using the Component Part Rule, which allows certifiers to rely on the testing or certification of another party to issue a required certificate. This aspect of the Component Part Rule was specifically written to assist parties such as importers.
- Current challenges in meeting certificate requirements that may be resolved, minimized, or exacerbated if an electronic filing requirement for certificates were implemented.

B. Stakeholders' Anticipated Challenges in Meeting an Electronic Filing Requirement

• The NPR proposed that certificates be filed as a document image, in PDF format, or as data elements. The NPR stated CPSC's preference for data elements because they are searchable. If CPSC participates in CBP's test programs, please address whether the agency or stakeholders would benefit from participating in CBP's DIS test and the PGA Message Set test. Document imaging does not provide the same efficiencies that data elements provide because the review of document images would be difficult to automate. Based on a review of the comments on the 1110 NPR, stakeholders appear to favor data elements as well. We welcome stakeholder input on how to focus resources if we participate in CBP test programs.

• If certificates were required to be filed as data elements, stakeholders would need to transmit certificate data to ACE via the Automated Broker Interface (ABI). Please discuss challenges your industry may face using ABI to transfer certificate data to CBP. Include a discussion of upgrading ABI, automation of certificate processes, costs, and timing for the relevant industry.

• Some stakeholders have noted that matching certificate information to particular products is complicated and challenging based on the number and variety of products offered. Please discuss whether stakeholders require more flexibility in organizing certificates to meet an electronic filing requirement, including whether and how certificate data can be streamlined to meet the needs of electronic filing on a per-line-item imported basis.

• Describe any practical and logistical problems, if any, your industry may face in implementing electronic filing of certificates. For each challenge described, please offer solutions or suggestions that would achieve the goal of electronic certificates, consistent with EO 13659. Please comment on how the government-wide transition to electronic filing exclusively as contemplated by EO 13659 might influence any concerns you might have with CPSC's proposed approach for filing certificates electronically.

• If the Commission finalizes a rule requiring electronic filing of certificates for imported products, the requirement would likely need to be phased in over time. For example, the requirement could be phased in based on the port of entry, by regulated product, by Harmonized Tariff Schedule for the U.S. codes, or by entry type. Please provide any comments or feedback on organized and logical approaches to phasing in an electronic filing requirement for certificate data.

• What, if any, exceptions should the Commission allow from any requirement to file an electronic certificate and why?

C. CBP's DIS and PGA Message Set Tests in ACE

• Provide questions and concerns for CBP pertaining to CPSC's certificate requirement.

D. CPSC's RAM Pilot

• Provide questions or concerns for CPSC regarding the RAM as the RAM Pilot relates to clearing products for importation and enforcement efforts. As part of any input on this topic, please consider the goals of EO 13659 as they relate to risk management, including seeking common risk management principles and methods.

VI. What topics will not be discussed in the workshop and the related comment period?

Although the NPR to amend 16 CFR part 1110 contained many proposals, the September 18, 2014 workshop is devoted to electronic filing of certificates at import. Therefore, the topics listed below are out of scope for the workshop:

• User fees (we plan to engage industry on this topic as part of our outreach, specifically through the Border Interagency Executive Council's External Engagement Committee, as well as through notice and comment rulemaking, should the Commission receive authority from Congress with respect to user fees);

• Category and scope of products required to be certified;

• Format for certificates other than at import;

• Certificate content requirements;

• Recordkeeping requirements;

• Requirements for component part certificates; and

• Ancillary issues, such as testing, labeling, and laboratory accreditation.

VII. Details Regarding the Workshop

A. When and where will the workshop be held?

CPSC staff will hold the workshop from 9 a.m. to 4 p.m. on September 18, 2014, in the Hearing Room at CPSC's headquarters: 4330 East West Highway, Fourth Floor, Bethesda, MD 20814. The workshop will also be available through a webcast, but viewers will not be able to interact with the panelists and presenters.

B. How do you register for the workshop?

If you would like to attend the workshop, but you do not wish to make a presentation or participate on a panel, we ask that you register by September 5, 2014. (*See* the **ADDRESSES** section of this document for the Web site link and instructions on where to register.) Please be aware that seating will be on a first-come, first-served basis. The workshop will also be available through a webcast, but viewers will not be able to interact with the panelists and presenters.

If you would like to make a presentation at the workshop, you should register by August 8, 2014. (*See* the **ADDRESSES** section of this document for the Web site link and instructions on where to register.) When you register, please indicate that you would like to make a presentation. CPSC staff will contact you regarding the proposed content of your presentation and presentation guidelines. We will select individuals to make presentations based on considerations such as:

• The regulatory scope of the industry involved;

• The individual's demonstrated familiarity or expertise with the topic;

• The practical utility of the information to be presented; and

• The individual's viewpoint or ability to represent certain interests (such as large manufacturers, small manufacturers, consumer organizations, and the scope of the regulated industry). We would like the presentations to represent and address a wide variety of interests.

Although we will make an effort to accommodate all persons who wish to make a presentation, the time allotted for presentations will depend upon the number of persons who wish to speak on a given topic and the agenda. We recommend that individuals and organizations with common interests consolidate or coordinate their presentations, and request time for a joint presentation. If you wish to make a presentation and want to make copies of your presentation or other handouts available, you should bring copies to the workshop. We expect to notify those who are selected to make a presentation or participate in a panel at least two weeks before the workshop. Please inform Ms. Celestine Kish, *ckish@cpsc.gov,* 301–987–2547, if you need any special equipment to make a presentation.

If you need special accommodations because of disability, please contact Ms. Celestine Kish, *ckish@cpsc.gov,* 301–987–2547, at least 10 days before the workshop.

In addition, we encourage written or electronic comments. Written or electronic comments will be accepted until October 31, 2014. Please note that all comments should be restricted to the topics covered by the workshop, as described in this Announcement.

Dated: June 25, 2014.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2014–15241 Filed 7–2–14; 8:45 am]

BILLING CODE 6355–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 15, 17, 19, 32, 37, 38, 140, and 150

RIN 3038–AD99; 3038–AD82

Position Limits for Derivatives and Aggregation of Positions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking; extension of comment periods.

SUMMARY: On December 12, 2013, the Commodity Futures Trading Commission (''Commission'') published in the **Federal Register** a notice of proposed rulemaking (the ''Position Limits Proposal'') to establish speculative position limits for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts. On November 15, 2013, the Commission published in the **Federal Register** a notice of proposed rulemaking (the ''Aggregation Proposal'') to amend existing regulations setting out the Commission's policy for aggregation under its position limits regime. In addition, the Commission directed staff to hold a public roundtable on June 19, 2014, to consider certain issues regarding position limits for physical commodity derivatives. In order to provide interested parties with an opportunity to comment on the issues to be discussed at the roundtable, the Commission published notice in the **Federal Register** on May 29, 2014, that the comment periods for the Position Limits Proposal and the Aggregation Proposal were reopened, starting June 12, 2014 (one week before the roundtable) and ending July 3, 2014 (two weeks following the roundtable). To provide commenters with a sufficient period of time to respond to questions raised and points made at the roundtable, the Commission is now further extending the comment period. Comments should be limited to the issues of hedges of a physical commodity by a commercial enterprise, including gross hedging, cross-commodity hedging, anticipatory hedging, and the process for obtaining a non-enumerated exemption; the setting of spot month limits in physical-delivery and cash-settled contracts and a conditional spot-month limit exemption; the setting of non-spot limits for wheat contracts; the aggregation exemption for certain ownership interests of greater than 50 percent in an owned entity; and aggregation based on substantially identical trading strategies.

DATES: The comment periods for the Aggregation Proposal published November 15, 2013, at 78 FR 68946, and for the Position Limits Proposal published December 12, 2013, at 78 FR 75680, will close on August 4, 2014.

ADDRESSES: You may submit comments, identified by RIN 3038–AD99 for the Position Limits Proposal or RIN 3038–AD82 for the Aggregation Proposal, by any of the following methods:

- Agency Web site: *http://comments.cftc.gov;*
- *Mail:* Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581;
- *Hand delivery/courier:* Same as mail, above; or
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow instructions for submitting comments.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted under § 145.9 of the Commission's regulations (17 CFR 145.9).

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Stephen Sherrod, Senior Economist, Division of Market Oversight, (202) 418–5452, *ssherrod@cftc.gov;* or Riva Spear Adriance, Senior Special Counsel, Division of Market Oversight, (202) 418–5494, *radriance@cftc.gov;* Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission has long established and enforced speculative position limits for futures and options contracts on various agricultural commodities as authorized by the Commodity Exchange Act (''CEA'').[1] The part 150 position limits regime[2] generally includes three components: (1) The level of the limits, which set a threshold that restricts the number of speculative positions that a person may hold in the spot-month, individual month, and all months combined,[3] (2) exemptions for positions that constitute bona fide hedging transactions and certain other types of transactions,[4] and (3) rules to determine which accounts and positions a person must aggregate for the purpose of determining compliance with the position limit levels.[5] The Position Limits Proposal generally sets out proposed changes to the first and second component of the position limits regime and would establish speculative position limits for 28 exempt and agricultural commodity futures and option contracts, and physical commodity swaps that are ''economically equivalent'' to such contracts (as such term is used in CEA section 4a(a)(5)).[6] The Aggregation Proposal generally sets out proposed changes to the third component of the position limits regime.[7]

In order to provide interested parties with an opportunity to comment on the Aggregation Proposal during the comment period on the Position Limits Proposal, the Commission extended the comment period for the Aggregation Proposal to February 10, 2014, the same

[1] 7 U.S.C. 1 *et seq.*

[2] *See* 17 CFR part 150. Part 150 of the Commission's regulations establishes federal position limits on futures and option contracts in nine enumerated agricultural commodities.

[3] *See* 17 CFR 150.2.

[4] *See* 17 CFR 150.3.

[5] *See* 17 CFR 150.4.

[6] *See* Position Limits for Derivatives, 78 FR 75680 (Dec. 12, 2013).

[7] *See* Aggregation of Positions, 78 FR 68946 (Nov. 15, 2013).

end date as the comment period for the Position Limits Proposal.[8]

Comment letters received on the Position Limits Proposal are available at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1436.* Comment letters received on the Aggregation Proposal are available at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1427.*

II. Extension of Comment Period

Subsequent to publication of the Position Limits Proposal and the Aggregation Proposal, Commission directed staff to schedule a June 19, 2014, public roundtable to consider certain issues regarding position limits for physical commodity derivatives. The roundtable focused on hedges of a physical commodity by a commercial enterprise, including gross hedging, cross-commodity hedging, anticipatory hedging, and the process for obtaining a non-enumerated exemption. Discussion included the setting of spot month limits in physical-delivery and cash-settled contracts and a conditional spot-month limit exemption. Further, the roundtable included discussion of: the aggregation exemption for certain ownership interests of greater than 50 percent in an owned entity; and aggregation based on substantially identical trading strategies. As well, the Commission invited comment on whether to provide parity for wheat contracts in non-spot month limits. In conjunction with the roundtable, staff questions regarding these topics were posted on the Commission's Web site.

To provide commenters with a sufficient period of time to respond to questions raised and points made at the roundtable, the Commission is further extending the comment periods for the Position Limit Proposal and the Aggregation Proposal. Thus, both comment periods will end on August 4, 2014.

Issued in Washington, DC, on June 27, 2014, by the Commission.

Christopher J. Kirkpatrick,

Acting Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Position Limits for Derivatives and Aggregation of Positions Extension of Comment Periods—Commission Voting Summary

On this matter, Chairman Massad and Commissioners O'Malia, Wetjen, and Giancarlo voted in the affirmative. No Commissioner voted in the negative. Commissioner Bowen did not participate in this matter.

[FR Doc. 2014–15618 Filed 7–2–14; 8:45 am]

BILLING CODE 6351–01–P

[8] *See* 79 FR 2394 (Jan. 14, 2014).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[EPA–R09–OAR–2014–0203; FRL–9913–10–Region–9]

Clean Air Act Grant: Santa Barbara County Air Pollution Control District; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action; Determination with request for comments and notice of opportunity for public hearing.

SUMMARY: The Environmental Protection Agency (EPA) has made a proposed determination that the reduction in expenditures of non-Federal funds for the Santa Barbara County Air Pollution Control District (SBCAPCD) in support of its continuing air program under section 105 of the Clean Air Act (CAA), for the calendar year 2013 is a result of non-selective reductions in expenditures. This determination, when final, will permit the SBCAPCD to receive grant funding for FY2014 from the EPA under section 105 of the Clean Air Act.

DATES: Comments and/or requests for a public hearing must be received by EPA at the address stated below by August 4, 2014.

ADDRESSES: Submit comments, identified by docket ID No. EPA–R09–OAR–2014–0203, by one of the following methods:

1. *Federal Portal: www.regulations.gov.* Follow the online instructions.

2. *Email to: bartholomew.sara@epa.gov* or

3. *Mail to:* Sara Bartholomew (Air-8), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Sara Bartholomew, EPA Region IX, Grants & Program Integration Office, Air Division, 75 Hawthorne Street, San Francisco, CA 94105; phone: (415) 947–4100, fax: (415) 947–3579 or email address at *bartholomew.sara@epa.gov.*

SUPPLEMENTARY INFORMATION: Section 105 of the Clean Air Act (CAA), 42 U.S.C. 7405, provides grant support for the continuing air programs of eligible state, local, and tribal agencies. In accordance with CAA section 105(a)(1)(A) and 40 CFR 35.145(a), the Regional Administrator may provide air pollution control agencies up to three-fifths of the approved costs of implementing programs for the prevention and control of air pollution. Section 105 contains two cost-sharing provisions which recipients must meet to qualify for a CAA section 105 grant. An eligible entity must meet a minimum 40% match. In addition, to remain eligible for section 105 funds, an eligible entity must continue to meet the minimum match requirement as well as meet a maintenance of effort (MOE) requirement under section 105(c)(1) of the CAA and 40 CFR 35.146.

Program activities relevant to the match consist of both recurring and non-recurring expenses. The MOE provision requires that a state or local agency spend at least the same dollar level of funds as it did in the previous grant year, but only for the costs of recurring activities. Specifically, section 105(c)(1) provides that ''no agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year.'' Pursuant to CAA section 105(c)(2), however, EPA may still award a grant to an agency not meeting the requirements of section 105(c)(1), ''if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government.'' These statutory requirements are repeated in EPA's implementing regulations at 40 CFR 35.140–35.148. EPA issued additional guidance to recipients on what constitutes a nonselective reduction on September 30, 2011. In consideration of legislative history, the guidance clarified that a non-selective reduction does not necessarily mean that each Executive branch agency need be reduced in equal proportion. However, it must be clear to EPA, from the weight of evidence, that a recipient's CAA-related air program is not being disproportionately impacted or singled out for a reduction.

A section 105 recipient must submit a final financial status report no later than 90 days from the close of its grant period that documents all of its federal and non-federal expenditures for the completed period. The recipient seeking an adjustment to its MOE for that period must provide the rationale and the

documentation necessary to enable EPA to make a determination that a nonselective reduction has occurred. In order to expedite that determination, the recipient must provide details of the budget action and the comparative fiscal impacts on all the jurisdiction's executive branch agencies, the recipient agency itself, and the agency's air program. The recipient should identify any executive branch agencies or programs that should be excepted from comparison and explain why. The recipient must provide evidence that the air program is not being singled out for a reduction or being disproportionately reduced. Documentation in two key areas will be needed: Budget data specific to the recipient's air program, and comparative budget data between the recipient's air program, the agency containing the air program, and the other executive branch agencies. EPA may also request information from the recipient about how impacts on its program operations will affect its ability to meet its CAA obligations and requirements; and documentation which explains the cause of the reduction, such as legislative changes or the issuance of a new executive order.

In FY2013, EPA awarded the SBCAPCD $490,838, which represented approximately 5% of the SBCAPCD budget. In FY2014, EPA intends to award the SBCAPCD $499,231, which represents approximately 5% of the SBCAPCD budget.

SBCAPCD's final Federal Financial Report for FY2012 indicated that SBCAPCD's maintenance of effort (MOE) level was $6,317,663. SBCAPCD's final Federal Financial Report for FY2013 indicates that SBCAPCD's MOE level is at $6,013,506.

The projected MOE is not sufficient to meet the MOE requirements under the CAA section 105 because it is not equal to or greater than the MOE for the previous fiscal year. In order for the SBCAPCD to be eligible to receive its FY2014 CAA section 105 grant EPA must make a determination, after notice and an opportunity for a public hearing, that the reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of the Santa Barbara County Air Pollution Control District.

The shortfall stems from the change in the SBCAPCD's budget over the past two years. During the budget process in early 2012 (the SBCAPCD's fiscal year is July 1, 2012–June 30, 2013) the SBCAPCD was anticipating a very large deficit. This was largely due to a projected decrease in permit fee revenues. In order to balance the budget, the SBCAPCD actively scaled back their services and supplies expenditure budget by $298,438 and also cut back staff from 50.25 to 48.0 full time equivalents (FTE). This resulted in the overall SBCAPCD adopted budget for FY12–13 being reduced by $448,224 from the previous year. The SBCAPCD monitored expenditures closely in FY12–13 to stay within budget. The result was that actual year-end expenses (of fixed assets, salaries and benefits, and services and supplies) for FFY12–13 were $494,155.86 less than the prior federal fiscal year (FFY2011–12).

The SBCAPCD was unable to meet MOE in FY13 for the following reasons:

(1) Decrease in permit revenues (licenses and permits)

(2) Staffing decreases (FTE and salaries and benefits)

(3) Decrease in service and supplies allocations and expenses (services and supplies)

The table below shows the actual changes for the above items between FFY 11–12 and 12–13:

Item	FFY 2011–12 Actual	FFY 2012–13 Actual	Difference
Licenses and Permits	$4,051,252.03	$3,682,017.72	($369,234.31)
Salaries and Benefits	$5,501,809.76	$5,318,670.46	($183,139.30)
Service and Supplies	$3,021,850.88	$2,780,654.29	($241,196.59)
FTE	50.25	48.00	(2.25)

As noted above, budgeted staff were reduced in order to balance the FY 12–13 budget. Actual permit fee revenues decreased $369,234 in FFY 12–13. In addition, the SBCAPCD had three people retire in FY 12–13. The retirements resulted in additional reductions in salary expenses as positions remained vacant for periods of the time. Furthermore, new employees eventually hired to replace retirees were paid a starting salary less than the more senior retirees. Leave of absences were another factor causing reduced salaries in FY 12–13. Salary expenses for employees on leave were not incurred which further contributed to the decrease in salary and benefits. All these factors resulted in an overall decrease of $183,139 in salaries and benefits in FFY12–13. In addition, SBCAPCD service and supply actual expenses declined by $241,197 in FFY12–13.

Additionally, due to the relatively small size of the SBCAPCD, small changes in total staff hours worked or incoming revenue sources year to year can cause fluctuations in MOE. This happened to a large extent in FFY 12–13, and actual expenses declined significantly from the previous year. Despite the economic pressures that have resulted in agency staff reductions, the SBCAPCD was able to keep up with program goals by implementing efficiencies. Automation of several functions was done, including automatic generation of basic permits.

The SBCAPCD is a single-purpose agency whose primary source of funding is emission fee revenue; it does not benefit from the proceeds of property tax, sales tax or income tax. It is the ''unit of government for section 105(c)(2) purposes.''

Based on: (1) Decrease in permit revenues, (2) Weakened economic conditions, (3) Staffing decreases, and (4) Decrease in service and supplies allocations and expenses, the request for a reset of SBCAPCD's MOE meets the criteria for a non-selective reduction determination.

Although SBCAPCD receives approximately 5 percent of its support from the section 105 grant, the loss of that funding would seriously impact SBCAPCD's ability to carry out its clean air program.

The SBCAPCD's MOE reduction resulted from a loss of revenues due to circumstances beyond its control. EPA proposes to determine that the SBCAPCD lowering the FY2013 MOE level to $6,013,506 meets the CAA section 105(c)(2) criteria as resulting from a non-selective reduction of expenditures.

This document constitutes a request for public comment and an opportunity for public hearing as required by the Clean Air Act. All written comments received by August 4, 2014 on this proposal will be considered. EPA will conduct a public hearing on this proposal only if a written request for such is received by EPA at the address above by August 4, 2014. If no written request for a hearing is received, EPA will proceed to the final determination.

While notice of the final determination will not be published in the **Federal Register**, copies of the determination can be obtained by sending a written request to Sara Bartholomew at the above address.

Dated: June 19, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2014–15534 Filed 7–2–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0269; FRL–9911–00–Region 9]

Revisions to the California State Implementation Plan, Placer County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Placer County portion of the California State Implementation Plan (SIP). This revision concerns the necessary procedures to create emission reduction credits from the reduction of volatile organic compound (VOC), oxides of nitrogen (NO_X), oxides of sulfur (SO_X), particulate matter (PM), and carbon monoxide (CO) emissions due to the permanent curtailment of burning rice straw.

We are proposing to approve a local rule that provides administrative procedures for creating emissions reduction credits, consistent with Clean Air Act (CAA or the Act) requirements.

DATES: Any comments on this proposal must arrive by August 4, 2014.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0269, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, (415) 942–3848, *levin.nancy@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rule: Placer County Air Pollution Control District Rule 516, Rice Straw Emission Reduction Credits. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: April 25, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2014–15564 Filed 7–2–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2014–0365; FRL–9913–04–Region 7]

Approval and Promulgation of Implementation Plans; Iowa; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a revision to the Iowa State Implementation Plan (SIP) submitted by the State of Iowa on July 16, 2013. Iowa's July 16, 2013, SIP submission (''progress report SIP'') addresses requirements of the Clean Air Act (CAA or Act) and EPA's rules that require states to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the state's existing SIP addressing regional haze (''regional haze SIP''). EPA is proposing approval of Iowa's progress report SIP submission on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period for regional haze.

DATES: Comments must be received on or before August 4, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0365 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: harper.jodi@epa.gov.*
3. *Mail or Hand Delivery or Courier:* Ms. Jodi Harper, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2014–0365. EPA's policy is that all comments received will be included in the public docket without change and may be

made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Jodi Harper, Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7483 or by email at *harper.jodi@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is the background for EPA's proposed action?
II. What are the requirements for the regional haze progress report SIPs and adequacy determinations?
A. Regional Haze Progress Report SIP
B. Adequacy Determination of the Current Regional Haze SIP
III. What is EPA's analysis of Iowa's progress report SIP and adequacy determination?
A. Regional Haze Progress Report SIPs
1. 40 CFR 51.308(g)(1)
2. 40 CFR 51.308(g)(2)
3. 40 CFR 51.308(g)(3)
4. 40 CFR 51.308(g)(4)
5. 40 CFR 51.308(g)(5)
6. 40 CFR 51.308(g)(6)
7. 40 CFR 51.308(g)(7)
B. Determination of Adequacy of Existing Regional Haze Plan
IV. What action is EPA proposing to take?

I. What is the background for EPA's proposed action?

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP. 40 CFR 51.308(h). The first progress report SIP is due five years after submittal of the initial regional haze SIP. On March 25, 2008, the Iowa Department of Natural Resources (IDNR) submitted the state's first regional haze SIP in accordance with 40 CFR 51.308(b).[1]

On April 4, 2013, IDNR provided to the Federal Land Managers, a revision to Iowa's SIP reporting on progress made during the first implementation period toward RPGs for Class I areas in the state and Class I areas outside the state that are affected by emissions from Iowa's sources. There are no Class I areas located in the State of Iowa. Notification was published in the Legal Notices section of the Des Moines Register on May 9, 2013. A public hearing was held on June 11, 2013, at the Air Quality Bureau in Windsor Heights, and the public comment period ended on June 12, 2013.

On July 16, 2013, IDNR submitted the SIP to EPA. This progress report SIP and accompanying cover letter also included a determination that the state's existing regional haze SIP requires no substantive revision to achieve the established regional haze visibility improvement and emissions reduction goals for 2018. EPA is proposing to approve Iowa's progress report SIP on the basis that it satisfies the requirements of 40 CFR 51.308(g) and 51.308(h).

II. What are the requirements for the regional haze progress report SIPs and adequacy determinations?

A. Regional Haze Progress Report SIP

Under 40 CFR 51.308(g), states must submit a regional haze progress report as a SIP revision every five years and must address, at a minimum, the seven elements found in 40 CFR 51.308(g). As described in further detail in section III below, 40 CFR 51.308(g) requires a description of the status of measures in the approved regional haze SIP; a summary of emissions reductions achieved; an assessment of visibility conditions for each Class I area in the state; an analysis of changes in emissions from sources and activities within the state; an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded progress in Class I areas impacted by the state's sources; an assessment of the sufficiency of the approved regional haze SIP; and a review of the state's visibility monitoring strategy.

B. Adequacy Determinations of the Current Regional Haze SIP

Under 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. As described in further detail in section III below, 40 CFR 51.308(h) requires states to either: (1) Submit a negative declaration to EPA that no further substantive revision to

[1] On June 26, 2012, EPA finalized a limited approval of Iowa's March 25, 2008, regional haze SIP to address the first implementation period for regional haze (77 FR 38006). In a separate action, published on June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the Iowa regional haze SIP because of the State's reliance on the Clean Air Interstate Rule to meet certain regional haze requirements, which EPA replaced in August 2011 with the Cross-State Air Pollution Rule (CSAPR) (76 FR 48208 (Aug. 8, 2011)). In the aforementioned June 7, 2012, action, EPA finalized a Federal Implementation Plan (FIP) for Iowa to replace the State's reliance on CAIR with reliance on CSAPR. Following these EPA actions, the DC Circuit issued a decision in *EME Homer City Generation, L.P.* v. *EPA* (hereinafter referred to as *''EME Homer City''*), 696 F.3d 7 (D.C. Cir. 2012), vacating CSAPR and keeping CAIR in place pending the promulgation of a valid replacement rule. On April 29, 2014, the U.S. Supreme Court reversed the DC Circuit opinion vacating CSAPR, and remanded the case for further proceedings. *EME Homer City,* 572 U.S. 134 S. Ct. 1584. CAIR continues to remain in place.

the state's existing regional haze SIP is needed; (2) provide notification to EPA (and other state(s) that participated in the regional planning process) if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in other state(s) that participated in the regional planning process, and collaborate with these other state(s) to develop additional strategies to address deficiencies; (3) provide notification with supporting information to EPA if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in another country; or (4) revise its regional haze SIP to address deficiencies within one year if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress in one or more Class I areas due to emissions from sources within the state.

III. What is EPA's analysis of Iowa's regional haze progress report and adequacy determination?

On July 16, 2013, IDNR submitted a revision to Iowa's regional haze SIP to address progress made towards RPGs of Class I areas in the state and Class I areas outside the state that are affected by emissions from Iowa's sources. This progress report SIP also included a determination of the adequacy of the state's existing regional haze SIP. Iowa has no Class I areas within its borders. IDNR utilized particulate matter source apportionment (PSAT) techniques for photochemical modeling conducted by the Central Regional Air Planning Association (CENRAP) to identify four Class I areas in two nearby states potentially impacted by Iowa sources: Boundary Waters Canoe Area Wilderness (BOWA) and Voyagers National Park (VOYA) in Minnesota, and Isle Royale National Park (ISLE) and Seney Wilderness Area (SENE) in Michigan. Collectively these four Class I areas are referred to as the Northern Midwest Class I areas. 77 FR 11979.

A. Regional Haze Progress Report SIPs

The following sections summarize: (1) Each of the seven elements that must be addressed by the progress report under 40 CFR 51.308(g); (2) how Iowa's progress report SIP addressed each element; and (3) EPA's analysis and proposed determination as to whether the state satisfied each element.

1. 40 CFR 51.308(g)(1)

40 CFR 51.308(g)(1) requires a description of the status of implementation of all measures included in the regional haze SIP for achieving RPGs for Class I areas both within and outside the state.

Iowa evaluated the status of all measures included in its 2008 regional haze SIP in accordance with 40 CFR 51.308(g)(1). Specifically, in its progress report SIP, Iowa summarizes the status of the emissions reduction measures that were included in the final iteration of the Central Regional Air Planning Association (CENRAP) regional haze emissions inventory and RPG modeling. Iowa also discusses the status of those measures that were not included in the final CENRAP emissions inventory and were not relied upon in the initial regional haze SIP to meet RPGs. The state notes that the emissions reductions from these measures, which are relied upon by Iowa for reasonable progress, will help ensure Class I areas impacted by Iowa sources achieve their RPGs. The measures include applicable Federal programs (e.g., mobile source rules, Maximum Achievable Control Technology (MACT) standards, Federal and state consent agreements, and Federal and state control strategies for electric generating units (EGUs)). This summary includes a discussion of the benefits associated with each measure.

EPA proposes to find that Iowa's analysis adequately addresses 40 CFR 51.308(g)(1). The state documents the implementation status of measures from its regional haze SIP as well as describes significant measures resulting from EPA regulations other than the regional haze program as they pertain to the state's sources. The progress report SIP highlights the effect of several Federal control measures both nationally and in the CENRAP region, and when possible, in the state.

Regarding the status of BART and reasonable progress control requirements for sources in the state, Iowa's progress report SIP notes that no non-EGU BART sources were found to be BART eligible and therefore, no BART specific emissions limits were developed. Additionally, Iowa summarized its reasonable progress control determinations from its regional haze SIP. Because the state found no additional controls to be reasonable for the first implementation period for sources evaluated for reasonable progress in Iowa, no further discussion of the status of controls was necessary in the progress report SIP.

EPA proposes to conclude that Iowa has adequately addressed the status of control measures in its regional haze SIP as required by 40 CFR 51.308(g)(1). Iowa describes the implementation status of measures from its regional haze SIP, including the status of control measures to meet BART and reasonable progress requirements, the status of significant measures resulting from EPA regulations, as well as measures that came into effect since the CENRAP analyses for the regional haze SIP were completed.

2. 40 CFR 51.308(g)(2)

40 CFR 51.308(g)(2) requires a summary of the emissions reductions achieved in the state through the measures subject to 40 CFR 51.308(g)(1).

In its regional haze SIP and progress report SIP, Iowa focuses its assessment on NO_X and SO_2 emissions from EGUs because available information from multiple sources (CENRAP, CAIR provided by EPA's Clean Air Markets Division (CAMD), etc.) determined that these compounds accounted for the majority of the visibility-impairing pollution in the Central Region.

During the period from 2002–2011, SO_2 emissions decreased in Iowa by 25 percent.[2] Also during that same period, NO_X emissions decreased by 51 percent. Iowa noted that Integrated Planning Model (IPM) projections for the 2018 planning period indicated an anticipated increase in EGU SO_2 emissions and decrease in EGU NO_X emissions. Iowa notes that the 2011 actual SO_2 and NO_X EGU emissions were significantly below the projected 2018 values, representing SO_2 and NO_X emissions that are 37 percent and 41 percent below their 2018 projections. Iowa also noted that these decreases in emissions have occurred while actual heat input has increased, indicating the reductions reflect cleaner generation and not merely decreased electricity demand.

EPA proposes to conclude that Iowa has adequately addressed 40 CFR 51.308(g)(2). The state provides estimates, and where available, actual emissions reductions of NO_X and SO_2 from EGUs in Iowa that have occurred since Iowa submitted its regional haze SIP. Iowa appropriately focused on NO_X and SO_2 emissions from its EGUs in its progress report SIP because it previously identified these emissions as the most significant contributors to visibility impairment at those areas that Iowa sources impact. Given the large NO_X and SO_2 reductions at EGUs that have actually occurred, further analysis of emissions from other sources or other

[2] See also sections III.A.4. and III.A.6. of this action.

pollutants, was ultimately unnecessary in this first implementation period. Because no additional controls were found to be reasonable for reasonable progress for the first implementation period for evaluated sources in Iowa, EPA proposes to find that no further discussion of emissions reductions from controls was necessary in the progress report SIP.

3. 40 CFR 51.308(g)(3)

40 CFR 51.308(g)(3) requires that states with Class I areas provide the following information for the most impaired and least impaired days for each area, with values expressed in terms of five-year averages of these annual values:[3]

(i) current visibility conditions;

(ii) the difference between current visibility conditions and baseline visibility conditions; and

(iii) the change in visibility impairment over the past five years.

Iowa does not have any Class I areas within its boundaries, and as this section pertains only to states containing Class I areas, no further discussion is necessary. EPA proposes to conclude that Iowa has adequately addressed 40 CFR 51.308(g)(3).

4. 40 CFR 51.308(g)(4)

40 CFR 51.308(g)(4) requires an analysis tracking emissions changes of visibility-impairing pollutants from the state's sources by type or category over the past five years based on the most recent updated emissions inventory.

In its progress report SIP, Iowa presents data from a statewide emissions inventory developed for the year 2002 and compares this data to the National Emissions Inventory (NEI) version 2 (dated April 10, 2012), or simply the 2008 NEIv2. For both the 2002 dataset and the 2008 NEIv2 data, pollutants inventoried include volatile organic compounds, NO_X, fine particulate matter, coarse particulate matter, ammonia, and SO_2. The emissions inventories from both the 2002 dataset and the 2008 NEIv2 include the following: ammonia, area, fugitive dust, offroad and onroad mobile sources, stationary point sources, road dust, fires, and biogenic sources. The comparison of emissions inventory data shows that emissions of the key visibility-impairing pollutants identified by CENRAP for the central states, NO_X and SO_2, continued to drop from 2002 to 2008 (decreasing 68,109 and 37,380 tons, respectively). While not all emissions in Iowa contribute to visibility impairment at a Class I area, Iowa chose to include a complete statewide inventory containing emission rates for all anthropogenic and biogenic sources, however in the Midwest, point source emissions of NO_X and SO_2 are often more closely evaluated in the context of regional haze.

The comparison also shows that a projected increase in emissions of fine and coarse particulate matter occurred, but increased less than the projected amount. Actual increase in fine and course particulate matter emissions during that same time period was by 20,318 and 173,147 tons, respectively. This increase was driven almost entirely by fugitive dust emissions, and to a lesser extent the road dust sector for coarse particulate emissions. Iowa also noted that the 2002 fugitive dust and road dust emissions estimates represent values after the application of transport factors, while the 2008 data have not been similarly adjusted. While the transport factor discrepancy does not permit a precise comparison of the 2002 and 2008 fugitive dust and road dust emissions, Iowa notes that a crude evaluation is possible assuming a simple fifty percent reduction of the 2008 fugitive dust and road dust emissions as a surrogate for the application of county-level transport factors. This simple reduction would bring the 2008 fine particulate and coarse particulate fugitive and road dust emissions in line and generally below the 2002 values. Iowa further notes that such emissions from Iowa are not known to contribute significantly to visibility impairment at Class I areas.

EPA proposes to conclude that Iowa has adequately addressed 40 CFR 51.308(g)(4). While ideally the five-year period to be analyzed for emissions inventory changes is the time period since the current regional haze SIP was submitted, there is an inevitable time lag in developing and reporting complete emissions inventories once quality-assured emissions data becomes available. Therefore, EPA believes that there is some flexibility in the five-year time period that states can select. Iowa tracked changes in emissions of visibility-impairing pollutants using the 2008 National Emissions Inventory, the most recent updated inventory of actual emissions for the state at the time that it developed the progress report SIP. EPA believes that Iowa's use of the six-year period from 2002–2008 reflects a conservative picture of the actual emissions realized between 2002–2013, as in many cases, Iowa had already reached or surpassed their 2018 goals by 2008. There also is a general downward trend from 2002–2008, so it is likely additional NO_X and SO_2 emissions reductions occurred between the 2008 data and actual conditions in 2013.

5. 40 CFR 51.308(g)(5)

40 CFR 51.308(g)(5) requires an assessment of any significant changes in anthropogenic emissions within or outside the state that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the state's sources.

In its progress report SIP, Iowa addresses the changes in anthropogenic emissions between the 2008 NEIv2 data and the 2018 projections from the initial regional haze SIP. Iowa noted that there have been significant reductions among anthropogenic emissions categories, and that during the period from 2002–2008, in many cases the emissions reductions had already dropped below the 2018 projections. An increase in ammonia (NH_3) was noted, however, the actualized increase was less than the projected increase and Iowa is still on track to meet the 2018 NH_3 emissions target. Iowa also noted that it is uncertain if this increase is a reasonable representation of actual emissions increases or if it is computational in nature, because of changes to the versions and inputs to the Carnegie Mellon University (CMU) NH_3 emissions model. Iowa concluded that emissions reductions of all pollutants in 2008 were generally ahead of schedule or had already met the 2018 projections, and that no changes in anthropogenic emissions have limited or impeded progress in reducing pollutant emissions and improving visibility.

EPA proposes to conclude that Iowa has adequately addressed 40 CFR 51.308(g)(5). Iowa demonstrated that there are no significant changes in anthropogenic emissions that have impeded progress in reducing emissions and improving visibility in Class I areas impacted by Iowa sources. The state referenced its analyses in the progress report SIP identifying an overall downward trend in these emissions from 2002 to 2008. Further, the progress report SIP shows that Iowa is on track to meeting its 2018 emissions projections.

6. 40 CFR 51.308(g)(6)

40 CFR 51.308(g)(6) requires an assessment of whether the current regional haze SIP is sufficient to enable Iowa, or other states, to meet the RPGs

[3] The "most impaired days" and "least impaired days" in the regional haze rule refers to the average visibility impairment (measured in deciviews) for the twenty percent of monitored days in a calendar year with the highest and lowest amount of visibility impairment, respectively, averaged over a five-year period. 40 CFR 51.301.

for Class I areas affected by emissions from the state.

In its progress report Iowa states that it believes that the elements and strategies outlined in its original regional haze SIP are sufficient to enable Iowa and other neighboring states to meet all the established RPGs. To support this conclusion, Iowa notes that the actual 2011 EGU emissions of SO_2 and NO_X are already below the 2018 projected emissions (by 55,408 and 27,055 tons, respectively), with further decreases expected. In particular, Iowa notes that the emissions reductions already achieved in the 2007 to 2011 period and the additional reductions not accounted for in the original regional haze SIP (as discussed previously for purposes of 40 CFR 51.308(g)(1)) further support Iowa's conclusion that the regional haze SIP's elements and strategies are sufficient to meet the established RPGs.

EPA proposes to conclude that Iowa has adequately addressed 40 CFR 51.308(g)(6). EPA views this requirement as a qualitative assessment that should evaluate emissions and visibility trends and other readily available information, including expected emissions reductions associated with measures with compliance dates that have not yet become effective. Iowa referenced the improving visibility trends at affected Class I areas and the downward emissions trends in the state, with a focus on NO_X and SO_2 emissions from Iowa's EGUs that support Iowa's determination that its regional haze SIP is sufficient to meet RPGs for Class I areas outside the state impacted by Iowa sources. EPA believes that Iowa's conclusion regarding the sufficiency of the regional haze SIP is appropriate because of the calculated visibility improvement using the latest available data and the downward trend in NO_X and SO_2 emissions from EGUs in Iowa.

7. 40 CFR 51.308(g)(7)

40 CFR 51.308(g)(7) requires a review of the state's visibility monitoring strategy and an assessment of whether any modifications to the monitoring strategy are necessary. In its progress report SIP, Iowa summarizes the existing IMPROVE monitoring network and its intended continued reliance on IMPROVE for visibility planning. Iowa operates two IMPROVE Protocol sampling sites, one at Viking Lake State Park in southwestern Iowa, and the other at Lake Sugema Wildlife Management in southeastern Iowa.

EPA proposes to conclude that Iowa has adequately addressed the sufficiency of its monitoring strategy as required by 40 CFR 51.308(g)(7). Iowa reaffirmed its continued reliance upon the IMPROVE monitoring network.

B. Determination of Adequacy of Existing Regional Haze Plan

Under 40 CFR 51.308(h), states are required to take one of four possible actions based on the information gathered and conclusions made in the progress report SIP. The following section summarizes: (1) the action taken by Iowa under 40 CFR 51.308(h); (2) Iowa's rationale for the selected action; and (3) EPA's analysis and proposed determination regarding the state's action.

In its progress report SIP, Iowa took the action provided for by 40 CFR 51.308(h)(1), which allows a state to submit a negative declaration to EPA if the state determines that the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the state's sources. The basis for Iowa's negative declaration is the findings from the progress report (as discussed in section III.A of this action), including the findings that: NO_X and SO_2 emissions from Iowa's sources have decreased beyond original projections; and the NO_X and SO_2 emissions from EGUs in Iowa are already below the levels projected for 2018 in the regional haze SIP and are expected to continue to trend downward for the next five years. Based on these findings, EPA proposes to agree with Iowa's conclusion under 40 CFR 51.308(h) that no further substantive changes to its regional haze SIP are required at this time.

IV. What action is EPA proposing to take?

EPA is proposing approval of a revision to the Iowa SIP, submitted by the State of Iowa on July 16, 2013, as meeting the applicable regional haze requirements as set forth in 40 CFR 51.308(g) and 51.308(h).

Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: June 13, 2014.

Mark J. Hague,

Acting Regional Administrator, Region 7.

[FR Doc. 2014–15686 Filed 7–2–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2013–0602 and EPA–HQ–OAR–2013–0603; FRL–9913–33–OAR]

RIN 2060–AR33; 2060–AR88

Carbon Pollution Emission Guidelines for Existing Stationary Sources and Standards for Modified and Reconstructed Stationary Sources: EGUs

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of additional public hearings.

SUMMARY: The Environmental Protection Agency (EPA) published in the **Federal Register** on June 18, 2014, the proposed rules, ''Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units'' and ''Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units.'' The EPA is announcing four additional public hearings, in addition to the previously announced dates on June 18, 2014.

DATES: *Comments on the proposed rules.* Comments must be received on or before October 16, 2014.

Because of the overwhelming response to the previously announced public hearings, the EPA will hold four additional public hearings. The following table outlines the updated public hearings schedule for the Carbon Pollution rules:

CARBON POLLUTION PUBLIC HEARINGS SCHEDULE

Location	Original date	Additional date
Atlanta, Georgia	July 29, 2014	July 30, 2014.
Denver, Colorado	July 29, 2014	July 30, 2014.
Washington, DC	July 30, 2014	July 29, 2014.
Pittsburgh, Pennsylvania	July 31, 2014	August 1, 2014.

ADDRESSES: On July 30, 2014, one additional public hearing will be held in Atlanta, Georgia, at the Sam Nunn Atlanta Federal Center Main Tower Bridge Conference Area, Conference Room B, 61 Forsyth Street SW., Atlanta, Georgia 30303, and one additional public hearing will be held in Denver, Colorado, at the EPA's Region 8 Building, 1595 Wynkoop Street, Denver, Colorado 80202. On July 29, 2014, one additional public hearing will be held in Washington, DC, at the William Jefferson Clinton East Building, Room 1152, 1201 Constitution Avenue NW., Washington, DC 20004. On August 1, 2014, one additional public hearing will be held in Pittsburgh, Pennsylvania, at the William S. Moorhead Federal Building, Room 1310, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222. The hearings in Pittsburgh, Pennsylvania, Atlanta, Georgia, and Washington, DC, will convene at 9:00 a.m. and end at 8:00 p.m. (Eastern Daylight Time). The hearing in Denver, Colorado, will convene at 9:00 a.m. and end at 8:00 p.m. (Mountain Daylight Time). For all hearings, there will be a lunch break from 12:00 p.m. to 1:00 p.m. and a dinner break from 5:00 p.m. to 6:00 p.m. Because of the large number of speakers requesting time to speak at the previously announced hearings, we discourage those that have already registered to speak from changing their currently scheduled speaking time.

FOR FURTHER INFORMATION CONTACT: If you would like to present oral testimony, please contact Ms. Pamela Garrett at (919) 541–7966 or at *garrett.pamela@epa.gov* to register to speak at one of the hearings. The last day to pre-register to speak at the hearings will be Friday, July 25, 2014. Additionally, requests to speak will be taken the day of the hearings at the hearing registration desk, although preferences on speaking times may not be able to be fulfilled. If you require the service of a translator or accommodations such as audio description, please contact Ms. Pamela Garrett by July 25, 2014.

Questions concerning the ''Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units,'' published in the **Federal Register** on June 18, 2014, should be addressed to Ms. Amy Vasu, Sector Policies and Programs Division (D205–01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–0107, facsimile number (919) 541–4991; email address: *vasu.amy@epa.gov,* or Ms. Marguerite McLamb, Sector Policies and Programs Division (D205–01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–7858, facsimile number (919) 541–4991; email address: *mclamb.marguerite@epa.gov*.

Questions concerning the ''Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units,'' published in the **Federal Register** on June 18, 2014, should be addressed to Mr. Christian Fellner, Energy Strategies Group, Sector Policies and Programs Division (D243–01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–4003, facsimile number (919) 541–5450; email address: *fellner.christian@epa.gov,* or Dr. Nick Hutson, Energy Strategies Group, Sector Policies and Programs Division (D243–01), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541–2968, facsimile number (919) 541–5450; email address: *hutson.nick@epa.gov*.

SUPPLEMENTARY INFORMATION: The hearings will provide interested parties the opportunity to present data, views or arguments concerning the proposed actions. The EPA will make every effort to accommodate all speakers who arrive and register. Because these hearings are being held at U.S. government facilities, individuals planning to attend the hearing should be prepared to show valid picture identification to the security staff in order to gain access to the meeting room. Please note that the REAL ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. These requirements will take effect July 21, 2014. If your driver's license is issued by Alaska, American Samoa, Arizona, Kentucky, Louisiana, Maine, Massachusetts, Minnesota, Montana, New York, Oklahoma or the state of Washington, you must present an additional form of identification to enter the federal buildings where the public hearings will be held. Acceptable alternative forms of identification include: Federal employee badges, passports, enhanced driver's licenses and military identification cards. We will list any additional acceptable forms of identification at: *http://www.epa.gov/*

cleanpowerplan. In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building and demonstrations will not be allowed on federal property for security reasons.

The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. Commenters should notify Ms. Pamela Garrett by July 25, 2014, if they will need specific equipment, or if there are other special needs related to providing comments at the hearings. Verbatim transcripts of the hearings and written statements will be included in the docket for the rulemaking. The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule. Additionally, more information regarding the hearings will be available at: *http://www.epa.gov/cleanpowerplan*.

How can I get copies of this document and other related information?

The EPA has established dockets for the proposed rules: ''Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units'' under Docket ID No. EPA–HQ–OAR–2013–0602, and ''Carbon Pollution Standards for Modified and Reconstructed Stationary Sources: Electric Utility Generating Units'' under Docket ID No. EPA–HQ–OAR–2013–0603, available at *http://www.regulations.gov*.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 25, 2014.

Mary Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2014–15664 Filed 7–2–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket Nos. 12–201; 13–140; 14–92; FCC 14–88]

Assessment and Collection of Regulatory Fees for Fiscal Year 2014; Assessment and Collection of Regulatory Fees for Fiscal Year 2013; and Procedures for Assessment and Collection of Regulatory Fees

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communications Commission (Commission) will revise its Schedule of Regulatory Fees in order to recover an amount of $339,844,000 that Congress has required the Commission to collect for fiscal year 2014.

DATES: Submit comments on or before July 7, 2014, and reply comments on or before July 14, 2014.

ADDRESSES: You may submit comments, identified by MD Docket No. 14–92, 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://www.fcc.gov/cgb/ecfs.* Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC 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.
- Email: *ecfs@fcc.gov.* Include MD Docket No. 14–92 in the subject line of the message.
- Mail: 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.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), Second Further Notice of Proposed Rulemaking, and Order, FCC 14–88, MD Docket No. 14–92, adopted on June 12, 2014 and released June 13, 2014. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. via their Web site, *http://www.bcpi.com*, or call 1–800–378–3160. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

I. Procedural Matters

Ex Parte Rules Permit-But-Disclose Proceeding

1. The *Notice of Proposed Rulemaking (FY 2014 NPRM), Second Further Notice of Proposed Rulemaking,* and *Order* shall be treated as 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 list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and 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.

Comment Filing Procedures

2. *Comments and Replies.* 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 may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *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/* or the Federal eRulemaking Portal: *http://www.regulations.gov*.

• *Paper Filers:* Parties who choose to file by paper must file an original and four copies 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.

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.

■ 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 must be disposed of *before* entering the building.

■ 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 must be addressed to 445 12th Street SW., Washington DC 20554.

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 & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

3. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC 20554. These documents will also be available free online, via ECFS. Documents will be available electronically in ASCII, Word, and/or Adobe Acrobat.

4. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (''PDF'') at: *http://www.fcc.gov*.

Initial Paperwork Reduction Act

5. This *NPRM* and *Second Further Notice of Proposed Rulemaking* document solicits possible proposed 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 possible proposed 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), the Commission seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

Initial Regulatory Flexibility Analysis

6. An initial regulatory flexibility analysis (''IRFA'') is contained in Attachment E. Comments to the IRFA must be identified as responses to the IRFA and filed by the deadlines for comments on the *Notice of Proposed Rulemaking* (NPRM). The Commission will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

II. Introduction and Executive Summary

7. In this Notice of Proposed Rulemaking, Second Further Notice of Proposed Rulemaking, and Order (Notice), the Federal Communication Commission seeks comment on its proposed regulatory fees for fiscal year (FY) 2014, and how it can improve its regulatory fee process. In 2013, the Commission sought comment [1] on several proposals to revise the regulatory fee process to more accurately reflect the regulatory activities of current Commission full time employees (FTEs).[2] In the *FY 2013 Report and Order,*[3] released on August 12, 2013, the Commission adopted a number of these proposals, including updating the number of FTEs in the core bureaus, reallocating certain FTEs in the International Bureau for regulatory fee purposes, establishing a new regulatory fee category to include Internet Protocol TV (IPTV), and consolidating UHF and VHF Television stations into one fee category.

8. This Notice seeks comment on the regulatory fees proposed for FY 2014, set forth in Table B, and on whether AM expanded band radio stations should remain exempt from regulatory fees. In addition, the Commission explains that, for calculating FY 2014 regulatory fees, the following previously adopted provisions will apply: (1) UHF/VHF regulatory fees will be combined into one digital television fee category and (2) IPTV will be included in the cable television systems category for regulatory fee purposes. In addition, the Commission finds it in the public interest to maintain the Commercial Mobile Radio Service (CMRS) messaging rate at $.08 per subscriber.

9. In the attached Second Further Notice of Proposed Rulemaking, the Commission seeks comment on additional reform measures to improve

[1] *Procedures for Assessment and Collection of Regulatory Fees; Assessment and Collection of Regulatory Fees for Fiscal Year 2013,* Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, 78 FR 34612 (June 10, 2013) (*FY 2013 NPRM*). Regulatory fees are mandated by Congress in section 9 of the Communications Act of 1934, as amended (Communications Act or Act), and collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities. 47 U.S.C. 159(a).

[2] One FTE, a ''Full Time Equivalent'' or ''Full Time Employee,'' is a unit of measure equal to the work performed annually by a full time person (working a 40 hour workweek for a full year) assigned to the particular job, and subject to agency personnel staffing limitations established by the U.S. Office of Management and Budget.

[3] *Assessment and Collection of Regulatory Fees for Fiscal Year 2013,* Report and Order, 78 FR 52433 (August 23, 2013) (*FY 2013 Report and Order*).

the regulatory fee process, including the adoption of methodologies tailored to ensure a more equitable distribution of the regulatory fee burden among categories of Commission licensees under the statutory framework in section 9 of the Communications Act.[4] Some of the issues for which comment is sought were raised by commenters in FY 2013 (or earlier) and now the Commission tailors its inquiry, in response to the more developed record, to further examine these proposals. Proposals for which further comment is sought include: (1) Reallocating some of the FTEs from the Enforcement Bureau, the Consumer & Governmental Affairs Bureau (CGB), and the Office of Engineering and Technology (OET) as direct FTEs for regulatory fee purposes; (2) reapportioning the fee allocations between groups of International Bureau regulatees; (3) periodically updating FTE allocations; (4) applying a cap on any regulatory fee increases for FY 2014; (5) improving access to information through our Web site; (6) establishing a higher de minimis threshold, such as $100, $500, or $1,000; (7) eliminating certain regulatory fee categories that account for a small amount of regulatory fee payments; (8) combining Interstate Telecommunications Service Providers (ITSP) and wireless voice services into one fee category; (9) adding direct broadcast satellite (DBS) operators to the cable television and IPTV category; (10) creating a new regulatory fee category for non-U.S. licensed space stations, or, alternatively, reallocating some FTEs assigned to work on non-U.S. licensed space station issues as indirect for regulatory fee purposes; and (11) adding a new regulatory fee category for toll free numbers. Some of these reforms would constitute mandatory amendments pursuant to section 9(b)(2) of the Act. To the extent that some of the reforms and other changes would constitute permitted amendments, Congressional notification pursuant to sections 9(b)(3) and 9(b)(4)(B) would be required. In addition, the Commission is adopting revisions to §§ 1.1112, 1.1158, 1.1161, and 1.1164 of our rules,[5] to correspond with the Commission's *FY 2013 Report and Order* requiring electronic payment of regulatory fees.[6]

III. Background

10. Congress requires the Commission to collect regulatory fees ''to recover the costs of . . . enforcement activities, policy and rulemaking activities, user information services, and international activities.''[7] The fees assessed each fiscal year are to ''be derived by determining the full-time equivalent number of employees performing'' these activities, ''adjusted to take into account factors that are reasonably related to the benefits provided to the payer of the fee by the Commission's activities. . . .''[8] Regulatory fees recover direct costs, such as salary and expenses; indirect costs, such as overhead functions; and support costs, such as rent, utilities, or equipment.[9] Regulatory fees also cover the costs incurred by entities that are exempt from paying regulatory fees,[10] entities whose regulatory fees are waived,[11] and entities that provide nonregulated services.[12] Congress sets the amount the Commission must collect each year in the Commission's fiscal year appropriations, and section 9(a)(2) of the Act requires us to collect fees sufficient to offset, but not exceed, the amount appropriated. For FY 2014, this amount is $339,844,000.

11. To calculate regulatory fees, the Commission allocates the total collection target, as mandated by Congress each year, across all regulatory fee categories. The allocation of fees to fee categories is based on the Commission's calculation of FTEs in each regulatory fee category. Historically, the Commission allocated FTEs as ''direct'' if the employee is in one of the four ''core'' bureaus; otherwise, that employee was considered an ''indirect'' FTE.[13] The total FTEs for each fee category includes the direct FTEs associated with that category, plus a proportional allocation of the indirect FTEs. Each regulatee within those fee categories then pays a proportionate share based on some objective measure, e.g., revenues, subscribers, or licenses.

12. In the *FY 2012 NPRM,*[14] the Commission proposed updating the FTE allocations for the first time since 1998.[15] After examining updated FTE data, the Commission determined that the International Bureau employed 22 percent of FTEs considered as direct in 2012, yet that bureau's regulatees contributed only 6.3 percent of the total regulatory fee collection for that year. In contrast, ITSPs (interexchange carriers (IXCs), incumbent local exchange carriers (LECs), toll resellers, and other IXC service providers regulated by the Wireline Competition Bureau) contributed 47 percent of the total regulatory fee collection in 2012, yet that bureau employed 29 percent of the FTEs considered direct in 2012.

13. With respect to updating the FTE allocations, the Commission recognized that, in most of the core bureaus, the work of most of its FTEs predominantly benefits that bureau's own licensees or regulatees. The Commission found, however, that the work performed by most of the International Bureau's FTEs benefitted other bureaus' licensees or the Commission as a whole.[16] Based on extensive review, the Commission determined that 28 of the FTEs from the Policy Division, Satellite Division, and Bureau front office of the International Bureau should be considered direct FTEs because they are engaged primarily in oversight and regulation of International Bureau licensees, such as satellite systems and submarine cable

[4] 47 U.S.C. 159.

[5] 47 CFR 1.1112, 1.1158, 1.1161, 1.1164. *See* Table F for the revised rules.

[6] *See FY 2013 Report and Order,* 78 FR 52445, paragraph 47 (August 23, 2013) (FY 2013 Report and Order).

[7] 47 U.S.C. 159(a).

[8] 47 U.S.C. 159(b)(1)(A).

[9] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2004,* Report and Order, 69 FR 41030, paragraph 11 (July 7, 2004) (*FY 2004 Report and Order*).

[10] For example, governmental and nonprofit entities are exempt from regulatory fees under section 9(h) of the Act. 47 U.S.C. 159(h); 47 CFR 1.1162.

[11] 47 CFR 1.1166.

[12] For example, broadband services.

[13] The core bureaus are the Wireline Competition Bureau, Wireless Telecommunications Bureau, Media Bureau, and part of the International Bureau. The ''indirect'' FTEs are the employees from the following bureaus and offices: Enforcement Bureau, Consumer & Governmental Affairs Bureau, Public Safety and Homeland Security Bureau, Chairman and Commissioners' offices, Office of Managing Director, Office of General Counsel, Office of the Inspector General, Office of Communications Business Opportunities, Office of Engineering and Technology, Office of Legislative Affairs, Office of Strategic Planning and Policy Analysis, Office of Workplace Diversity, Office of Media Relations, and Office of Administrative Law Judges, totaling 954 FTEs (excluding auctions FTEs).

[14] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2012,* Notice of Proposed Rulemaking, 77 FR 29275 (May 17, 2012) (2012) (*FY 2012 NPRM*).

[15] *FY 2012 NPRM,* 77 FR 49752, paragraph 14 (August 17, 2012) (FY 2012 NPRM). This issue was also examined by the GAO. *See* GAO, Federal Communications Commission, ''Regulatory Fee Process Needs to be Updated,'' Aug. 2012, GAO–12–686 (GAO Report). The GAO concluded that the Commission should perform an updated FTE analysis to determine whether the fee categories should be revised.

[16] *FY 2013 Report and Order,* 78 FR 52437, paragraph 16 (August 23, 2013) (FY 2013 Report and Order). For example, the International Bureau's largest division, Strategic Analysis and Negotiation Division (SAND), is responsible for intergovernmental and regional leadership, negotiation, and planning and oversight of the Commission's participation in international forums and conferences. SAND's activities also cover telecommunications services outside of the International Bureau's oversight and regulatory activities; e.g., coordination of wireless services with Canada and Mexico. Because the activities of the SAND FTEs benefit the licensees in other bureaus in addition to its own licensees, the Commission reallocated the FTEs in SAND as indirect FTEs.

systems.[17] The remaining International Bureau FTEs, however, were considered indirect for regulatory fee purposes.

14. In the *FY 2013 Report and Order,* the Commission committed to additional regulatory fee reform and to issuing a Second Further Notice of Proposed Rulemaking, stating:

Various other issues relevant to revising our regulatory fee program were also raised in either the *FY 2013 NPRM* or in comments submitted in response to it. Because we require further information to best determine what action to take on these complex issues, we will consolidate them for consideration in a *Second Further Notice of Proposed Rulemaking* that we will issue shortly. We recognize that these are complex issues and that resolving them will be difficult. Nevertheless, we intend to conclusively readjust regulatory fees within three years.[18]

15. To accomplish this goal, Commission staff continues its efforts to better align the work performed by its FTEs and the regulatees that benefit from such work, as required by section 9(b) of the Act. As part of these efforts, Commission staff engaged in extensive discussions with a number of Commission regulatees to obtain input concerning regulatory fee reform, including additional suggestions for FTE reallocation.[19] The FCC now seeks comment, or further comment, on additional regulatory fee changes the Commission should adopt for FY 2014 and beyond.

IV. Changes Adopted in FY 2013 (or Earlier) That Will Apply in FY 2014

16. As is discussed below, a number of substantive and procedural changes have previously been adopted and will apply to the calculation of regulatory fees in FY 2014. For the reasons discussed previously, the Commission will combine UHF/VHF regulatory fees into one digital television fee category[20] and include IPTV in the cable television systems category.[21] In addition, the FCC finds it in the public interest to retain the CMRS messaging rate at $.08 per subscriber.[22]

17. *Combining UHF/VHF Television Regulatory Fees into One Digital Television Fee Category.* In the *FY 2013 Report and Order,* the Commission combined the VHF and UHF stations in the same market area into one fee category (with five tiered market segments) beginning in FY 2014 and eliminated the fee disparity between VHF and UHF stations.[23]

18. *Internet Protocol TV is included in the Cable Television Systems Category.* In the *FY 2013 Report and Order,* the Commission concluded that IPTV providers should be subject to the same regulatory fees as cable providers and, beginning in FY 2014, the Commission will assess regulatory fees on IPTV providers in the same manner that it assesses fees on cable television providers; the Commission is not, however, stating that IPTV providers are cable television providers.[24]

19. *Congressional notification.* As required by sections 9(b)(3) and 9(b)(4)(B) of the Act,[25] the Commission notified Congress on March 27, 2014 of the addition of IPTV to the cable television system fee category and the combination of UHF and VHF stations in the same market into a single fee category.[26] The pending 90-day congressional notification period expires on June 25, 2014, upon which these changes will become effective.

20. *Commercial Mobile Radio Service (CMRS) Messaging.* CMRS Messaging Service, which replaced the CMRS One-Way Paging fee category in 1997, includes all narrowband services.[27] Initially, the Commission froze the regulatory fee for this fee category at the FY 2002 level to provide relief to the paging industry by setting an applicable rate of $0.08 per subscriber beginning in FY 2003.[28] At that time the Commission noted that CMRS Messaging units had significantly declined from 40.8 million in FY 1997 to 19.7 million in FY 2003—a decline of 51.7 percent.[29] We continue to observe a gradual decline in subscribership, which indicates that this decrease is not temporary. We will maintain the CMRS Messaging fee rate at $.08 per subscriber in FY 2014.[30] If we adopt a new de minimis threshold, as discussed below, some of the CMRS Messaging providers will no longer be required to pay regulatory fees.

V. Order and Administrative Changes for FY 2014

21. We have previously adopted several procedural changes that will apply to this year's fee collection. In particular, in the *FY 2013 Report and Order* we stated the Commission will no longer accept checks (including cashier's checks) and the accompanying hardcopy forms (e.g., Form 159's, Form 159–B's, Form 159–E's, Form 159–W's) for the payment of regulatory fees.[31] This new paperless procedure will require that all payments be made by

[17] *FY 2013 Report and Order,* 78 FR 52437, paragraph 16 (August 23, 2013) (FY 2013 Report and Order).

[18] *Id.,* 78 FR 52435, paragraph 7 (August 23, 2013) (FY 2013 Report and Order).

[19] *See, e.g.,* Enterprise Wireless Alliance, Notice of Ex Parte Presentation (Nov. 1, 2013); Competitive Carriers Association, Notice of Ex Parte Presentation (Nov. 8, 2013); Critical Messaging Association, Ex Parte Memorandum (Nov. 14, 2013); CTIA—The Wireless Association, AT&T, Verizon, and T-Mobile, Notice of Ex Parte Presentation (Nov. 15, 2013); United States Telecom Association (USTelecom), Notice of Ex Parte Presentation (Nov. 15, 2013); Satellite Industry Association (SIA), Notice of Oral Ex Parte Presentation (Nov. 22, 2013); American Cable Association (ACA), Notice of Ex Parte Presentation (Nov. 22, 2013); Independent Telephone and Telecommunications Alliance (ITTA), Notice of Ex Parte Communication (Nov. 22, 2013); North American Submarine Cable Association (NASCA), Notice of Ex Parte Presentation (Dec. 5, 2013); Intelsat Corporation Notice of Oral Ex Parte Presentation (Dec. 13, 2013); SES, Inmarsat, and Telesat, Notice of Oral Ex Parte Presentation (Dec. 13, 2013); DIRECTV, DISH Network Corp., Hughes Network Systems, and Echostar Corp., Notice of Ex Parte Presentation (Dec. 13, 2013), National Association of Broadcasters (NAB), Notice of Late-Filed Ex Parte Communication (Jan. 24, 2014).

[20] *FY 2013 Report and Order,* 78 FR 52443, paragraphs 32–34 (August 23, 2013) (FY 2013 Report and Order).

[21] *Id.,* 78 FR 52443–52444, paragraphs 35–36 (August 23, 2013) (FY 2013 Report and Order).

[22] *Id.,* 78 FR 52444, paragraphs 38–39 (August 23, 2013) (FY 2013 Report and Order).

[23] *Id.,* 78 FR 52443, paragraph 33 (August 23, 2013) (FY 2013 Report and Order).

[24] *See FY 2013 Report and Order,* 78 FR 52444, paragraph 36 (August 23, 2013) (FY 2013 Report and Order). For purposes of this fee, IPTV providers include the AT&T U-Verse service and other wireline providers that deliver multiple channels of video using Internet protocol. However, the Commission notes that this regulatory fee will not apply to online video distributors (OVDs), *e.g.,* over-the-top video providers *See Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming,* 28 FCC Rcd 10496, 10499 n.4 (July 22, 2013).

[25] 47 U.S.C. 159(b)(3); 47 U.S.C. 159(b)(4)(B).

[26] 47 U.S.C. 159(b)(4)(B); Letter concerning permitted amendment from Office of Managing Director, Federal Communications Commission to Chair and Ranking Members of U.S. House of Representatives' Committees on Energy and Commerce and Appropriations and applicable Subcommittees and to Chair and Ranking Members of the United States Senate Committees on Commerce, Science, and Transportation and Appropriations and applicable Subcommittees (Mar. 27, 2014).

[27] *See Assessment and Collection of Regulatory Fees for Fiscal Year 1997,* Report and Order, 62 FR 37417, paragraph 60 (July 11, 1997) (*FY 1997 Report and Order*).

[28] *Assessment and Collection of Regulatory Fees for Fiscal Year 2003,* Report and Order, 68 FR 48451, paragraph 22 (August 13, 2003) (*FY 2003 Report and Order*).

[29] *FY 2003 Report and Order,* 68 FR 48451, paragraph 21 (August 13, 2003) (*FY 2003 Report and Order*). The subscriber base in the paging industry declined 93 percent from 40.8 million to 2.97 million between FY 1997 and FY 2013, according to FY 2013 collection data as of Sept. 30, 2013.

[30] If the fee rate were not frozen at $.08 per subscriber, the actual fee rate for the CMRS Messaging fee category would have been $.46 per subscriber (.39% of all fees with a projected unit count of 2.9 million).

[31] *See FY 2013 Report and Order,* 78 FR 52445, paragraph 48 (August 23, 2013) (*FY 2013 Report and Order*).

online ACH payment, online credit card, or wire transfer. Accordingly, we revise §§ 1.1112, 1.1158, 1.1161, and 1.1164 of our rules [32] to correspond with the Commission's *FY 2013 Report and Order* requiring electronic payment of regulatory fees.[33]

22. Carriers seeking to revise their subscriber counts can do so by accessing Fee Filer. Providers should follow the prompts in Fee Filer to record their subscriber revisions, along with any supporting documentation. In the supporting documentation, the provider will need to state a reason for the change, such as a purchase or sale of a subsidiary, the date of the transaction, and any other pertinent information that will help to justify a reason for the change. The Commission will then review the revised count and supporting documentation and either approve or disapprove the revision.

23. For purposes of determining a CMRS provider's subscriber count, the Commission determines the quantity of assigned telephone numbers from the provider's Numbering Resource Utilization Forecast (NRUF) report and adjusts for porting to account for numbers that have been marked as assigned in their numbering systems but that reflect telephone numbers being served by another carrier.[34] The CMRS count is based on the carrier's Operating Company Numbers (OCNs) aggregate subscriber total. For carriers that do not file an NRUF report, the Commission will not calculate an initial CMRS subscriber total. In these instances, the carriers should compute their fee payment based on subscriber counts as of December 31, 2013. Regardless of whether the Commission calculates a carrier's initial CMRS subscriber count, or the carrier self-reports its subscriber count based on December 31, 2013 totals, the Commission reserves the right to audit the number of subscribers for which regulatory fees are paid. In the event that the Commission determines that the number of subscribers paid is inaccurate, the Commission will bill the carrier for the difference between what was paid and what should have been paid, along with applicable penalties and interest. Finally, beginning this year, the Commission will no longer mail out initial CMRS assessment letters to CMRS providers.

VI. Notice of Proposed Rulemaking

24. *Proposed regulatory fees.* As noted in paragraph four, in FY 2014 we are required to collect $339,844,000 in regulatory fees.[35] Based on the new proposals below and the earlier adopted changes discussed in Section IV, above, we seek comment on the resulting proposed regulatory fees in Table B, which are based on the allocations listed in Table 1 below.

TABLE 1—FY 2013 AND FY 2014 ALLOCATIONS OF FTEs BY BUREAU

Bureau	FY 2013 FTE Allocation (uncapped) [36] (percent)	FY 2013 FTE Allocation (capped) [37] (percent)	FY 2014 FTE Allocation (uncapped) [38] (percent)	FY 2014 FTE Allocation (capped) [39] (percent)
International	6.13	6.91	6.14	6.13
Wireless Telecommunications	21.44	19.59	20.39	20.00
Wireline Competition	35.01	39.81	38.60	39.17
Media	37.42	33.69	34.87	34.70

25. *AM Expanded Band Radio Stations.* The AM Expanded Band licensing rules were adopted in the 1990's to promote the cancellation of licenses of ''high interfering'' stations in the AM standard band. Migration to the AM Expanded Band was voluntary, and a migrating licensee was allowed a five-year period to operate in both bands, after which it was to relinquish either its lower band or expanded band frequency, at its option. As an incentive to move to the expanded band, the Commission decided not to subject these AM radio stations to regulatory fees. In the *FY 2008 FNPRM,* however, the Commission stated that ''[t]here is no compelling reason to permanently exempt AM expanded band licensees from paying regulatory fees. As a general matter, it would be appropriate to treat the AM expanded band and the AM standard band similarly for regulatory fee purposes.'' [40] There is no longer a reason to provide a regulatory incentive to AM broadcasters in the expanded band. A number of those broadcasters relinquished their standard band licenses and have chosen to operate exclusively in the expanded band; at least two opted to retain their standard band licenses. There is no reason why broadcasters who have retained both their standard and expanded band licenses should continue to be exempt from paying regulatory fees.[41] We therefore propose adopting a section 9 regulatory fee obligation for all AM Expanded Band radio stations, beginning in FY 2014. We seek comment on this proposal.

VII. Second Further Notice of Proposed Rulemaking

26. In this *Second Further Notice of Proposed Rulemaking,* we seek comment on additional proposals for regulatory fee reform. Several of the issues discussed below were previously raised by commenters but were not adopted because we either did not have the opportunity to fully evaluate the proposals or we determined that additional comments would be useful.[42]

27. Our proposals to further reform the regulatory fee process involve

[32] 47 CFR 1.1112, 1.1158, 1.1161, 1.1164.

[33] *See* Rule Changes section.

[34] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2005* and *Assessment and Collection of Regulatory Fees for Fiscal Year 2004,* MD Docket Nos. 05–59 and 04–73, Report and Order and Order on Reconsideration, 70 FR 41973–41974, paragraphs 38–44 (July 21, 2005) (*FY 2005 Report and Order* and *Order on Reconsideration*).

[35] Attachment A lists the proposed regulatory fees for FY 2014 if none of the changes proposed in the Notice are adopted. In FY 2013, the Commission was also required to collect $339,844,000 in regulatory fees. The final collection amount was $10.9 million over this total, which the Commission deposited into the U.S. Treasury. The year-to-date accumulated total is $81.9 million.

[36] The FY 2013 (uncapped) column represents the allocation percentages before a fee increase cap of 7.5% was applied to regulatory fee categories.

[37] The FY 2013 (capped) column represents the allocation percentages after a fee increase cap of 7.5% was applied to regulatory fee categories.

[38] The FY 2014 (uncapped) column represents the allocation percentages using updated FY 2014 FTE counts (through September 30, 2013).

[39] The FY 2014 (capped) column represents the allocation percentages using updated FY 2014 FTE counts (through September 30, 2013), if a cap is applied, e.g. a cap of 7.5%.

[40] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Report and Order and Further Notice of Proposed Rulemaking, 73 FR 50203, paragraph 13 (August 26, 2008) (*FY 2008 FNPRM*).

[41] *FY 2008 FNPRM,* 73 FR 50203, paragraph 13 (August 26, 2008) (*FY 2008 FNPRM*).

[42] *See supra* paragraph 15.

consideration of the following concepts: (1) Combining certain regulatory fee categories; (2) creating new fee categories; and/or (3) reallocating direct or indirect FTEs. In addition, we seek to make the regulatory fee calculation, collection, and appeal procedures more efficient, transparent, and user friendly. We also seek comment on adopting a cap on regulatory fee increases, increasing the de minimis threshold, eliminating some regulatory fee categories, and reexamining FTE allocations periodically.

FTE Reallocations

1. Enforcement Bureau and Consumer & Governmental Affairs Bureau

28. We have historically considered the FTEs in the core bureaus to be direct FTEs for regulatory fee purposes. The FTEs in the non-core bureaus and offices have been considered ''indirect,'' and allocated as such across all Commission regulatory fee payors in proportion to their allocated share of the overall regulatory fee burden. We have not designated any FTEs outside the core bureaus as direct or used the FTEs of the non-core bureaus to determine regulatory fee allocations. Commenters, however, have suggested that the work of FTEs in two of the non-core bureaus—the Enforcement Bureau and CGB—is more focused on certain core bureau(s), and that reallocation of such indirect FTEs as ''direct'' for regulatory fee purposes may be appropriate.

29. In our *FY 2013 NPRM* we sought comment on ''whether the work of indirect FTEs is focused disproportionately on one or more core bureaus, and if we should allocate indirect FTEs among the core bureaus on this basis.'' [43] In response, SIA proposed that we reallocate Enforcement Bureau and CGB FTEs as direct FTEs to the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Media Bureau.[44] We seek comment on this proposal.

30. SIA's argument concerning reallocating indirect FTEs is based on the assumption that the FTEs in the Enforcement Bureau and CGB spend little time on matters affecting International Bureau regulatees. Based on our examination into the work done by these bureaus, we believe SIA's reallocation proposal deserves further consideration. The Enforcement Bureau regional and field offices, 114 FTEs, located throughout the Nation,[45] are responsible for handling investigations and inspections in response to complaints (such as pirate radio complaints and wireless interference complaints) and conducting on-site inspections of radio facilities, cable systems, and antenna structures to determine compliance with applicable Commission rules.[46] The regional and field offices also conduct wireless coordination with Canada and Mexico, to address potential wireless interference issues for wireless and broadcast services. Table 2, below, shows the change in FTE allocation if the Commission adopts this proposal and allocates the field and regional offices FTEs equally to the Wireless Telecommunications Bureau and the Media Bureau. We seek comment on this proposal, including the appropriate reallocations of FTEs between the two bureaus. In addition, the Enforcement Bureau [47] as a whole (*i.e.,* all the Enforcement Bureau divisions *including* the regional and field offices) [48] is primarily focused on enforcement activity in the wireline, wireless, and broadcast or media industries, and only occasionally addresses Act and rule violations by International Bureau licensees.[49] We seek comment on this proposal and also seek proposals concerning the appropriate percentages of FTEs among the three bureaus. Similarly, CGB,[50] the bureau responsible for, among other things, processing informal consumer complaints, received a total of 316,430 informal complaints in 2013 of which 3,682 (approximately one percent of the total informal complaints) were filed against DBS providers; only a very small number of informal complaints dealt with issues handled by the International Bureau.[51] We seek comment on this proposal and also seek other proposals concerning appropriate reallocation percentages of FTEs among the three bureaus.

31. The Commission also seeks comment on all aspects of SIA's proposal. In the process, the Commission asks commenters for input concerning whether our analysis accurately attributes the full range of work done by the Enforcement Bureau and CGB, and whether those two bureaus are more focused on licensees and regulatees of the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Media Bureau than the International Bureau.[52] Commenters should specify proposed reallocations concerning the Enforcement Bureau and CGB, and explain the legal and policy reasoning for such support.

2. Office of Engineering & Technology and Other Reallocation Proposals

32. The FCC recognizes that sometimes the work of the FTEs in a core or non-core bureau may affect the regulatees of another core bureau or bureaus. We seek comment on whether, in addition to those divisions affected by the proposed FTE reallocations discussed above, there are other divisions within the core or non-core bureaus that should be treated as direct FTEs to another bureau. For example, the Office of Engineering and Technology (OET) advises the Commission on technical and engineering matters, develops and administers Commission decisions regarding spectrum allocations, develops technical rules for the operation of unlicensed radio devices, authorizes the marketing of radio frequency devices as compliant with

[43] *FY 2013 NPRM,* 78 FR 34619, paragraph 35 (June 10, 2013) (*FY 2013 NPRM).*

[44] SIA Comments at 10 (filed June 19, 2013).

[45] For the locations of the regional and field offices, *see http://transition.fcc.gov/eb/rfo/.*

[46] In FY 2013, the Enforcement Bureau database shows that investigations done by the regional and field offices were almost evenly split between wireless and broadcast-related cases. The regional and field offices' work involving wireline carriers is limited to disaster relief efforts. In addition, the regional and field offices as a whole employ one engineer responsible for addressing all of the Enforcement Bureau's satellite interference issues. Thus, the regional and field offices of the Enforcement Bureau devote nearly all of their work (with the exception of one FTE) to media/broadcast and wireless enforcement.

[47] The Enforcement Bureau has 262 FTEs as of September 30, 2013.

[48] The Enforcement Bureau consists of the following: Office of the Bureau Chief, the Investigations and Hearings Division, the Market Disputes Resolution Division, the Spectrum Enforcement Division, the Telecommunications Consumers Division, and the Regional and Field Offices (discussed above). The bureau's efforts are primarily focused on enforcement activity in the wireline, wireless, and broadcast or media industries.

[49] *See, e.g., Intelsat License, LLC,* Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 17183 (2013) (apparent violation of § 25.158(e) of the Commission's rules).

[50] CGB has 156 FTEs. The division responsible for informal complaints is the Consumer Inquiries and Complaints Division, with 55 FTEs. CGB develops and implements the Commission's consumer policies, including disability access issues; provides outreach and education to consumers; and responds to consumer inquiries and informal complaints. CGB also maintains partnerships with state, local, and Tribal governments on issues of emergency preparedness and implementation of new technologies.

[51] Although DBS providers are licensed by the International Bureau, the Media Bureau is responsible for overseeing DBS providers' compliance with the Commission's rules. Informal complaints filed by consumers against DBS providers could therefore be considered Media Bureau issues rather than International Bureau issues.

[52] Please note that one of the CGB divisions, the Reference Information Center, contains public filings from all telecommunications industries, including International Space Station files.

Commission technical rules, grants experimental radio licenses, and is the agency's liaison to the National Telecommunications and Information Administration (NTIA) for coordinating policy decisions and frequency assignments between Federal agency and non-Federal spectrum users. OET also manages the FCC's program to perform broadband speed measurements and supports inter-bureau broadband projects such as the Technology Transitions Task Force. OET FTEs provide direct support to the equipment authorization and experimental radio licensing programs, as well as indirectly to the Commission's overall spectrum policy planning processes (*e.g.,* spectrum allocations). We seek comment on whether and to what extent commenters believe OET's work is focused on the licensees and regulatees of the Wireless Telecommunications Bureau, Wireline Competition Bureau, Media Bureau, and International Bureau, and whether a portion of OET FTEs should be directly allocated to those bureaus for determining regulatory fees. Commenters should specify proposed reallocations and the legal and policy reasoning for such support.

33. Of the proposals presented above, for illustrative purposes, the following Table 2 approximates the impact based on adopting two of these proposals—reallocating the CGB and EB regional and field offices—as direct to certain core bureaus.

TABLE 2—REALLOCATING THE CGB AND EB REGIONAL AND FIELD OFFICES

Bureau	Current FTE Direct	Current FTE Indirect	CGB FTEs	EB Regional and Field Offices FTEs	FTE Total [53]
International	28 FTEs (6.14%)	47.5 FTEs (6.14%)	0 FTEs (0.00%)	0 FTEs (0.00%)	75.5 FTEs. (5.03%).
Wireless	93 FTEs (20.39%)	157.9 FTEs (20.39%)	52 FTEs (33.33%)	57 FTEs (50.00%)	359.9 FTEs. (24%).
Wireline	176 FTEs (38.60%)	298.7 FTEs (38.60%)	52 FTEs (33.33%)	0 FTEs (0.00%)	526.7 FTEs. (35.11%).
Media	159 FTEs (34.87%)	269.9 FTEs (34.87%)	52 FTEs (33.33%)	57 FTEs (50.00%)	537.9 FTEs. (35.86%).
Total	456	774	156	114	1,500.

3. Reallocations Within Fee Categories

34. *Submarine Cable.* Submarine cable systems transport data, as well as voice services, for international carriers, Internet providers, wholesale operators, corporate customers, and governments. As discussed in the *FY 2013 NPRM,* international [53] submarine cable service involves minimal regulation and oversight from the Commission after the initial licensing process.[54] For example, such activity is limited to filing Traffic and Revenue Reports regarding international services and for U.S. facilities based international common carriers, and Circuit Status Reports.[55] Several commenters in response to the *FY 2013 NPRM* suggested that the regulatory fees among International Bureau licensees should be adjusted to reflect this minimal oversight.[56] The satellite operators and earth stations pay 59 percent of regulatory fees allocated to International Bureau licensees, and the submarine cable and bearer circuit fee categories pay 41 percent. The Commission tentatively concludes that it should revise the apportionment between the satellite/earth station operators and the submarine cable operators/terrestrial/satellite circuits to reduce the proportional allocation for submarine cable operators/terrestrial/satellite circuits and increase the allocation for satellite/earth station operators to more accurately reflect the amount of oversight and regulation for these industries.[57]

35. *Earth Stations.* An earth station transmits or receives messages from a satellite. Currently, earth station licensees pay regulatory fees of $275 per year while satellite operators pay $139,100 (for space stations, per operational system in geostationary orbit) and $149,875 (for space stations, per operational system in non-geostationary orbit) per year. The Commission recognizes that earth station and satellite oversight and regulation, although using different quantities of FTEs, is interdependent to some degree and also involves issues pertaining to non-U.S.-licensed space stations. Commenters suggest that the FCC increase the percentage of regulatory fees assigned to earth stations. We therefore seek comment on whether the Commission should increase this allocation in order to reflect more appropriately the regulation and oversight of this industry. Commenters should also discuss whether the type of earth station authorization should affect the relative allocation for regulatory fees. We invite comment on whether any material distinction should be drawn concerning the appropriate allocation of regulatory fees among various types of earth station authorizations.

Improving the Regulatory Fee Process

36. Following this analysis for FY 2014, how often should the Commission conduct an in depth review in the future? How often should this methodology be revisited for allocation of direct FTEs? Absent any changes in methodology, how often should the Commission update the number of FTEs in the core bureaus in order to calculate regulatory fees? Commenters should recommend an appropriate time frame, such as every three years, that balances the need for stability for industry sectors to budget for regulatory fees against the need to reflect the changing work of the Commission FTEs.

Revising Our De Minimis Threshold and Eliminating Regulatory Fee Categories

37. Under the Commission's present policy on de minimis regulatory fee payments, a regulatee is exempt from paying regulatory fees if the sum total of

[53] This illustration is based on the adoption of the proposals to allocate the FTEs from the Enforcement Bureau Regional and Field offices and CGB.

[54] *FY 2013 NPRM,* 78 FR 34618–34619, paragraph 33 (June 10, 2013) (*FY 2013 NPRM).*

[55] *Id.*

[56] *See, e.g.,* NASCA Comments at 8–9 (filed June 19, 2013); Telstra Comments at 2 (filed June 19, 2013); ICC Reply Comments at 2 (filed June 19, 2013).

[57] The revenue allocation between submarine cable operators and common carrier terrestrial/satellite circuits is 87.6 percent/12.4 percent. This was adopted in the *Submarine Cable Order. See Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Second Report and Order, 74 FR 22104 (May 12, 2009) (*Submarine Cable Order*). The Commission does not propose any changes to the 87.6/12.4 allocation between submarine cable operators and common carrier terrestrial/satellite circuits.

all of its regulatory fee liabilities for the fiscal year is less than $10. For example, using FY 2013 fee data, an ITSP would be exempt if the total calendar year revenues did not exceed $2,881. A cell phone operator would be exempt if the number of subscribers did not exceed 55; a cable television operator would be exempt if the subscriber number did not exceed nine. The Commission proposes to increase the de minimis threshold to provide more relief to smaller entities. We seek comment on whether the Commission should establish a higher de minimis amount, such as $100, $500, $750, or $1,000. In doing so, we seek comment on whether the administrative burden on small regulatees and the FCC's operational costs associated with processing and collecting these fees outweigh the benefits of such payments. Commenters should discuss whether certain categories of licensees, such as those who are subject to frequency coordination by private industry groups, should be excluded from regulatory fees due to limited Commission regulation, among other things. Commenters should also discuss whether smaller entities with limited funds are more likely to be unable to budget for regulatory fees on a timely basis and therefore incur late fees and use more Commission resources for fee collection. In addition, commenters should address whether the Commission should phase in a higher de minimis threshold over two or more years.

38. Similarly, we seek comment on whether to include certain fee categories (*e.g.,* broadcast and multi-year licenses) in a new de minimis threshold. Commenters should discuss whether adding a new tier for broadcast, for smaller stations, would be feasible. Concerning multi-year licenses, the Commission proposes to exclude two categories whose regulatory fees for the term of the license would be under $100: Vanity call signs ($21.60 for a 10-year license) and General Mobile Radio Service (GMRS) ($25 for a five-year license).[58] The Commission also seeks comment on eliminating certain other regulatory fee categories, such as Satellite TV, Satellite TV Construction Permits, Broadcast Auxiliaries, LPTV/Class A Television and FM Translators/Boosters, and CMRS Messaging (Paging), from regulatory fees because the categories account for such a small amount of regulatory fees. We seek comment on the benefits of discontinuing such collections. Commenters should discuss how other multi-year licenses should be treated with respect to a de minimis threshold. Since some licensees may hold many multi-year licenses, commenters should address whether it would be burdensome for such licensees to have some multi-year licenses above the de minimis threshold and some below.

39. The Commission tentatively concludes that eliminating categories from our regulatory fee schedule would be a permitted amendment as defined in section 9(b)(3) of the Act,[59] and pursuant to section 9(b)(4)(B) must be submitted to Congress at least 90 days before it would become effective.[60]

A Cap or Limitation on Increases of Regulatory Fees for FY 2014

40. For FY 2014, unlike last year, it is unlikely regulatees will experience substantial increases in their regulatory fees.[61] Nevertheless, out of an abundance of caution, we seek comment on the appropriateness of a cap to prevent, ''unexpected, substantial increases which could severely impact the economic wellbeing of these licensees.'' [62] We seek comment on whether to continue to apply a cap of 7.5 percent, or a higher cap, such as 10 percent, on the amount by which regulatory fee rates increase in FY 2014 over the FY 2013 fee rates, before rounding FY 2014 rates, for any category resulting solely from the reallocations of FTEs or our reform measures adopted in the *FY 2013 Report and Order* or in this proceeding.[63] Therefore, if adopting our proposals would create a substantial increase in the fee rate for any category of regulatees, such an increased would be capped. We seek comment on the reasonableness of a 7.5 percent or 10 percent cap for FY 2014. The Commission also invites proposals for higher or lower percentages. Commenters suggesting a different cap should explain how such proposals would prevent a severe impact on the economic wellbeing of licensees yet remain consistent with the goal to more accurately align FTEs with their areas of work. A cap limiting increases, if adopted, would be effective for FY 2014.

Additional Regulatory Fee Reform

41. We also seek comment on ways to further improve our regulatory fee process to make it less burdensome for all entities, specifically smaller entities. The Commission recognizes that the FCC is currently seeking comment on a Commission-wide ''Process Reform.'' [64] Any comments relating specifically to the regulatory fee processes could also be filed in this docket for implementation for FY 2014 and the suggestions will be coordinated with the Process Reform proceeding. Commenters should suggest ways in which the Commission can further streamline its processes to make it easier for regulatory fee payors. Commenters should also address the timing of our annual regulatory fee process. Commenters should suggest ways in which the FCC can improve its Web site to make it easier for the public to obtain information about regulatory fees. Making regulatory fee waiver decisions public and accessible on our Web site is also a Commission proposal. We seek comment on the feasibility of an automated online waiver process. We seek comment on other ways to make information more accessible on the Commission's Web site.

Combining Existing Regulatory Fee Categories

42. In the *FY 2013 NPRM,* the Commission sought comment on combining wireline and wireless voice services into one category and assessing regulatory fees based on voice revenues for this new category.[65] The Commission explained that because wireless services are comparable to wireline services, both services encompass similar regulatory policies and programs, such as universal service and number portability.[66] The Independent Telephone and Telecommunications Alliance (ITTA) contends that wireline companies bear a disproportionately high burden in

[58] Our proposal would exclude these two categories from regulatory fees going forward, not just for FY 2014.

[59] 47 U.S.C. 159(b)(3).

[60] 47 U.S.C. 159(b)(4)(B).

[61] *See, e.g.,* Table 1 at paragraph 18.

[62] *See Assessment and Collection of Regulatory Fees for Fiscal Year 1997,* Report and Order, 62 FR 37414, paragraph 37 (July 11, 1997) (*FY 1997 Report and Order*).

[63] This cap would apply to an increase to an entire fee category as a result of FTE reallocations or reform measures; such cap would not apply to limit changes in regulatory fees for a particular payor resulting from other factors, such as increased or decreased revenues, changes in subscriber numbers, number of licenses, etc. For example, UHF television fees in Markets 1–10 will increase from $38,000 (FY 2013) to $44,875 (FY 2014) as a result of our regulatory reform measure in combining the UHF and VHF fee categories.

[64] *http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0214/DA-14-199A2.pdf.*

[65] *FY 2013 NPRM,* 78 FR 34615, paragraph 18 (June 10, 2013) (*FY 2013 NPRM). See, e.g.,* ITTA Comments at 2–3 (filed June 19, 2013). ITTA's proposal was also discussed in the *FY 2008 FNPRM,* 73 FR 50288–50289, paragraphs 16–17 (August 26, 2008 (*FY 2008 FNPRM).* In that proceeding, the Commission stated that ''ITTA recommends that the Commission extend the process by which it added interconnected Voice over Internet Protocol ('VoIP') providers to the ITSP category and also include wireless providers in the ITSP category.'' *Id.,* 73 FR 50288–50289, paragraph 16 (August 26, 2008) (*FY 2008 FNPRM).*

[66] *FY 2013 NPRM,* 78 FR 34615, paragraph 18 (June 10, 2013) (*FY 2013 NPRM).*

regulatory fees because these companies no longer require the same expenditure of Commission resources as when regulatory fees were first adopted.[67] ITTA further observes that issues addressed by FTEs in the Wireline Competition Bureau also affect the providers of other voice services, such as wireless and VoIP; for example, the Wireline Competition Bureau oversees contributions to the universal service fund by wireless providers and programs that benefit and provide disbursements to wireless providers, such as Lifeline, high-cost, and E-rate.[68]

43. We seek comment on combining wireless cellular services with the ITSP category to create one regulatory fee category whose regulatory fees are calculated based on the combined number of FTEs in the Commission's Wireline Competition Bureau and Wireless Telecommunications Bureau. We also seek comment on whether the Commission should combine any portion of other service categories with ITSP. Any combination of categories proposed by commenters should address the need to reconcile different assessment methodologies for ITSP, which pay fees based on revenues and wireless, which pay fees based on handsets. If ITSP is combined with another category, a uniform method would need to be applied to calculate the fees (e.g., revenues, subscribers, handsets, telephone numbers). Commenters should propose and discuss uniform methods for calculating regulatory fees in a combined regulatory fee category. Although revenues appear to be the most appealing methodology because this information is available in FCC Form 499 filings and is already used in other FCC programs to determine obligations, such as universal service contributions, commenters advocating using revenues for assessing regulatory fees in a combination of categories should take into account whether all revenues should be assessed, or whether only the proportion of revenues allocated to voice be used.[69]

44. Depending on the revenues that are included in the base, combining wireless cellular and the historic ITSP fee categories together could result in a sizeable change in the wireline regulatory fee rate. We seek comment on transitioning to a combined category and capping any increase to 7.5 or 10 percent, annually. It is possible that by combining the wireless cellular and ITSP fee categories into a new category as proposed by ITTA, the effect of a cap on increases, and the reduction in fees for the wireline industry, could cause significant fee increases for the remaining regulatory fee categories. Alternatively, the Commission could transition by keeping wireless and ITSP separate categories based on revenue and phasing in an increase in wireless and decrease in ITSP fee rates before combining the two categories.[70] We seek comment on ways to transition to a combined wireless and wireline category without causing hardship on the wireless industry and other fee categories.

45. For example, if the cellular wireless and ITSP fee categories were combined into one fee category based on 499–A revenues, the fee rate and collections amount would be projected as follows.

TABLE 3—COMBINED WIRELESS AND ITSP FEE RATE AND PROJECTED REVENUE

[Without cap]

Revenue source (FCC Form 499–A 2013 revenue)	499–A projected revenue	Combined rev. 2014 fee rate	Estim. revenue collected	% of rev. collected (percent)	Diff. paid w/ combined rate
ITSP	$38,800,000,000	.00287	$111,356,000	32.77	($20,569,314)
Wireless (Cellular)	27,715,500,000	.00287	79,543,485	23.41	20,139,689
Total	66,515,500,000		190,899,485	56.18	

Note: The combined revenue fee rate of .00287 was calculated on an ITSP allocation (FTE) percentage of 38.60% and a cellular wireless percentage of 17.34%.

46. The Commission tentatively concludes that combining two fee categories into one new fee category constitutes a reclassification of services in the regulatory fee schedule, and thus a permitted amendment as defined in section 9(b)(3) of the Act,[71] which pursuant to section 9(b)(4)(B) must be submitted to Congress at least 90 days before it becomes effective.[72]

New Regulatory Fee Categories

4. DBS

47. DBS providers are multichannel video programming distributors (MVPDs), pursuant to section 522(13) of the Act. These operators of U.S.-licensed geostationary space stations used to provide one way subscription television service to consumers in the United States pay a fee under the category ''Space Station (Geostationary Orbit)'' in the regulatory fee schedule. Such providers of one-way subscription satellite television service to consumers in the United States do not pay a per-subscriber regulatory fee. DBS services are similar to cable services because both services offer multi-channel video programming to end-users. DBS services, however, also differ from cable because programming is transmitted to end users by satellites stationed in geosynchronous orbit and not by terrestrial cable.

48. Commenters, in response to the *FY 2013 NPRM,* proposed that DBS providers pay regulatory fees based on Media Bureau FTEs due to the similar regulatory work devoted to cable

[67] ITTA Comments at 4 (filed June 19, 2013).

[68] 47 CFR 54.706; *Schools and Libraries Universal Support Mechanism, Eligible Services List,* CC Docket No. 02–6, GN Docket No. 09–51, Order, 28 FCC Rcd 14534 (WCB 1993); Federal Communications Commission Consumer Guide, Lifeline: Affordable Telephone Service for Income-Eligible Consumers (2013), available at *http://transition.fcc.gov/cgb/consumerfacts/lllu.pdf; Connect America Fund, et al.,* WC Docket No. 10–90, Report and Order and Further Notice of Proposed Rulemaking, 77 FR 1637 (January 11, 2012), petitions for review pending sub nom, *In Re Federal Communications Commission 11–161,* No. 11–9900 (10th Cir, filed December 18, 2011).

[69] Commenters advocating using revenues for assessing regulatory fees in a combination of services should take into account that wireless carriers provide ''voice'' service without charge for customers with data plans.

[70] By way of illustration, if the increase were capped at 10%, the cellular wireless projected regulatory fee revenue would increase from approximately $58.9M to $64.8M for FY 2014, to $71.3M for FY 2015, to $78.4M for FY 2016, to $86.2 for FY 2017, and to $94.9M for FY 2018, at which point the two categories would be combined into one ITSP category. During this phase-in process, the wireline regulatory fee revenues would decrease each year, from approximately $131.2M to $125.3M for FY 2014, to $118.8M for FY 2015, to $111.7M for FY 2016, to $103.8M for FY 2017, and to $95.2M in FY 2018.

[71] 47 U.S.C. 159(b)(3).

[72] 47 U.S.C. 159(b)(4)(B).

operators and DBS providers.[73] For example, DBS providers (and cable operators) are permitted to file program access complaints [74] and complaints seeking relief under the retransmission consent good faith rules; [75] and DBS providers are required to comply with Media Bureau oversight and regulation such as Commercial Advertisement Loudness Mitigation Act (CALM Act),[76] the Twenty-First Century Video Accessibility Act (CVAA),[77] and the closed captioning and video description rules.[78] DBS providers argue, however, that they are not cable television operators and they are not subject to all of the regulations historically imposed on the cable industry by the Media Bureau; instead, their business model is based on satellite technology and is subject to satellite licensing rules through the International Bureau.[79]

49. The Commission invites further comment on whether regulatory fees paid by DBS providers should be included in the cable television and IPTV category and assessed in the same manner as cable television system operators. We also seek comment on a new name for this category. For example, should this fee category be named ''MVPD'' or ''subscription television fees'' or should other names be more appropriate for this category? We also ask commenters to further address the impact of this on the cable industry and the satellite industry.

TABLE 4—CHANGE IN CABLE/IPTV REGULATORY FEES WHEN DBS ADDED

Fee service	Subscriber count	FY 14 fee per subscriber combined	FY 14 fee not combined	Projected revenue combined	Projected rev. not combined	Diff. paid with combined
Cable/IPTV Subscribers	65,400,000	$.68	$1.00 per subscriber	$44,472,000	$65,400,000	($20,928,000)
DBS Subscribers	34,000,000	.68	114,025 per satellite	23,120,000	2,052,450	21,067,550
Total	99,400,000			67,592,000	67,452,450	

50. When DBS video providers are included in the cable and IPTV subscriber count, the FY 2014 regulatory fee rate for cable television (and IPTV and DBS video service) reduces from a fee rate of $1.00 per subscriber (cable and IPTV subscribers) to $.68 per subscriber. This would affect only the 18 satellites that provide video programming, EchoStar and DIRECTV. The GSO Space Stations will be reduced by 18 satellites, and $2.5 million in projected revenue. This would add $2.5 million to cable's projected revenue, *i.e.,* 34,000,000 new subscribers, totaling 99,400,000 subscribers.

51. One-way satellite television subscription service is provided by a variety of satellites in the United States.[80] As a result, there are multiple definitions of DBS in the Commission's rules.[81] Commenters should also explain how they would define DBS satellite television service providers for regulatory fee purposes.

52. Commenters should also discuss the relationship between regulatory fees that would be paid by DBS satellite television service providers and the regulatory fees paid by operators of GSO satellites, which are used to provide satellite television service to consumers in the United States. At the same time, the Commission recognizes that non-U.S.-licensed satellites are also used to provide one-way satellite television service to consumers in the United States, but do not pay a regulatory fee.[82] Commenters may wish to address this point in any discussion of the relationship between the two fee categories and the impact of this fee category on the satellite industry.

5. Non-U.S.-Licensed Space Stations Serving the United States

53. To recover the costs associated with policy and rulemaking activities associated with space stations, § 1.1156 of the Commission's rules includes ''Space Station (Geostationary Orbit)'' and ''Space Stations (Non-Geostationary Orbit)'' in the regulatory fee schedule.[83] These fees are assessed only for U.S.-licensed space stations. Regulatory fees are not assessed for non-U.S.-licensed space stations that have been granted access to the market in the United States.[84] Previously, the Commission sought comment on a proposal to assess regulatory fees on non-U.S.-licensed space stations that had been granted market access in the United States, and this discussion is incorporated in this rulemaking by reference.[85] Intelsat supports creating this new category.[86] Most commenters addressing this issue do not support assessing regulatory fees on non-U.S.-licensed satellites and contend that the Commission does not have authority to do so; such fees would conflict with international treaties; and that a fee assessment could lead to a proliferation of fees from other countries that would have a serious impact on global satellite services.[87]

54. The Commission also seeks additional comment on whether regulatory fees should be assessed on non-U.S. licensed space station operators granted access to the market

[73] Previously, when this issue was first proposed by the cable industry, the Commission declined to modify its methodology. *See, e.g., FY 2013 NPRM,* 78 FR 34627–34628, paragraphs 56–58 (June 10, 2013) (*FY 2013NPRM); FY 2008 FNPRM,* 73 FR 50290, paragraph 26 (August 26, 2008) (*FY 2008 FNPRM).* For FY 2014, a new category was adopted that includes cable television and IPTV. We now seek further comment whether DBS providers should also be included in the cable television and IPTV category.

[74] 47 U.S.C. 548; 47 CFR 76.1000–1004.

[75] 47 U.S.C. 325(b)(1), (3)(C)(ii); 47 CFR 76.65(b).

[76] *See Implementation of the Commercial Advertisement, Loudness Mitigation (CALM) Act,* Report and Order, 77 FR 40276 (July 9, 2012) (2012).

[77] 47 U.S.C. 618(b).

[78] 47 CFR part 79.

[79] *See, e.g.,* DIRECTV Comments at 8–17 (filed June 19, 2013); EchoStar Corporation and DISH Network Reply Comments at 4–6 (filed June 26, 2013).

[80] For example, DIRECTV operates a number of Ka-band satellites used to provide satellite television services to consumers in the United States in addition to its fleet of DBS satellites.

[81] Compare definition of DBS in § 25.103 used for satellite licensing with the definition for DBS in § 25.701 used for other public interest obligations. 47 CFR 25.103, 25.701.

[82] *See, e.g., EchoStar Satellite, LLC,* Order and Authorization, 20 FCC Rcd 20083 (International Bureau 2005).

[83] 47 CFR 1.1156.

[84] This issue was raised in the *FY 1999 Report and Order* where the Commission observed that that the legislative history provides that only space stations licensed under Title III—which does not include non-U.S.-licensed satellite operators—may be subject to regulatory fees. *Assessment and Collection of Regulatory Fees for Fiscal Year 1999,* Report and Order, 64 FR 35837, paragraph 39 (July 1, 1999) (*FY 1999 Report and Order).*

[85] *See FY 2013 NPRM,* 78 FR 34627, paragraphs 53–55 (June 10, 2013) (*FY 2013 NPRM*).

[86] Intelsat Comments (June 19, 2013).

[87] *See, e.g.,* EchoStar Corporation and DISH Network Comments at 15–18 (contending that the Commission lacks the authority to impose such regulatory fees and that doing so would also be inconsistent with established multilateral trade agreements) (June 19, 2013); SES Americom, Inc., Inmarsat, Inc., and Telesat Canada Comments at 2–12) (June 19, 2013).

in the United States. Commenters should discuss whether the Commission should revisit the Commission's 1999 conclusion that the regulatory fee category for Space Stations (Geostationary Orbit) and Space Stations (Non-Geostationary Orbit) in § 1.1156(a) of the Commission's rules covers only Title III license holders, including the Commission's finding that it ''cannot include operators of non-U.S.-licensed satellite space stations among regulatory fee payors.'' [88] Commenters should also discuss any negative policy implications that may arise from taking such action, such as the likelihood that other countries will choose to assess fees on U.S.-licensed satellite systems. Table 5 below illustrates the number of feeable (U.S. licensed) versus non-feeable (non-U.S. licensed) satellites that require agency resources to be expended.

TABLE 5—PROJECTED NUMBER OF SATELLITES THAT ARE REGULATORY FEEABLE AND NON-FEEABLE

Regulatory feeable GSO & NGSO satellites	Market access list (not feeable)	K-Band list (not feeable)	ISAT list (not feeable)	Permitted list (not feeable)	Total (not feeable)
100	19	6	6	38	69

55. Commenters advocating the assessment of regulatory fees on non-U.S.-licensed space stations granted access to the market in the United States should propose how the fees should be calculated and applied. Because market access is granted through a variety of procedural mechanisms, commenters should address each situation. For example, how would fees be calculated and applied in instances where the non-U.S.-licensed space station operator accesses the U.S. market solely through grant of an application by a U.S.-licensed earth station operator identifying the non-U.S. licensed space station as a point of communication? Commenters should also provide specific information as to whether other countries already assess fees in one form or another on U.S.-licensed satellite systems accessing their markets.

56. Based on Commission filings over the past three years, there were eleven applications filed each year for U.S. space station authorization, eight applications per year to add a non-U.S.-licensed space station to the Permitted List, and ten applications per year from U.S. earth stations to communicate with non-U.S.-licensed space stations that are not on the Permitted List. Thus, over half of the space station applications and notifications during this three year period pertained to non-U.S.-licensed space stations. As Intelsat observes, ''[t]he Satellite Division's work on behalf of non-U.S.-licensed satellite operators with U.S. market access generates regulatory costs.'' [89] As an alternative to adopting a new regulatory fee category for non-U.S.-licensed space stations, as discussed above, FTEs working on petitions or other matters involving non-U.S.-licensed satellites could be removed from the regulatory fee assessments for U.S.-licensed satellites and considered indirect for regulatory fee purposes. We seek comment on whether these FTEs should be considered indirect FTEs because their responsibilities concerning non-U.S.-licensed satellite operators are of general benefit to the United States public, as well as other entities, including the United States government, who uses these satellite services. Indirect treatment may be further warranted because U.S. earth stations utilize these foreign satellites. We seek comment on whether these FTEs should be considered ''indirect'' FTEs instead of direct International Bureau FTEs.

6. Toll Free Numbers

57. The Commission also seeks comment on whether toll free numbers, as defined in § 52.101(f) of our rules,[90] should be added to the regulatory fee schedule set forth in section 9. Toll free numbers are not currently subject to regulatory fees. These numbers are managed by a RespOrg, or Responsible Organization, for toll free subscribers. Commission resources are used in enforcement activities,[91] as well as rulemakings and other policy making proceedings,[92] pertaining to the use of these numbers. Historically, the Commission has not assessed regulatory fees on toll free numbers, under the rationale that the entities controlling the numbers, wireline and wireless carriers, were paying regulatory fees based on either revenues or subscribers.[93] This may no longer be a realistic assumption today as there appear to be many toll free numbers controlled or managed by entities that are not carriers. We therefore seek comment on whether regulatory fees should be assessed on RespOrgs, for each toll free number managed by a RespOrg. We seek comment on whether regulatory fees should be assessed on working, assigned, and reserved toll free numbers. In addition, should regulatory fees be assessed for toll free numbers that are in the ''transit'' status, or any other status as defined in § 52.103 of the Commission's rules? Commenters should discuss an appropriate regulatory fee for this new category; *e.g.,* one cent per month, or twelve cents per year. Using this figure, the amount of fees collected could total approximately $4 million per year, depending on how many toll free numbers continued to be managed by RespOrgs if the regulatory fee were to be imposed. The FTEs involved in toll free issues are primarily from the Wireline Competition Bureau; [94] therefore, this additional fee would reduce the ITSP regulatory fee total.

7. Permitted Amendments

58. The Commission tentatively concludes that including the three categories discussed above: DBS, non-U.S.-licensed space stations, and toll free numbers, in new or revised regulatory fee categories would constitute a reclassification of services in the regulatory fee schedule as defined in section 9(b)(3) of the Act,[95] and

[88] *FY 1999 Report and Order,* 64 FR 35837, paragraph 39 (July 1, 1999) (*FY 1999 Report and Order).*

[89] Intelsat Comments at 4 (June 19, 2013).

[90] Toll free numbers are telephone numbers for which the toll charges for completed calls are paid by the toll free subscriber. *See* 47 CFR 52.101(f).

[91] *See, e.g., Richard Jackowitz, IT Connect, Inc.,* Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 3318 (2014); *Richard Jackowitz, IT Connect, Inc.,* Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 6692 (2013); *Telseven, LLC, et al.,* Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 15558 (2013).

[92] *See, e.g., Toll Free Access Codes,* Second Report and Order and Further Notice of Proposed Rulemaking, 62 FR 20126 (April 25, 1997); 62 FR 20147 (April 25, 1997) (1997).

[93] *See generally, Universal Service Contribution Methodology,* Further Notice of Proposed Rulemaking, 77 FR 33923, paragraph 227 (June 7, 2012) (2012).

[94] Enforcement Bureau staff also work on toll free issues.

[95] 47 U.S.C. 159(b)(3).

pursuant to section 9(b)(4)(B) must be submitted to Congress at least 90 days before it becomes effective.[96]

VIII. Procedural Matters

Payment of Regulatory Fees

59. In order to help regulatory fee payors better understand the process for payment of regulatory fees, the Commission restates important information below.

1. Manner of Payment

60. As of October 1, 2013, the Commission no longer accepts checks (including cashier's checks) and the accompanying hardcopy forms (*e.g.,* Form 159's, Form 159–B's, Form 159–E's, Form 159–W's) for payment of regulatory fees. All payments must now be made by online ACH payment, online credit card, or wire transfer. Any other form of payment (*e.g.,* checks) will be rejected and sent back to the payor. So that the Commission can associate the wire payment with the correct regulatory fee information, an accompanying Form 159–E must still be transmitted via fax for wire transfers.[97]

2. Lock Box Bank

61. All lock box payments to the Commission for FY 2014 will be processed by U.S. Bank, St. Louis, Missouri, and payable to the FCC. During the fee season for collecting FY 2014 regulatory fees, regulatees can pay their fees by credit card through Pay.gov,[98] by ACH or debit card,[99] or by wire transfer. Additional payment options and instructions are posted at *http://transition.fcc.gov/fees/regfees.html.*

3. Receiving Bank for Wire Payments

62. The receiving bank for all wire payments is the Federal Reserve Bank, New York, New York (TREAS NYC). So that the processing bank can properly associate the wire payment with the fee payment details, regulatees making a wire transfer must fax a copy of their Fee Filer generated Form 159–E to U.S. Bank, St. Louis, Missouri at (314) 418–4232 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. The use of the Form 159–E is permissible with wire transfer. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be initiated and completed before the deadline. Complete instructions for making wire payments are posted at *http://transition.fcc.gov/fees/wiretran.html.*

4. De Minimis Regulatory Fees

63. Regulatees whose total FY 2014 regulatory fee liability, including all categories of fees for which payment is due, is less than an established de minimis amount are exempted from payment of FY 2014 regulatory fees. The de minimis amount to date has been $10 (ten dollars); however, such amount could change as a result of this Notice.

5. Standard Fee Calculations

64. The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

- *Media Services:* Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2013 for AM/FM radio stations, VHF/UHF full service television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2013. In instances where a permit or license is transferred or assigned after October 1, 2013, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireline (Common Carrier) Services:* Regulatory fees must be paid for authorizations that were granted on or before October 1, 2013. In instances where a permit or license is transferred or assigned after October 1, 2013, responsibility for payment rests with the holder of the permit or license as of the fee due date. Audio bridging service providers are included in this category.[100]
- *Wireless Services:* CMRS cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2013. The number of subscribers or telephone numbers on December 31, 2013 will be used as the basis for calculating the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2013, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- The first eleven regulatory fee categories in our Schedule of Regulatory Fees (*see* Table B) pay ''small multi-year wireless regulatory fees.'' Entities pay these regulatory fees in advance for the entire amount of their five-year or ten-year term of initial license, and only pay regulatory fees again when the license is renewed or a new license is obtained. These fee categories are included in our Schedule of Regulatory Fees to publicize our estimates of the number of ''small multi-year wireless'' licenses that will be renewed or newly obtained in FY 2014.
- *Multichannel Video Programming Distributor Services (cable television operators and CARS licensees)* and *Internet Protocol Television (IPTV):* Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2013.[101] In addition, beginning in FY 2014, IPTV providers that had subscribers as of December 31, 2013 are also obligated to pay regulatory fees. Holders of CARS licenses that were granted on or before October 1, 2013 must also pay regulatory fees. In instances where a permit or license is transferred or assigned after October 1, 2013, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services:* Regulatory fees must be paid for earth stations that were authorized (licensed) on or before October 1, 2013. Geostationary orbit

[96] 47 U.S.C. 159(b)(4)(B).

[97] We incorporate this change into our rules at Table F.

[98] In accordance with U.S. Treasury Financial Manual Announcement No. A–2012–02, the U.S. Treasury will reject credit card transactions greater than $49,999.99 from a single credit card in a single day. This includes online transactions conducted via Pay.gov, transactions conducted via other channels, and direct-over-the counter transactions made at a U.S. Government facility. Individual credit card transactions larger than the $49,999.99 limit may not be split into multiple transactions using the same credit card, whether or not the split transactions are assigned to multiple days. Splitting a transaction violates card network and Financial Management Service (FMS) rules. However, credit card transactions exceeding the daily limit may be split between two or more different credit cards. Other alternatives for transactions exceeding the $49,999.99 credit card limit include payment by check, electronic debit from your bank account, and wire transfer.

[99] In accordance with U.S. Treasury Financial Manual Announcement No. A–2012–02, the maximum dollar-value limit for debit card transactions will be eliminated. It should also be noted that only Visa and MasterCard branded debit cards are accepted by Pay.gov.

[100] Audio bridging services are toll teleconferencing services.

[101] Cable television system operators should compute their number of basic subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Operators may base their count on ''a typical day in the last full week'' of December 2013, rather than on a count as of December 31, 2013.

space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2013 are subject to regulatory fees. In instances where a permit or license is transferred or assigned after October 1, 2013, responsibility for payment rests with the holder of the permit or license as of the fee due date.

• *International Services: Submarine Cable Systems:* Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis based on circuit capacity as of December 31, 2013. In instances where a license is transferred or assigned after October 1, 2013, responsibility for payment rests with the holder of the license as of the fee due date. For regulatory fee purposes, the allocation in FY 2014 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.

• *International Services: Terrestrial and Satellite Services:* Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers that have active (used or leased) international bearer circuits as of December 31, 2013 in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier, which includes active circuits to themselves or to their affiliates. In addition, non-common carrier satellite operators must pay a fee for each circuit sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. ''Active circuits'' for these purposes include backup and redundant circuits as of December 31, 2013. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits. In instances where a permit or license is transferred or assigned after October 1, 2013, responsibility for payment rests with the holder of the permit or license as of the fee due date. For regulatory fee purposes, the allocation in FY 2014 will remain at 87.6 percent for submarine cable and 12.4 percent for satellite/terrestrial facilities.

• *Clarification regarding DTV Replacement Translators.* Because these TV translators do not extend the coverage of the primary station, but operate solely within the primary station's protected contour, these special TV translators are deemed to be ''replacement translators'' and are not subject to a separate TV translator regulatory fee.

• *Clarification regarding TV Translator/Booster Facilities Operating in Analog, Digital, or in an Analog/Digital Simulcast Mode.* With respect to Low Power, Class A, and TV Translator/Booster facilities that may be operating in analog, digital, or in an analog and digital simulcast mode, the Commission assesses a fee for each facility operating either in an analog or digital mode. In instances in which a licensee is simulcasting in both analog and digital modes, a single regulatory fee will be assessed for the analog facility and its corresponding digital component, but not for both facilities.

Enforcement

65. To be considered timely, regulatory fee payments must be received and stamped at the lockbox bank by the due date of regulatory fees. Section 9(c) of the Act requires us to impose a late payment penalty of 25 percent of the unpaid amount to be assessed on the first day following the deadline date for filing of these fees.[102] Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including those set forth in § 1.1910 of the Commission's rules [103] and in the Debt Collection Improvement Act of 1996 (DCIA).[104] The Commission also assesses administrative processing charges on delinquent debts to recover additional costs incurred in processing and handling the related debt pursuant to the DCIA and § 1.1940(d) of the Commission's rules.[105] These administrative processing charges will be assessed on any delinquent regulatory fee, in addition to the 25 percent late charge penalty. In case of partial payments (underpayments) of regulatory fees, the payor will be given credit for the amount paid, but if it is later determined that the fee paid is incorrect or not timely paid, then the 25 percent late charge penalty (and other charges and/or sanctions, as appropriate) will be assessed on the portion that is not paid in a timely manner.

66. The Commission will withhold action on any application or other requests for benefits filed by anyone who is delinquent in any non-tax debts owed to the Commission (including regulatory fees) and will ultimately dismiss those applications or other requests if payment of the delinquent debt or other satisfactory arrangement for payment is not made.[106] Failure to pay regulatory fees may also result in the initiation of a proceeding to revoke any and all authorizations held by the entity responsible for paying the delinquent fee(s).

IX. Additional Tables

Table A—Calculation of FY 2014 Revenue Requirements and Pro-Rata Fees

REGULATORY FEES FOR THE FIRST TEN CATEGORIES BELOW ARE COLLECTED BY THE COMMISSION IN ADVANCE TO COVER THE TERM OF THE LICENSE AND ARE SUBMITTED AT THE TIME THE APPLICATION IS FILED

Fee category	FY 2014 payment units	Years	FY 2013 revenue estimate	Pro-rated FY 2014 revenue requirement	Computed new FY 2014 regulatory fee	Rounded new FY 2014 regulatory fee	Expected FY 2014 revenue
PLMRS (Exclusive Use)	1,700	10	560,000	578,582	34	35	595,000
PLMRS (Shared use)	30,000	10	2,250,000	2,768,930	9	10	3,000,000
Microwave	17,000	10	2,640,000	2,727,603	16	15	2,550,000
218–219 MHz (Formerly IVDS)	5	10	3,750	4,133	83	85	4,250
Marine (Ship)	5,200	10	655,000	909,201	17	15	780,000
GMRS	8,900	5	197,500	330,619	7	5	222,500
Aviation (Aircraft)	4,200	10	290,000	413,273	10	10	420,000
Marine (Coast)	300	10	156,750	165,309	55	55	165,000

[102] 47 U.S.C. 159(c).

[103] *See* 47 CFR 1.1910.

[104] Delinquent debt owed to the Commission triggers application of the ''red light rule'' which requires offsets or holds on pending disbursements. 47 CFR 1.1910. In 2004, the Commission adopted rules implementing the requirements of the DCIA. *See Amendment of parts 0 and 1 of the Commission's rules,* MD Docket No. 02–339, Report and Order, 69 FR 27843 (May 17, 2004) (2004); 47 CFR part 1, subpart O, Collection of Claims Owed the United States.

[105] 47 CFR 1.1940(d).

[106] *See* 47 CFR 1.1161(c), 1.1164(f)(5), and 1.1910.

REGULATORY FEES FOR THE FIRST TEN CATEGORIES BELOW ARE COLLECTED BY THE COMMISSION IN ADVANCE TO COVER THE TERM OF THE LICENSE AND ARE SUBMITTED AT THE TIME THE APPLICATION IS FILED—Continued

Fee category	FY 2014 payment units	Years	FY 2013 revenue estimate	Pro-rated FY 2014 revenue requirement	Computed new FY 2014 regulatory fee	Rounded new FY 2014 regulatory fee	Expected FY 2014 revenue
Aviation (Ground)	450	10	135,000	165,309	37	35	157,500
Amateur Vanity Call Signs	11,500	10	230,230	247,964	2.16	2.16	248,400
AM Class A [4a]	67	1	286,000	276,418	4,126	4,125	276,375
AM Class B [4b]	1,483	1	3,435,250	3,439,404	2,319	2,325	3,447,975
AM Class C [4c]	882	1	1,201,500	1,227,453	1,392	1,400	1,234,800
AM Class D [4d]	1,522	1	3,862,500	4,071,166	2,675	2,675	4,071,350
FM Classes A, B1 & C3 [4e]	3,107	1	8,379,375	8,528,907	2,745	2,750	8,544,250
FM Classes B, C, C0, C1 & C2 [4f]	3,139	1	10,597,500	10,461,550	3,333	3,325	10,437,175
AM Construction Permits	30	1	30,090	17,700	590	590	17,700
FM Construction Permits [1]	185	1	142,500	138,750	750	750	138,750
Satellite TV	127	1	190,625	197,208	1,553	1,550	196,850
Satellite TV Construction Permit	3	1	2,880	3,944	1,315	1,325	3,975
Digital TV Markets 1–10	138	1	6,235,725	6,193,664	44,882	44,875	6,192,750
Digital TV Markets 11–25	138	1	5,636,875	5,838,689	42,309	42,300	5,837,400
Digital TV Markets 26–50	182	1	4,965,225	4,931,531	27,096	27,100	4,932,200
Digital TV Markets 51–100	290	1	4,645,275	4,547,390	15,681	15,675	4,545,750
Digital TV Remaining Markets	380	1	1,769,975	1,814,316	4,775	4,775	1,814,500
Digital TV Construction Permits1	5	1	20,950	23,875	4,775	4,775	23,875
Broadcast Auxiliaries	25,800	1	254,000	315,533	12.23	10	258,000
LPTV/Translators/Boosters/Class A TV	3,830	1	1,527,250	1,577,667	412	410	1,570,300
CARS Stations	325	1	165,750	197,262	607	605	196,625
Cable TV Systems, including IPTV	65,400,000	1	61,200,000	65,293,695	.9984	1.00	65,400,000
Interstate Telecommunication Service Providers	$38,800,000,000	1	135,330,000	131,835,683	0.003398	0.00340	131,920,000
CMRS Mobile Services (Cellular/Public Mobile)	330,000,000	1	58,680,000	60,312,520	0.1828	0.18	59,400,000
CMRS Messag. Services	2,900,000	1	240,000	232,000	0.0800	0.080	232,000
BRS [2]							
LMDS	900	1	469,200	646,718	719	720	648,000
Per 64 kbps Int'l Bearer Circuits	190	1	86,700	136,529	719	720	136,800
Terrestrial (Common) & Satellite (Common & Non-Common)	4,484,000	1	1,032,277	1,073,199	.2393	.24	1,076,160
Submarine Cable Providers (see chart in Appendix C) [3]	39.19	1	8,530,139	7,554,010	192,766	192,775	7,554,370
Earth Stations	3,400	1	935,000	829,539	244	245	833,000
Space Stations (Geostationary)	94	1	12,101,700	10,717,648	114,018	114,025	10,716,750
Space Stations (Non-Geostationary	6	1	899,250	796,358	132,726	132,725	796,350
****** Total Estimated Revenue to be Collected			339,965,741	341,541,247			340,598,280
****** Total Revenue Requirement			339,844,000	339,844,000			339,844,000

REGULATORY FEES FOR THE FIRST TEN CATEGORIES BELOW ARE COLLECTED BY THE COMMISSION IN ADVANCE TO COVER THE TERM OF THE LICENSE AND ARE SUBMITTED AT THE TIME THE APPLICATION IS FILED—Continued

Fee category	FY 2014 payment units	Years	FY 2013 revenue estimate	Pro-rated FY 2014 revenue requirement	Computed new FY 2014 regulatory fee	Rounded new FY 2014 regulatory fee	Expected FY 2014 revenue
Difference			121,741	1,697,247			754,280

[1] The FM Construction Permit revenues and the VHF and UHF Construction Permit revenues were adjusted to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. The reductions in the FM Construction Permit revenues are offset by increases in the revenue totals for FM radio stations. Similarly, reductions in the VHF and UHF Construction Permit revenues are offset by increases in the revenue totals for VHF and UHF television stations, respectively.

[2] MDS/MMDS category was renamed Broadband Radio Service (BRS). *See Amendment of parts 1, 21, 73, 74 and 101 of the Commission's rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands,* Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, paragraph 6 (2004).

[3] The chart at the end of Table B lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the *Submarine Cable Order.*

[4] The fee amounts listed in the column entitled ''Rounded New FY 2013 Regulatory Fee'' constitute a weighted average media regulatory fee by class of service. The actual FY 2014 regulatory fees for AM/FM radio station are listed on a grid located at the end of Table B.

Table B—FY 2014 Schedule of Regulatory Fees

REGULATORY FEES FOR THE FIRST ELEVEN CATEGORIES BELOW ARE COLLECTED BY THE COMMISSION IN ADVANCE TO COVER THE TERM OF THE LICENSE AND ARE SUBMITTED AT THE TIME THE APPLICATION IS FILED

Fee category	Annual regulatory fee (U.S. $'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	35.
Microwave (per license) (47 CFR part 101)	15
218–219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	85
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	55
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	10
PLMRS (Shared Use) (per license) (47 CFR part 90)	10
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	35
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	2.16
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.18
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27)	
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	720
	720
AM Radio Construction Permits	590
FM Radio Construction Permits	750
Digital TV (47 CFR part 73) VHF and UHF Commercial:	
Markets 1–10	44,875
Markets 11–25	42,300
Markets 26–50	27,100
Markets 51–100	15,675
Remaining Markets	4,775
Construction Permits	4,775
Satellite Television Stations (All Markets)	1,550
Construction Permits—Satellite Television Stations	1,325
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	410
Broadcast Auxiliaries (47 CFR part 74)	10
CARS (47 CFR part 78)	605
Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV	1.00
Interstate Telecommunication Service Providers (per revenue dollar)	.00340
Earth Stations (47 CFR part 25)	245
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100)	114,025
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	132,725
International Bearer Circuits—Terrestrial/Satellites (per 64KB circuit)	.24
International Bearer Circuits—Submarine Cable	See Table Below

FY 2014 Schedule of Regulatory Fees: Maintain Allocation (continued)

FY 2014 RADIO STATION REGULATORY FEES

Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	$775	$645	$590	$670	$750	$925
25,001—75,000	1,550	1,300	900	1,000	1,500	1,625
75,001—150,000	2,325	1,625	1,200	1,675	2,050	3,000
150,001—500,000	3,475	2,750	1,800	2,025	3,175	3,925
500,001—1,200,000	5,025	4,225	3,000	3,375	5,050	5,775
1,200,001—3,000,000	7,750	6,500	4,500	5,400	8,250	9,250
>3,000,000	9,300	7,800	5,700	6,750	10,500	12,025

FY 2014 Schedule of Regulatory Fees

INTERNATIONAL BEARER CIRCUITS—SUBMARINE CABLE

Submarine cable systems (capacity as of December 31, 2013)	Fee amount	Address
< 2.5 Gbps	$12,050	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
2.5 Gbps or greater, but less than 5 Gbps	24,100	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
5 Gbps or greater, but less than 10 Gbps	48,200	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
10 Gbps or greater, but less than 20 Gbps.	96,400	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
20 Gbps or greater	192,775	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.

Table C—Sources of Payment Unit Estimates for FY 2014

In order to calculate individual service fees for FY 2014, the Commission adjusted FY 2013 payment units for each service to more accurately reflect expected FY 2014 payment liabilities. These units were obtained through a variety of means. For example, the Commission used licensee data bases, actual prior year payment records and industry and trade association projections when available. Databases that were consulted include our Universal Licensing System (ULS), International Bureau Filing System (IBFS), Consolidated Database System (CDBS) and Cable Operations and Licensing System (COALS), as well as reports generated within the Commission such as the Wireline Competition Bureau's *Trends in Telephone Service* and the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast.*

The Commission sought verification for these estimates from multiple sources and, in all cases, the Commission compared FY 2014 estimates with actual FY 2013 payment units to ensure that its revised estimates were reasonable. Where appropriate, final estimates were adjusted and/or rounded to take into consideration the fact that certain variables that impact the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2014 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When the Commission notes, for example, that its estimated FY 2014 payment units are based on FY 2013 actual payment units, the Commission does not necessarily mean that our FY 2014 projection is exactly the same number as in FY 2013. The FY 2014 projection has either been rounded or adjusted slightly to account for these variables.

Fee category	Sources of payment unit estimates
Land Mobile (All), Microwave, 218–219 MHz, Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs, Domestic Public Fixed.	Based on Wireless Telecommunications Bureau ("WTB") projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Cellular/Mobile Services	Based on WTB projection reports, and FY 13 payment data.
CMRS Messaging Services	Based on WTB reports, and FY 13 payment data.
AM/FM Radio Stations	Based on CDBS data, adjusted for exemptions, and actual FY 2013 payment units.
Digital TV Stations (Combined VHF/UHF units)	Based on CDBS data, adjusted for exemptions, and actual FY 2013 payment units.
AM/FM/TV Construction Permits	Based on CDBS data, adjusted for exemptions, and actual FY 2013 payment units.
LPTV, Translators and Boosters, Class A Television	Based on CDBS data, adjusted for exemptions, and actual FY 2013 payment units.
Broadcast Auxiliaries	Based on actual FY 2013 payment units.
BRS (formerly MDS/MMDS) LMDS	Based on WTB reports and actual FY 2013 payment units.
	Based on WTB reports and actual FY 2013 payment units.
Cable Television Relay Service (CARS) Stations	Based on data from Media Bureau's COALS database and actual FY 2013 payment units.

Fee category	Sources of payment unit estimates
Cable Television System Subscribers, Including IPTV Subscribers	Based on publicly available data sources for estimated subscriber counts and actual FY 2013 payment units.
Interstate Telecommunication Service Providers	Based on FCC Form 499–Q data for the four quarters of calendar year 2013, the Wireline Competition Bureau projected the amount of calendar year 2013 revenue that will be reported on 2014 FCC Form 499–A worksheets in April, 2014.
Earth Stations	Based on International Bureau (''IB'') licensing data and actual FY 2013 payment units.
Space Stations (GSOs & NGSOs)	Based on IB data reports and actual FY 2013 payment units.
International Bearer Circuits	Based on IB reports and submissions by licensees, adjusted as necessary.
Submarine Cable Licenses	Based on IB license information.

Table D—Factors, Measurements, and Calculations That Determines Station Signal Contours and Associated Population Coverages

AM Stations

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phase, spacing, and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (''RMS'') figure (milliVolt per meter (mV/m) @1 km) for the antenna system. The standard, or augmented standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in §§ 73.150 and 73.152 of the Commission's rules. Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

FM Stations

The greater of the horizontal or vertical effective radiated power (ERP) (kW) and respective height above average terrain (HAAT) (m) combination was used. Where the antenna height above mean sea level (HAMSL) was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50–50) propagation curves specified in 47 CFR 73.313 of the Commission's rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

Table E—Revised FTE (as of 9/30/12) Allocations, Fee Rate Increases Capped at 7.5%

FY 2013 SCHEDULE OF REGULATORY FEES

[Regulatory fees for the first eleven categories below are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

Fee category	Annual regulatory fee (U.S. $'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	40
Microwave (per license) (47 CFR part 101)	20
218–219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	75
Marine (Ship) (per station) (47 CFR part 80)	10
Marine (Coast) (per license) (47 CFR part 80)	55
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	15
PLMRS (Shared Use) (per license) (47 CFR part 90)	15
Aviation (Aircraft) (per station) (47 CFR part 87)	10
Aviation (Ground) (per license) (47 CFR part 87)	15
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.61
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.18
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.08
Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27)	510
Local Multipoint Distribution Service (per call sign) (47 CFR, part 101)	510
AM Radio Construction Permits	590
FM Radio Construction Permits	750
TV (47 CFR part 73) VHF Commercial:	
Markets 1–10	86,075

FY 2013 SCHEDULE OF REGULATORY FEES—Continued

[Regulatory fees for the first eleven categories below are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

Fee category	Annual regulatory fee (U.S. $'s)
Markets 11–25	78,975
Markets 26–50	42,775
Markets 51–100	22,475
Remaining Markets	6,250
Construction Permits	6,250
TV (47 CFR part 73) UHF Commercial:	
Markets 1–10	38,000
Markets 11–25	35,050
Markets 26–50	23,550
Markets 51–100	13,700
Remaining Markets	3,675
Construction Permits	3,675
Satellite Television Stations (All Markets)	1,525
Construction Permits—Satellite Television Stations	960
Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74)	410
Broadcast Auxiliaries (47 CFR part 74)	10
CARS (47 CFR part 78)	510
Cable Television Systems (per subscriber) (47 CFR part 76)	1.02
Interstate Telecommunication Service Providers (per revenue dollar)	.00347
Earth Stations (47 CFR part 25)	275
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station)	139,100
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	149,875
International Bearer Circuits—Terrestrial/Satellites (per 64KB circuit)	.27
International Bearer Circuits—Submarine Cable	(*)

* See table below.

FY 2013 Schedule of Regulatory Fees: Fee Rate Increases Capped at 7.5% (continued)

FY 2013 RADIO STATION REGULATORY FEES

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C0, C1 & C2
<=25,000	$775	$645	$590	$670	$750	$925
25,001–75,000	1,550	1,300	900	1,000	1,500	1,625
75,001–150,000	2,325	1,625	1,200	1,675	2,050	3,000
150,001–500,000	3,475	2,750	1,800	2,025	3,175	3,925
500,001–1,200,000	5,025	4,225	3,000	3,375	5,050	5,775
1,200,001–3,000,000	7,750	6,500	4,500	5,400	8,250	9,250
>3,000,000	9,300	7,800	5,700	6,750	10,500	12,025

FY 2013 Schedule of Regulatory Fees: Fee Rate Increases Capped at 7.5%

INTERNATIONAL BEARER CIRCUITS—SUBMARINE CABLE

Submarine cable systems (capacity as of December 31, 2012)	Fee amount	Address
< 2.5 Gbps	$13,600	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
2.5 Gbps or greater, but less than 5 Gbps	27,200	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
5 Gbps or greater, but less than 10 Gbps	54,425	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
10 Gbps or greater, but less than 20 Gbps.	108,850	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.
20 Gbps or greater	217,675	FCC, International, P.O. Box 979084, St. Louis, MO 63197–9000.

X. Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),[107] the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking, Second Further Notice of Proposed Rulemaking, and Order (*FNPRM*). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this *FNPRM.* The Commission will send a copy of the *FNPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[108] In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.[109]

Need for, and Objectives of, the Notice

2. The *FNPRM* seeks comment concerning adoption and implementation of proposals to reallocate regulatory fees to more accurately reflect the subject areas worked on by current Commission FTEs for FY 2014. As such, the Commission seeks comment on, among other things, (1) adopting a regulatory fee obligation for AM Expanded Band radio stations; (2) reallocating certain indirect FTEs in the Enforcement Bureau and/or the Consumer & Governmental Affairs Bureau and certain direct FTEs in the International Bureau; (3) periodically updating FTE allocations; (4) applying a 7.5 or 10 percent cap on any regulatory fee increases for FY 2014; (5) improving the Commission's Web site for regulatory fee payors; (6) adopting a higher de minimis threshold to provide relief for small carriers; and (7) eliminating certain regulatory fee categories.

4. The *FNPRM* also seeks comment concerning adoption and implementation of proposals which include: (1) Combining Interstate Telecommunications Service Providers (ITSPs) with wireless telecommunications services, or other services such as cable television services, and using revenues, subscribers, telephone numbers, or another means as the basis for calculating regulatory fees; and (2) creating new categories for non-U.S.-Licensed Space Stations; Direct Broadcast Satellite service; and toll free numbers in our regulatory fee process. We invite comment on these topics to better inform the Commission concerning whether and/or how these services should be assessed under our regulatory fee methodology in future years.

II. Legal Basis

5. This action, including publication of proposed rules, is authorized under sections (4)(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended.[110]

III. Description and Estimate of the Number of Small Entities To Which the Rules Will Apply

6. 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 and policies, if adopted.[111] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[112] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[113] 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 SBA.[114]

7. Small Businesses. Nationwide, there are a total of approximately 27.9 million small businesses, according to the SBA.[115]

8. Wired Telecommunications Carriers. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 1,818 operated with more than 100 employees, and 30,178 operated with fewer than 100 employees.[116] Thus, under this size standard, the majority of firms can be considered small.

9. Local Exchange Carriers (LECs). Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[117] According to Commission data, census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 1,818 operated with more than 100 employees, and 30,178 operated with fewer than 100 employees.[118] 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 *FNPRM.*

10. Incumbent LECs. Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable 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.[119] According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers.[120] Of this total, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees.[121] Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies proposed in the *FNPRM.*

11. 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

[107] 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612 has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996).

[108] 5 U.S.C. 603(a).

[109] *Id.*

[110] 47 U.S.C. 154(i) and (j), 159, and 303(r).

[111] 5 U.S.C. 603(b)(3).

[112] 5 U.S.C. 601(6).

[113] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small-business concern'' in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

[114] 15 U.S.C. 632.

[115] *See* SBA, Office of Advocacy, ''Frequently Asked Questions,'' *http://www.sba.gov/sites/default/files/FAQ_Sept_2012.pdf.*

[116] *See id.*

[117] 13 CFR 121.201, NAICS code 517110.

[118] *See id.*

[119] 13 CFR 121.201, NAICS code 517110.

[120] *See Trends in Telephone Service,* Federal Communications Commission, Wireline Competition Bureau, Industry Analysis and Technology Division at Table 5.3 (September 2010) (*Trends in Telephone Service*).

[121] *Id.*

business is small if it has 1,500 or fewer employees.[122] According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services.[123] Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees.[124] In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees.[125] In addition, 72 carriers have reported that they are Other Local Service Providers.[126] Of this total, 70 have 1,500 or fewer employees and two have more than 1,500 employees.[127] Consequently, 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 proposals in this *FNPRM.*

12. Interexchange Carriers (IXCs). Neither the Commission nor the SBA has developed a small business size standard specifically applicable to interexchange services. The applicable size standard under SBA rules is for the Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[128] According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services.[129] Of this total, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees.[130] Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the *FNPRM.*

13. Prepaid Calling Card Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[131] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.[132] Thus under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards.[133] All 193 carriers have 1,500 or fewer employees and none have more than 1,500 employees.[134] Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by rules adopted pursuant to the *FNPRM.*

14. Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[135] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1000 employees and one operated with more than 1,000.[136] Under this category and the associated small business size standard, the majority of these local resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services.[137] Of this total, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees.[138] Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the proposals in this *FNPRM.*

15. Toll Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[139] Census data for 2007 show that 1,523 firms provided resale services during that year. Of that number, 1,522 operated with fewer than 1,000 employees and one operated with more than 1,000.[140] Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services.[141] Of this total, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees.[142] Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our proposals in the *FNPRM.*

16. Other Toll Carriers. Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.[143] Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 1,818 operated with more than 100 employees, and 30,178 operated with fewer than 100 employees.[144] Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage.[145] Of these, an estimated 279 have 1,500 or fewer employees and five have more than 1,500 employees.[146] Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules and policies adopted pursuant to the *FNPRM.*

17. Wireless Telecommunications Carriers (except Satellite). Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category.[147] Prior to that time, such firms were within the now-superseded categories of Paging and Cellular and Other Wireless Telecommunications.[148] Under the

[122] 13 CFR 121.201, NAICS code 517110.
[123] *See Trends in Telephone Service,* at Table 5.3.
[124] *Id.*
[125] *Id.*
[126] *Id.*
[127] *Id.*
[128] 13 CFR 121.201, NAICS code 517110.
[129] *See Trends in Telephone Service,* at Table 5.3.
[130] *Id.*
[131] 13 CFR 121.201, NAICS code 517911.
[132] *Id.*
[133] *See Trends in Telephone Service,* at Table 5.3.
[134] *Id.*
[135] 13 CFR 121.201, NAICS code 517911.
[136] *Id.*
[137] *See Trends in Telephone Service,* at Table 5.3.
[138] *Id.*
[139] 13 CFR 121.201, NAICS code 517911.
[140] *Id.*
[141] *Trends in Telephone Service,* at Table 5.3.
[142] *Id.*
[143] 13 CFR 121.201, NAICS code 517110.
[144] *Id.*
[145] *Trends in Telephone Service,* at Table 5.3.
[146] *Id.*
[147] 13 CFR 121.201, NAICS code 517210.
[148] U.S. Census Bureau, 2002 NAICS Definitions, ''517211 Paging,'' available at *http://www.census.gov/cgibin/sssd/naics/naicsrch?code=517211&search=2002%20NAICS%20Search;* U.S. Census Bureau, 2002 NAICS Definitions, ''517212 Cellular and Other Wireless Telecommunications,'' available at *http://*

Continued

present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees.[149] For this category, census data for 2007 show that there were 11,163 establishments that operated for the entire year.[150] Of this total, 10,791 establishments had employment of 999 or fewer employees and 372 had employment of 1000 employees or more.[151] Thus, under this category and the associated small business size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities that may be affected by our proposed action.

18. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services.[152] Of this total, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees.[153] Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

19. Cable Television and other Program Distribution. Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' [154] The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees.[155] Census data for 2007 shows that there were 31,996 establishments that operated that year. Of this total, 1,818 had more than 100 employees, and 30,178 operated with fewer than 100 employees. Thus under this size standard, the majority of firms offering cable and other program distribution services can be considered small and may be affected by rules adopted pursuant to the *FNPRM.*

20. Cable Companies and Systems. The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide.[156] Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard.[157] In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers.[158] Industry data indicate that, of 6,635 systems nationwide, 5,802 systems have under 10,000 subscribers, and an additional 302 systems have 10,000–19,999 subscribers.[159] Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the *FNPRM.*

21. All Other Telecommunications. The Census Bureau defines this industry as including ''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.'' [160] The SBA has developed a small business size standard for this category; that size standard is $30.0 million or less in average annual receipts.[161] According to Census Bureau data for 2007, there were 2,623 firms in this category that operated for the entire year.[162] Of this total, 2478 establishments had annual receipts of under $10 million and 145 establishments had annual receipts of $10 million or more.[163] Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by our action in this *FNPRM.*

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

22. This *FNPRM* seeks comment on changes to the Commission's current regulatory fee methodology and schedule which may result in additional information collection, reporting, and recordkeeping requirements. Specifically, the FNPRM seeks comment on combining fee categories and possibly using revenues or some other means to calculate regulatory fees. If a revenue-based option is adopted, this may require entities that do not currently file a Form 499–A to provide the Commission with revenue information. The *FNPRM* seeks comment on using subscribers, telephone numbers, or another method of calculating regulatory fees, which may involve additional recordkeeping, if such proposals are adopted. The *FNPRM* also seeks comment on adding categories to our regulatory fee schedule by changing the treatment of non-U.S.-Licensed Space Stations; Direct Broadcast Satellite; and toll free number subscribers in our regulatory fee process. If adopted, those entities that currently do not pay regulatory fees,

www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517212&search=2002%20NAICS%20Search.

[149] 13 CFR 121.201, NAICS code 517210. The now-superseded, pre-2007 CFR citations were 13 CFR 121.201, NAICS codes 517211 and 517212 (referring to the 2002 NAICS).

[150] U.S. Census Bureau, Subject Series: Information, Table 5, ''Establishment and Firm Size: Employment Size of Firms for the United States: 2007 NAICS Code 517210'' (issued November 2010).

[151] *Id.* Available census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is for firms with ''100 employees or more.''

[152] *Trends in Telephone Service,* at Table 5.3.

[153] *Id.*

[154] U.S. Census Bureau, 2007 NAICS Definitions, ''517110 Wired Telecommunications Carriers'' (partial definition), available at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517110&search=2007%20NAICS%20Search.*

[155] 13 CFR 121.201, NAICS code 517110.

[156] *See* 47 CFR 76.901(e). The Commission determined that this size standard equates approximately to a size standard of $100 million or less in annual revenues. *See Implementation of Sections of the 1992 Cable Television Consumer Protection and Competition Act: Rate Regulation,* MM Docket Nos. 92–266, 93–215, Sixth Report and Order and Eleventh Order on Reconsideration, 10 FCC Rcd 7393, 7408, paragraph 28 (1995).

[157] These data are derived from R.R. BOWKER, BROADCASTING & CABLE YEARBOOK 2006, ''Top 25 Cable/Satellite Operators,'' pages A–8 & C–2 (data current as of June 30, 2005); WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, ''Ownership of Cable Systems in the United States,'' pages D–1805 to D–1857.

[158] *See* 47 CFR 76.901(c).

[159] WARREN COMMUNICATIONS NEWS, TELEVISION & CABLE FACTBOOK 2006, ''U.S. Cable Systems by Subscriber Size,'' page F–2 (data current as of October 2007). The data do not include 851 systems for which classifying data were not available.

[160] U.S. Census Bureau, ''2007 NAICS Definitions: 517919 All Other Telecommunications,'' available at *http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=517919&search=2007%20NAICS%20Search.*

[161] 13 CFR 121.201, NAICS code 517919.

[162] U.S. Census Bureau, 2007 Economic Census, Subject Series: Information, Table 4, ''Establishment and Firm Size: Receipts Size of Firms for the United States: 2007 NAICS Code 517919'' (issued November 2010).

[163] *Id.*

such as non-U.S.-Licensed Space Stations and toll free number subscribers, would be required to pay regulatory fees to the Commission and DBS providers would pay regulatory fees in a different category. The *FNPRM* also seeks comment on increasing our de minimis threshold and eliminating certain fee categories, which, if adopted, would result in more carriers not paying regulatory fees to the Commission.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

23. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its 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) an exemption from coverage of the rule, or any part thereof, for small entities.[164]

24. With respect to reporting requirements, the Commission is aware that some of the proposals under consideration will impact small entities by imposing costs and administrative burdens if these entities will be required to calculate regulatory fees under a different methodology. For example, if the Commission were to adopt a revenue-based approach for calculating regulatory fees, certain entities that currently do not report revenues to the Commission—or that only report some revenues and not others—may have to report such information.

25. This *FNPRM* seeks to reform the regulatory fee methodology. We specifically seek comment on ways to lessen the regulatory fee burden on small companies by, for example, adopting a higher de minimis threshold or exempting certain categories from regulatory fees. We also seek comment on ways to improve the regulatory fee process for companies that have difficulty with the Commission's rules, by, for example, improving our Web site.

26. It is possible that some of our proposals, if adopted, would result in increasing or imposing a regulatory fee burden on small entities. For example, our reallocations, if adopted, may result in higher regulatory fees for certain categories of regulatory fee payors. The Commission anticipates that if that should occur the increase would be minimal and the inequities would be mitigated from such increases, by, for example, limiting the annual increase. In keeping with the requirements of the Regulatory Flexibility Act, the Commission has considered certain alternative means of mitigating the effects of fee increases to a particular industry segment. The *FNPRM* seeks comment on capping any regulatory fee increases at 7.5 or 10 percent. This *FNPRM* also proposes adopting a higher de minimis standard to exempt the smaller entities from paying any regulatory fees and to eliminate certain regulatory fee categories entirely. The Commission seeks comment on the abovementioned, and any other, means and methods that would minimize any significant economic impact of our proposed rules on small entities.

[164] 5 U.S.C. 603(c)(1)–(c)(4).

VI. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

27. None.

XI. Ordering Clauses

67. Accordingly, *it is ordered* that, pursuant to sections 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, and 303(r), this Second Further Notice of Proposed Rulemaking, Notice of Proposed Rulemaking, and Order *are hereby adopted.*

68. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Second Further Notice of Proposed Rulemaking and Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

Sheryl D. Todd,

Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1403, 1404, and 1451.

■ 2. Section 1.1112 is amended by revising paragraphs (a) and (b), redesignating paragraphs (e) through (g) as paragraphs (f) and (g) and by adding new paragraph (e) to read as follows:

§ 1.1112 Form of payment.

(a) Annual and multiple year regulatory fees must be paid electronically as described below in § 1.1112(e). Fee payments, other than annual and multiple year regulatory fee payments, should be in the form of a check, cashier's check, or money order denominated in U.S. dollars and drawn on a United States financial institution and made payable to the Federal Communications Commission or by a Visa, MasterCard, American Express, or Discover credit card. No other credit card is acceptable. Fees for applications and other filings paid by credit card will not be accepted unless the credit card section of FCC Form 159 is completed in full. The Commission discourages applicants from submitting cash and will not be responsible for cash sent through the mail. Personal or corporate checks dated more than six months prior to their submission to the Commission's lockbox bank and postdated checks will not be accepted and will be returned as deficient. Third party checks (*i.e.,* checks with a third party as maker or endorser) will not be accepted.

(1) Although payments (other than annual and multiple year regulatory fee payments) may be submitted in the form of a check, cashier's check, or money order, payors of these fees are encouraged to submit these payments electronically under the procedures described in section 1.1112 (e).

(2) Specific procedures for electronic payments are announced in Bureau/Office fee filing guides.

(3) It is the responsibility of the payer to insure that any electronic payment is made in the manner required by the Commission. Failure to comply with the Commission's procedures will result in the return of the application or other filing.

(4) To insure proper credit, applicants making wire transfer payments must follow the instructions set out in the appropriate Bureau Office fee filing guide.

(b) Applicants are required to submit one payment instrument (check, cashier's check, or money order) and FCC Form 159 with each application or filing; multiple payment instruments for a single application or filing are not permitted. A separate Fee Form (FCC

Form 159) will not be required once the information requirements of that form (the Fee Code, fee amount, and total fee remitted) are incorporated into the underlying application form.

* * * * *

(e) Annual and multiple year regulatory fee payments shall be submitted by online ACH payment, online Visa, MasterCard, American Express, or Discover credit card payment, or wire transfer payment denominated in U.S. dollars and drawn on a United States financial institution and made payable to the Federal Communications Commission. No other credit card is acceptable. Any other form of payment for regulatory fees (*e.g.,* paper checks) will be rejected and sent back to the payor.

(f) All fees collected will be paid into the general fund of the United States Treasury in accordance with Public Law 99–272.

(g) The Commission will furnish a stamped receipt of an application only upon request that complies with the following instructions. In order to obtain a stamped receipt for an application (or other filing), the application package must include a copy of the first page of the application, clearly marked ''copy'', submitted expressly for the purpose of serving as a receipt of the filing. The copy should be the top document in the package. The copy will be date-stamped immediately and provided to the bearer of the submission, if hand delivered. For submissions by mail, the receipt copy will be provided through return mail if the filer has attached to the receipt copy a stamped self-addressed envelope of sufficient size to contain the date stamped copy of the application. No remittance receipt copies will be furnished.

■ 7. Section 1.1158 is amended by revising the introductory text and paragraph (a) to read as follows:

§ 1.1158 Form of payment for regulatory fees.

Any annual and multiple year regulatory fee payment must be submitted by online Automatic Clearing House (ACH) payment, online Visa, MasterCard, American Express, or Discover credit card payment, or wire transfer payment denominated in U.S. dollars and drawn on a United States financial institution and made payable to the Federal Communications Commission. No other credit card is acceptable. Any other form of payment for annual and multiple year regulatory fees (*e.g.,* paper checks, cash) will be rejected and sent back to the payor. The Commission will not be responsible for cash, under any circumstances, sent through the mail.

(a) Payors making wire transfer payments must submit an accompanying FCC Form 159–E via facsimile.

* * * * *

■ 9. Section 1.1161 is amended by revising paragraph (a) to read as follows:

§ 1.1161 Conditional license grants and delegated authorizations.

(a) Grant of any application or an instrument of authorization or other filing for which an annual or multiple year regulatory fee is required to accompany the application or filing will be conditioned upon final payment of the current or delinquent regulatory fees. Current annual and multiple year regulatory fees must be paid electronically as described in section 1.1112(e). For all other fees, *(e.g., application fees, delinquent regulatory fees)* final payment shall mean receipt by the U.S. Treasury of funds cleared by the financial institution on which the check, cashier's check, or money order is drawn. Electronic payments are considered timely when a wire transfer was received by the Commission's bank no later than 6:00 p.m. on the due date; confirmation to pay.gov that a credit card payment was successful no later than 11:59 p.m. (EST) on the due date; or confirmation an ACH was credited no later than 11:59 p.m. (EST) on the due date.

* * * * *

■ 10. Section 1.1164 is amended by revising the introductory text to read as follows:

§ 1.1164 Penalties for late or insufficient regulatory fee payments.

Electronic payments are considered timely when a wire transfer was received by the Commission's bank no later than 6:00 p.m. on the due date; confirmation to pay.gov that a credit card payment was successful no later than 11:59 p.m. (EST) on the due date; or confirmation an ACH was credited no later than 11:59 p.m. (EST) on the due date. In instances where a non-annual regulatory payment (*i.e.,* delinquent payment) is made by check, cashier's check, or money order, a timely fee payment or installment payment is one received at the Commission's lockbox bank by the due date specified by the Commission or by the Managing Director. Where a non-annual regulatory fee payment is made by check, cashier's check, or money order, a timely fee payment or installment payment is one received at the Commission's lockbox bank by the due date specified by the Commission or the Managing Director. Any late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee of installment payment which was not paid in a timely manner. A payment will also be considered late filed if the payment instrument (check, money order, cashier's check, or credit card) is uncollectible.

* * * * *

[FR Doc. 2014–15167 Filed 7–2–14; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 79, No. 128

Thursday, July 3, 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

Office of the Secretary

Notice of Solicitation of Members to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Solicitation of membership.

SUMMARY: The United States Department of Agriculture announces solicitation for nominations to fill 8 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board. The notice was published in the **Federal Register** on June 23, 2014.

FOR FURTHER INFORMATION CONTACT: Michele Esch, 202–720–3684 or 202–720–8408.

Correction

In the **Federal Register** of June 23, 2014 in FR Doc. 2014–14578, on page 35512, in the **SUPPLEMENTARY INFORMATION** section, Para 3 read as follows:

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure the recommendation of the Advisory Board take into account the needs of the diverse groups served by the USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the needs of all racial and ethnic groups, women and men, and persons with disabilities.

Yvette Anderson,

Federal Register Liaison Officer, for ARS, ERS, and NASS.

[FR Doc. 2014–15670 Filed 7–2–14; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension from the Office of Management and Budget (OMB) for a currently approved information collection process in support of the Technical Assistance for Specialty Crops (TASC) program.

DATES: Comments on this notice must be received by September 2, 2014 to be assured of consideration.

Additional Information or Comments: Contact Director, Program Operations Division, Foreign Agricultural Service, Room 6512, 1400 Independence Avenue SW, Washington, DC 20250, (202) 720–4327, fax: (202) 720–9361, email: *podadmin@fas.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Technical Assistance for Specialty Crops.

OMB Number: 0551–0038.

Expiration Date of Approval: December 31, 2014.

Type of Request: Extension of a currently approved information collection.

Abstract: This information is needed to administer CCC's Technical Assistance for Specialty Crops program. The information will be gathered from applicants desiring to receive grants under the program to determine the viability of their requests for funds. Regulations governing the program appear at 7 CFR part 1487 and are available on the Foreign Agricultural Service's Web site.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 32 hours per respondent.

Respondents: U.S. organizations, including, but not limited to, U.S. government agencies, State government agencies, non-profit trade associations, universities, agricultural cooperatives, and private companies.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 1,600 hours.

Copies of this information collection can be obtained from Connie Ehrhart, the Agency Information Collection Coordinator, at (202) 690–1578.

Request for Comments: Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information, to: Director, Program Operations Division, Foreign Agricultural Service, Room 6512, 1400 Independence Avenue SW., Washington, DC 20250. Facsimile submissions may be sent to (202) 720–9361 and electronic mail submissions should be addressed to: *podadmin@fas.usda.gov*. Persons with disabilities who require an alternative means for communication of information (e.g., Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TDD).

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

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

Philip C. Karsting,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 2014–15591 Filed 7–2–14; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Sites; Federal Lands Recreation Enhancement Act, (Title VIII, Pub. L. 108–447)

AGENCY: Ashley National Forest, USDA Forest Service.

ACTION: Notice of Proposed New Fee Site.

SUMMARY: The Ashley National Forest is proposing to offer several Guard Stations (cabins) and associated facilities as recreation rentals. Fees are

assessed based on the level of amenities and services provided, cost of operations and maintenance, market assessment, price consistency throughout Forest and public comment. The fees are proposed and will be determined upon further analysis and public comment. Funds from fees would be used for the continued operation and maintenance of these structures.

The cabins and proposed summer rental prices are Rock Creek Administrative Cabin for $100.00 per night, Moon Lake Guard Station for $60.00 per night, and Yellowstone Guard Station and Bunkhouse for $80.00 per night. Rock Creek will also be available in the winter.

These cabins are no longer needed for administrative purposes, and are proposed to be put in service in the Forest Service Cabin Rental Program. The cabins will help meet the demand for rentals in remote areas, and fees collected will help to maintain the structures into the future.

An analysis of each cabin's features show that the proposed fees are reasonable and typical of similar sites in the area.

DATES: Comments will be accepted through September 30, 2014. New fees would begin May 2015.

ADDRESSES: John Erickson, Forest Supervisor, Ashley National Forest, 335 North Vernal Avenue, Vernal, Utah 84078.

FOR FURTHER INFORMATION CONTACT: Kathy Paulin, 435–789–5160. Information about proposed fee changes can also be found on the Intermountain Region Web site: *http://www.fs.fed.us/r4/recreation/rac/index.shtml.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established.

Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Dated: June 24, 2014.

Scott R. Bingham,

Acting Forest Supervisor.

[FR Doc. 2014–15602 Filed 7–2–14; 8:45 am]

BILLING CODE 3410–11–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Utah Advisory Committee

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 an orientation and planning meeting of the Utah Advisory Committee to the Commission will convene at 6:00 p.m. (MDT) on Wednesday, July 16, 2014, in the Cannon Room, City and County Building, 451 South State Street, Salt Lake City, Utah 84111. The purpose of the orientation meeting is to inform the newly appointed Committee members about the rules of operation of federal advisory committees and to select additional officers, as determined by the Committee. The purpose of the planning meeting is to discuss potential topics that the Committee may wish to study.

Persons who desire additional information may contact the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 999 18th Street, Suite 1380 South, Denver, CO 80202, phone 303–866–1040 and fax (303) 866–1050, or email to *ebohor@usccr.gov.*

Persons needing accessibility services should contact the Rocky Mountain Regional Office at least 10 working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated: June 30, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–15638 Filed 7–2–14; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Hawaii Advisory Committee

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 the Hawaii Advisory Committee (Committee) to the Commission will be held on Wednesday, July 30, 2014, at the Aina Haina Public Library, 5246 Kalanianaole Highway, Honolulu, HI 96821. The meeting is scheduled to begin at 1:00 p.m. and adjourn at approximately 2:30 p.m. The purpose of the meeting is for the Committee to plan future project activities.

Members of the public are entitled to submit written comments. The comments must be received in the Western Regional Office of the Commission by August 29, 2014. The address is Western Regional Office, U.S. Commission on Civil Rights, 300 N. Los Angeles Street, Suite 2010, Los Angeles, CA 90012. Persons wishing to email their comments, or to present their comments verbally at the meeting, or who desire additional information should contact Angelica Trevino, Civil Rights Analyst, Western Regional Office, at (213) 894–3437, (or for hearing impaired TDD 913–551–1414), or by email to *atrevino@usccr.gov.* Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Western 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 Western Regional Office at the above email or street address. The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated: June 30, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–15642 Filed 7–2–14; 8:45 am]

BILLING CODE 6335–01–P

UNITED STATES COMMISSION ON CIVIL RIGHTS

State Advisory Committees

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of period during which individuals may apply to be appointed to the Indiana Advisory Committee and

Iowa Advisory Committee; request for applications.

SUMMARY: Because the terms of the members of the Indiana Advisory Committee are expired, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Indiana Advisory Committee, and applicants must be residents of Indiana to be considered. Letters of interest must be received by the Midwestern Regional Office of the U.S. Commission on Civil Rights no later than August 1, 2014. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Iowa Advisory Committee are expired, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Iowa Advisory Committee, and applicants must be residents of Iowa to be considered. Letters of interest must be received by the Central Regional Office of the U.S. Commission on Civil Rights no later than August 1, 2014. Letters of interest must be sent to the address listed below.

DATES: Letters of interest for membership on the Indiana Advisory Committee should be received no later than August 1, 2014.

Letters of interest for membership on the Iowa Advisory Committee should be received no later than August 1, 2014.

ADDRESSES: Send letters of interest for the Indiana Advisory Committees to: U.S. Commission on Civil Rights, Midwestern Regional Office, 55 W. Monroe St., Suite 410, Chicago, IL 60603. Letter can also be sent via email to *callen@usccr.gov.*

Send letters of interest for the Iowa Advisory Committee to: U.S. Commission on Civil Rights, Central Regional Office, 400 State Avenue, Suite 908, Kansas City, KS 66101. Letter can also be sent via email to *csanders@usccr.gov.*

FOR FURTHER INFORMATION CONTACT: David Mussatt, Acting Chief, Regional Programs Coordination Unit, 55 W. Monroe St., Suite 410, Chicago, IL 60603, (312) 353–8311. Questions can also be directed via email to *dmussatt@usccr.gov.*

SUPPLEMENTARY INFORMATION: The Indiana and Iowa State Advisory Committees (SAC) are statutorily mandated advisory committees of the U.S. Commission on Civil Rights pursuant to 42 U.S.C. 1975a. Under the charter for the SACs, the purpose is to provide advice and recommendations to the U.S. Commission on Civil Rights (Commission) on a broad range of civil rights matters in its respective state that pertain to alleged deprivations of voting rights or discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or the administration of justice. SACs also provide assistance to the Commission in its statutory obligation to serve as a national clearinghouse for civil rights information.

The SAC consists of not more than 19 members, each of whom will serve a two-year term. Members serve as unpaid Special Government Employees who are reimbursed for travel and expenses. To be eligible to be on a SAC, applicants must be residents of the respective state and have demonstrated expertise or interest in civil rights issues.

The Commission is an independent, bipartisan agency established by Congress in 1957 to focus on matters of race, color, religion, sex, age, disability, or national origin. Its mandate is to:

- Investigate complaints from citizens that their voting rights are being deprived,
- study and collect information about discrimination or denials of equal protection under the law,
- appraise federal civil rights laws and policies,
- serve as a national clearinghouse on discrimination laws,
- submit reports and findings and recommendations to the President and the Congress, and
- issue public service announcements to discourage discrimination.

The Commission invites any individual who is eligible to be appointed a member of the Indiana or Iowa Advisory Committee covered by this notice to send a letter of interest and a resume to the respective address above.

Dated in Chicago, IL, on June 30, 2014.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2014–15653 Filed 7–2–14; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–47–2014]

Foreign-Trade Zone (FTZ) 25—Broward County, Florida; Notification of Proposed Production Activity; Prodeco Technologies, LLC (Electric Bicycles); Oakland Park, Florida

The Port Everglades Department of Broward County, grantee of FTZ 25, submitted a notification of proposed production activity to the FTZ Board on behalf of Prodeco Technologies, LLC (ProdecoTech), located in Oakland Park, Florida. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 27, 2014.

The ProdecoTech facility is located at 1201 NE 38th Street, Oakland Park, Florida, within proposed Site 12 of FTZ 25. A separate request for designation of the site was submitted and will be processed under Section 400.38 of the FTZ Board's regulations. The facility is used for the production of electric bicycles. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt ProdecoTech from customs duty payments on the foreign status components used in export production. On its domestic sales, ProdecoTech would be able to choose the duty rates during customs entry procedures that apply to bicycles (free) for the foreign status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: Lithium batteries; battery mounts–with controllers; battery mounts (parts of batteries); bottom brackets with bearings; battery chargers; brake levers; brake disc and caliper sets; linear V-brake parts; disc brake rotors; ferrules; cable housings; chains; crank sets; cassettes (gear sets) and freewheels; derailleurs; forks; frames; grips; handlebars; hubs; bolts; washers; spacers; lock nuts; emblem-logos; kickstands; motor controllers; electric motors; wiring harnesses; pedals; rear suspension-shock absorbers; reflectors; rims; rim tape; saddles/seats; seat clamps; seat posts; shifters; spokes; spoke nipples; stems; throttles; and,

rubber tires (duty rate ranges from free to 10.0%).

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 August 12, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: June 27, 2014.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2014–15682 Filed 7–2–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–833, A–351–832, A–560–815, A–201–830, A–841–805, A–274–804]

Carbon and Certain Alloy Steel Wire Rod From Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago: Continuation of Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') determined that revocation of the antidumping duty (''AD'') orders on carbon and certain alloy steel wire rod (''wire rod'') from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago would likely lead to continuation or recurrence of dumping, and that revocation of the countervailing duty (''CVD'') order on wire rod from Brazil would likely lead to continuation or recurrence of a countervailable subsidy. The U.S. International Trade Commission (the ''USITC'') also determined that revocation of these AD and CVD orders would likely lead to a continuation or recurrence of material injury to an industry in the United States. The Department is publishing this notice of the continuation of these AD and CVD orders.

DATES: *Effective:* July 3, 2014.

FOR FURTHER INFORMATION CONTACT: Nancy Decker (CVD order) or James Terpstra (AD orders), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0196 or (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2013, the Department initiated the second sunset reviews of the AD and CVD orders on wire rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine, pursuant to section 751(c) of and 752 of the Tariff Act of 1930, as amended (the ''Act'').[1] As a result of its reviews, the Department found that revocation of the AD orders would likely lead to continuation or recurrence of dumping and that revocation of the CVD order would likely lead to continuation or recurrence of subsidization, and notified the USITC of the margins of dumping and the subsidy rates likely to prevail were the orders to be revoked.[2]

On June 20, 2014, the USITC published its determination, pursuant to section 751(c)(1) and section 752(a) of the Act, that revocation of the AD and CVD orders on wire rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.[3]

Scope of the Orders

The merchandise subject to these orders is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (''HTSUS'') definitions for (a) stainless steel; (b) tool steel; c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.,* products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) Grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum,

[1] *See Initiation of Five-Year (''Sunset'') Reviews,* 78 FR 33063 (June 3, 2013) (''*Notice of Initiation*'').

[2] *See Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders,* 78 FR 63450 (October 24, 2013) and *Carbon and Certain Alloy Steel Wire Rod From Brazil: Final Results of the Expedited Second Sunset Reviews of the Countervailing Duty Order,* 78 FR 60850 (October 2, 2013).

[3] *See Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine,* 79 FR 35381 (June 20, 2014); *see also* USITC Publication 4472 (June 2014) entitled *Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine* (Inv. Nos. 701–TA–417 and 731–TA–953, 957–959, and 961–962 (Second Review)). The ITC also found that revocation of the AD order on wire rod from Ukraine would not be likely to lead to the continuation or recurrence of material injury within a reasonably foreseeable time.

(3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis—that is, the direction of rolling—of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003.

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products subject to these orders are currently classifiable under subheadings 7213.91.3000, 7213.91.3010, 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3090, 7213.91.3091, 7213.91.3092, 7213.91.3093, 7213.91.4500, 7213.91.4510, 7213.91.4590, 7213.91.6000, 7213.91.6010, 7213.91.6090, 7213.99.0030, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0000, 7227.20.0010, 7227.20.0020, 7227.20.0030, 7227.20.0080, 7227.20.0090, 7227.20.0095, 7227.90.6010, 7227.90.6020, 7227.90.6030, 7227.90.6035, 7227.90.6050, 7227.90.6051, 7227.90.6053, 7227.90.6058, 7227.90.6059, 7227.90.6080, and 7227.90.6085 of the HTSUS.

On October 1, 2012, the Department published its final determination of circumvention, finding that shipments of wire rod with an actual diameter of 4.75 mm to 5.00 mm produced in Mexico and exported to the United States by Deacero S.A. de C.V. constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the order on wire rod from Mexico.[4]

Continuation of the Orders

As a result of the determinations by the Department and the USITC that revocation of these AD and CVD orders would likely lead to continuation or recurrence of dumping or a countervailable subsidy, and material injury to an industry in the United States, pursuant to sections 751(c) and 751(d)(2) of the Act, the Department hereby orders the continuation of the AD orders on wire rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago and the CVD order on wire rod from Brazil.

U.S. Customs and Border Protection will continue to collect cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of these orders is 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 these orders not later than 30 days prior to the fifth anniversary of the effective date of the continuation.

These five-year (sunset) reviews and 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).

[4] *See Carbon and Certain Alloy Steel Wire Rod from Mexico: Affirmative Final Determination of Circumvention of the Antidumping Order,* 77 FR 59892 (October 1, 2012). Deacero appealed the Department's final determination, and the case is currently pending. *See Deacero S.A. de C.V., et al.* v. *United States,* Ct. No. 12–345 (Ct. Int'l Trade).

Dated: June 27, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–15680 Filed 7–2–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–812]

Carbon and Certain Alloy Steel Wire Rod From Ukraine: Revocation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determination by the International Trade Commission (the ''ITC'') that revocation of the antidumping duty (''AD'') order on carbon and certain alloy steel wire rod (''wire rod'') from Ukraine would not be likely to lead to the continuation or recurrence of material injury to an industry in the United States, the Department of Commerce (the ''Department'') is revoking the AD order.

DATES: *Effective:* July 30, 2013.

FOR FURTHER INFORMATION CONTACT: James Terpstra, Office III, 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) 482–3965.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 2013, the Department initiated the second sunset reviews of the AD orders on wire rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine, pursuant to section 751(c) of and 752 of the Tariff Act of 1930, as amended (the ''Act'').[1] As a result of its reviews, the Department found that revocation of the AD orders would be likely lead to continuation or recurrence of dumping, and notified the ITC of the margins of dumping likely to prevail were the orders to be revoked.[2]

On June 20, 2014, the ITC published its determination, pursuant to section 751(c)(1) and section 752(a) of the Act,

[1] *See Initiation of Five-Year (''Sunset'') Reviews,* 78 FR 33063 (June 3, 2013) (''*Notice of Initiation*'').

[2] *See Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders,* 78 FR 63450 (October 24, 2013).

that revocation of the AD order on wire rod from Ukraine would not be likely to lead to the continuation or recurrence of material injury within a reasonably foreseeable time.[3]

Scope of the Order

The merchandise subject to the order is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (''HTSUS'') definitions for (a) stainless steel; (b) tool steel; c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.,* products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) Grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no non-deformable inclusions greater than 20 microns and no deformable inclusions greater than 35 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

For purposes of the grade 1080 tire cord quality wire rod and the grade 1080 tire bead quality wire rod, an inclusion will be considered to be deformable if its ratio of length (measured along the axis—that is, the direction of rolling—of the rod) over thickness (measured on the same inclusion in a direction perpendicular to the axis of the rod) is equal to or greater than three. The size of an inclusion for purposes of the 20 microns and 35 microns limitations is the measurement of the largest dimension observed on a longitudinal section measured in a direction perpendicular to the axis of the rod. This measurement methodology applies only to inclusions on certain grade 1080 tire cord quality wire rod and certain grade 1080 tire bead quality wire rod that are entered, or withdrawn from warehouse, for consumption on or after July 24, 2003.

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should the petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products subject to this order are currently classifiable under subheadings 7213.91.3000, 7213.91.3010, 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3090, 7213.91.3091, 7213.91.3092, 7213.91.3093, 7213.91.4500, 7213.91.4510, 7213.91.4590, 7213.91.6000, 7213.91.6010, 7213.91.6090, 7213.99.0030, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0000, 7227.20.0010, 7227.20.0020, 7227.20.0030, 7227.20.0080, 7227.20.0090, 7227.20.0095, 7227.90.6010, 7227.90.6020, 7227.90.6030, 7227.90.6035, 7227.90.6050, 7227.90.6051, 7227.90.6053, 7227.90.6058, 7227.90.6059, 7227.90.6080, and 7227.90.6085 of the HTSUS.

Revocation

As a result of the determination by the ITC that revocation of the AD order would not be likely to lead to continuation or recurrence of material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department is revoking the AD order on wire rod from Ukraine. Pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation is July 30, 2013 (*i.e.,* the fifth anniversary of the effective date of publication in the **Federal Register** of the previous continuation of this order).[4]

Cash Deposits and Assessment of Duties

The Department will notify U.S. Customs and Border Protection (''CBP''), 15 days after publication of this notice,

[3] *See Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine,* 79 FR 35381 (June 20, 2014); *see also* USITC Publication 4472 (June 2014) entitled *Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine* (Inv. Nos. 701–TA–417 and 731–TA–953, 957–959, and 961–962 (Second Review)). The ITC also found that revocation of the AD orders on wire rod from Brazil, Indonesia, Mexico, Moldova, and Trinidad and Tobago would be likely to lead to the continuation or recurrence of material injury within a reasonably foreseeable time.

[4] *See Carbon and Certain Alloy Steel Wire Rod From Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Continuation of Antidumping and Countervailing Duty,* 73 FR 44218 (July 30, 2008).

to terminate the suspension of liquidation and to discontinue the collection of cash deposits on entries of the subject merchandise, entered or withdrawn from warehouse, on or after July 30, 2013. The Department will further instruct CBP to refund with interest all cash deposits on entries made on or after July 30, 2013. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and AD deposit requirements and assessments. The Department will complete any pending or requested administrative reviews of this order covering entries prior to July 30, 2013.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

This five-year (sunset) review and notice are in accordance with section 751(d)(2) the Act and published pursuant to section 777(i)(1) of the Act.

Dated: June 27, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–15687 Filed 7–2–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–844]

Certain Lined Paper Products From India: Notice of Initiation and Preliminary Results of Countervailing Duty Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective:* July 3, 2014].

SUMMARY: In response to a request from Navneet Education Limited (Navneet Education), a producer/exporter of certain lined paper products (CLPP) from India, and pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216, the Department is initiating a changed circumstances review (CCR) of the countervailing duty (CVD) order on CLPP from India with regard to Navneet Education. Based on the information received, we further preliminarily determine that Navneet Education is the successor-in-interest to Navneet Publications (India) Ltd. (Navneet) and should be accorded the same treatment previously given to Navneet with respect to the CVD order on CLPP from India. Interested parties are invited to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 2006, the Department published the *CLPP CVD Order.*[1] In its October 17, 2013, CCR request, Navneet Education requests that: (1) The Department conduct a CCR under section 751(b)(1) of the Act and 19 CFR 351.216 to determine that it is the successor-in-interest to Navneet for purposes of the CVD order; and (2) that the Department issue instructions to Customs and Border Protection (CBP) that reflect this conclusion.[2] Navneet Education argues that the change necessitating the CCR stems solely from a name change.

On December 23, 2013, the Department issued a deficiency letter [3] to Navneet Education to which it responded on March 18, 2014.[4] On May 6, 2014, we issued a deficiency letter in which we explained to Navneet Education that because it took nearly three months to respond to our initial deficiency letter, the time span covered by its initial CCR request was no longer timely. Therefore, we instructed Navneet Education to provide information starting from December 31, 2012, through the date that it filed its revised CCR request.[5] On May 16, 2014, Navneet Education submitted a revised CCR request spanning the time period specified by the Department.[6]

Scope of the Order

The merchandise covered by the *CLPP CVD Order* is certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper). The products are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.[7]

Initiation and Issuance of Preliminary Results of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act, the Department will conduct a CCR upon receipt of a request from an interested party or receipt of information concerning a CVD order which shows changed circumstances sufficient to warrant a review of the order.

We received information indicating that in 2013, Navneet changed its name to Navneet Education for cosmetic reasons and that any change between it and its alleged predecessor is solely in the changing of its name. The Department determines that the information submitted by Navneet Education constitutes sufficient evidence to warrant a CCR of this order.[8] Therefore, in accordance with section 751(b)(1) of the Act, we are initiating a CCR based upon the

[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia,* 71 FR 56949 (September 28, 2006) (*CLPP CVD Order*).

[2] *See* Navneet Education's March 17, 2014, letter to the Department, Request for Changed Circumstances Review Navneet Publications (India) Ltd. (CCR Request) at 1–2.

[3] *See* the Department's December 23, 2013, deficiency letter (Initial Deficiency Letter).

[4] *See* Navneet Education's March 18, 2014, submission (Supplemental Filing).

[5] *See* the Department's May 6, 2014, deficiency letter (Second Deficiency Letter).

[6] *See* Navneet Education's May 16, 2014, submission (Second Supplemental Filing).

[7] For a complete description of the scope of the *CLPP CVD Order, see* the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for Preliminary Results of Changed Circumstances Review: Certain Lined Paper Products from India'' (Preliminary Decision Memorandum), dated concurrently with these results and hereby adopted by this notice.

[8] *See* 19 CFR 351.216(d).

information contained in Navneet Education's submission.[9]

19 CFR 351.221(c)(3)(ii) permits the Department to combine the notice of initiation of a CCR and the notice of preliminary results if the Department concludes that expedited action is warranted. In this instance, because we have on the record the information necessary to make a preliminary finding, we find that expedited action is warranted, and are combining the notice of initiation and the notice of preliminary results.

Methodology

In accordance with section 751(b)(1) of the Act, we are conducting a CCR based upon the information contained in Navneet Education's submissions.[10]

As a general rule, in a CVD CCR, the Department will make an affirmative CVD successorship finding (*i.e.,* that the respondent company is the same subsidized entity for CVD cash deposit purposes as the predecessor company) where there is no evidence of significant changes in (1) the respondent's operations, (2) ownership and (3) corporate or legal structure during the relevant period (*i.e.,* the ''look-back window'') that could have affected the nature and extent of the respondent's subsidy levels.[11] Where the Department makes an affirmative CVD successorship finding, the successor's merchandise will be entitled to enter under the predecessor's cash deposit rate.[12]

For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and to all parties in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Changed Circumstances Review

Based on the evidence reviewed, we preliminarily determine that Navneet Education is the successor-in-interest to Navneet. Specifically, we find that there is no evidence of significant changes between Navneet and Navneet Education's operations, ownership and corporate or legal structure that could have had an impact on Navneet Education's subsidies levels. Thus, we preliminarily determine that Navneet Education is the successor-in-interest to Navneet for purposes of the *CLPP CVD Order.*

If the Department upholds these preliminary results in the final results, Navneet Education will retain the CVD cash deposit rate currently assigned to Navneet with respect to the subject merchandise (*i.e.,* the 8.76 percent cash deposit rate currently assigned to Navneet).[13] However, because cash deposits are only estimates of the amount of CVDs to be assessed, changes in cash deposit rates are not made retroactively.[14] Therefore, no retroactive change will be made to Navneet Education's cash deposit rate, as Navneet Education requested.[15] If these preliminary results are adopted in the final results of this CCR, we will instruct CBP to suspend liquidation of entries of CLPP made by Navneet Education, effective on the publication date of the final results, at the cash deposit rate assigned to Navneet.

Public Comment

Interested parties may submit case briefs and/or written comments not later than 30 days after the date of publication of this notice.[16] Rebuttals to written comments may be filed no later than five days after the written comments are due.[17] Parties who submit case or rebuttal briefs 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.[18] All comments are to be filed electronically using IA ACCESS, and must also be served on interested parties.[19] An electronically filed document must be received successfully in its entirety by IA ACCESS by 5:00 p.m. Eastern Standard Time on the day it is due.[20]

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, using Enforcement and Compliance's IA ACCESS system within 30 days after the date of publication of this notice.[21] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined.[22] Parties should confirm by telephone the date, time, and location of the hearing.

Consistent with 19 CFR 351.216(e), we will issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary finding.

We are issuing and publishing this finding and notice in accordance with sections 751(b)(l) and 777(i)(l) of the Act and 19 CFR 351.216.

Dated: June 27, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

I. Summary
II. Background
III. Scope of the Order
IV. Preliminary Results
V. Discussion of Methodology
VI. Recommendation

[FR Doc. 2014–15685 Filed 7–2–14; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See* CCR Request, Supplemental Filing, and Second Supplemental Filing.

[10] *See* CCR Request, Supplemental Filing, and Second Supplemental Filing.

[11] *See Certain Pasta From Turkey: Preliminary Results of Countervailing Duty Changed Circumstances Review,* 74 FR 47225, 47227 (September 15, 2009).

[12] *Id.*

[13] *See Certain Lined Paper Products From India: Final Results of Countervailing Duty Administrative Review,* 74 FR 6573, 6574 (February 10, 2009).

[14] *See Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from India,* 77 FR 64953, 64955 (October 24, 2012); *see also Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Final Results of Changed-Circumstances Antidumping and Countervailing Duty Administrative Reviews,* 64 FR 66880, 66881 (November 30, 1999).

[15] Navneet argued that the determination as successor-in-interest should be made effective as of the date of the name change, *i.e.,* September 30, 2013. *See* CCR Request at 8.

[16] *See* 19 CFR 351.309(c)(1)(ii).

[17] *See* 19 CFR 351.309(d).

[18] *See* 19 CFR 351.309(c)(2).

[19] *See* 19 CFR 351.303(b) and (f).

[20] *See* 19 CFR 351.303(b).

[21] *See* 19 CFR 351.310(c).

[22] *See* 19 CFR 351.310.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD186

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Exempted Fishing Permit

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

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from the Alabama Charter Fishing Association cooperative (ACFAC). The ACFAC proposes to evaluate the efficacy of an allocation-based management system, using a limited number of charter vessels in a 2-year pilot study. This study, to be conducted in the exclusive economic zone of the Gulf of Mexico (Gulf), is intended to assess whether such a system can better achieve conservation goals established in the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico; evaluate the effectiveness of a more timely electronic data reporting system; and evaluate the potential social and economic benefits of an alternative management strategy for the charter vessel segment of the recreational fishing sector within the Gulf reef fish fishery.

DATES: Comments must be received no later than August 4, 2014.

ADDRESSES: You may submit comments on the application, identified by ''RIN 0648–XD186'', by any of the following methods:

- *Email: 0648-XD186.ACFAC.EFP@noaa.gov.* Include in the subject line of the email comment the following document identifier: ''ACFAC EFP''.
- *Mail:* Steve Branstetter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

The application and related documents are available for review upon written request to any of the above addresses.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, 727–824–5305; email: *Steve.Branstetter@noaa.gov.*

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson-Stevens Act), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

Overall Program Concept

The described research program is being proposed by selected members of the Alabama (AL) charter vessel fleet in the Gulf reef fish fishery. A charter vessel is a for-hire vessel that charges a fee on a vessel basis. The ACFAC seeks to conduct a pilot study to evaluate the efficacy of an allocation-based management strategy, which if proven successful, could potentially be implemented by the Gulf of Mexico Fishery Management Council (Council) for the entire reef fish charter vessel fleet in the Gulf.

Currently, charter vessels operate under a common set of management measures, such as recreational bag limits, size limits, and open fishing seasons. According to the ACFAC, regulatory responses to overharvesting of reef fish in the recreational sector and the need for more timely harvest data have resulted in shorter fishing seasons, reduced bag limits, and other factors that make it difficult to operate successful charter vessel businesses. Because charter vessel operators can now only fish for certain species during brief seasons in each year, there are increased regulatory discards during the closed seasons, and boats often lose out on potential customers during periods of high tourist traffic along the Gulf coast that do not coincide with those open fishing seasons. In addition, even long-time customers are losing confidence that if they book a charter vessel trip in advance, the fishing seasons for their target reef fish species will be open when their fishing trip occurs. This lack of certainty makes customers reluctant to book charter vessel fishing trips.

The ACFAC is requesting that they be issued an EFP authorizing their members to harvest a specific amount of red snapper anytime during the 2015 and 2016 fishing years. Membership in the ACFAC would be open to all active Alabama licensed charter for-hire entities that also possess a valid Federal Gulf charter/headboat for reef fish permit. Currently, the ACFAC has identified approximately 90 for-hire vessels that would be eligible to participate. The amount of fish that would be authorized for harvest by the ACFAC would be based on a percentage of AL charter vessels' red snapper landings relative to the total Gulf-wide red snapper landings for the 2011, 2012, and 2013 fishing years. All landings would be determined by NMFS. That percentage would then be applied to the 2015 and 2016 red snapper recreational quota to determine the amount of red snapper authorized under the EFP to be harvested by the ACFAC.

The ACFAC would be responsible for distributing the allotted fish to individual charter vessels in the program. Final distribution would be in numbers of fish, and associated poundage, calculated from the proportional landings data, which are reported in weight. The ACFAC would then be responsible for reporting their landings electronically to the NMFS Southeast Regional Office.

NMFS would establish an electronic account for the ACFAC manager before the start of the 2015 fishing season. Vessel accounts would also be established by NMFS for each vessel participating in the EFP. NMFS would provide the ACFAC Manager and participating Federal Gulf charter/headboat for reef fish permit holders each with a unique UserID and Personal Identification Number (PIN) to log-in to their accounts. The amount of fish authorized for harvest under the EFP would be deposited in the ACFAC manager's electronic account on January 1, each year. The ACFAC manager would then transfer fish to and from charter vessel accounts. The number of fish each vessel receives would be determined by the ACFAC and not NMFS. Vessel account holders would be able to view the number of fish available for harvest at any point in time through their account. Landed fish would be deducted from the vessel account after each recorded trip. After all fish have been harvested, the vessel would either need to obtain additional fish from the ACFAC manager to continue landing fish or no longer harvest red snapper for the remainder of the fishing year.

Data Collection and Reporting

The ACFAC has proposed to provide a transparent real-time monitoring system. All vessels in the program would be required to purchase, install, activate, and maintain a Vessel Monitoring System (VMS) unit in accordance with NMFS Office of Law Enforcement procedures. A participating captain would ''hail out'' using the VMS device or by telephone as the vessel leaves the dock, notifying NMFS of the fishing trip. In return, the captain would receive a confirmation number for that particular trip. When returning to port, the vessel would be required to ''hail in'' using the VMS or by telephone at least 1 hour prior to landing, alerting law enforcement and port agents to his/her return. This would provide sufficient notice to allow a dockside intercept if deemed

necessary by enforcement and charter vessel port samplers.

Landings would be reported at the end of the trip using a software application (iSnapper) developed by Texas A&M University's Harte Research Institute. The software application was pilot-tested by the for-hire fleet in the Gulf during 2011 and 2012. Before returning to the dock, the charter vessel captain would enter the number of red snapper retained during the trip, approximate GPS location to identify fishing zones, and social and economic information regarding the customers on each trip. At the end of the trip, the captain would use the iSnapper data to print out a receipt for each individual customer, which would include summary information, such as species and number of fish landed, the date of the trip, and the name of the vessel. This receipt would be used at the dock to track the fish that had been landed on the ACFAC vessel participating in the EFP.

By using this electronic reporting methodology, the ACFAC would maintain a real-time, internet-based tracking system to ensure accounting of each red snapper landed. The data would be collected on remote servers and sent to NMFS. The ACFAC would maintain an electronic account with NMFS, specifying the numbers of red snapper that could be landed. As fish are landed, they would be deducted from the charter vessel's account. Finally, charter vessel captains, if selected, would continue submitting completed NMFS logbook data as required in 50 CFR 622.5.

Socio-Economic Study

The pilot project, if approved, offers an opportunity to evaluate the impacts of an alternative management system on the economic performance of the Gulf reef fish charter vessel industry. It also provides a valuable opportunity to customize data collection to maximize usefulness of the data for answering important management questions. Academic researchers, in collaboration with the ACFAC, would conduct a socio-economic study of the anticipated effects of the change in charter vessel cooperative management using currently available data sources. Simultaneously, the academic researchers and the ACFAC would develop additional survey instruments to gather economic data for a post-EFP analysis of the effects of the pilot project on ACFAC vessels after its first and second years. Data collection would emphasize post-EFP impacts of the pilot project. A partial list of impacts to assess in the study includes:

1. How has the pilot project changed the temporal and spatial distributions of fishing by ACFAC members?
2. How has the number of anglers/customers changed as a result of ACFAC members being able to better target their trips to the seasonality of demand specific to red snapper?
3. Do charter vessel owners utilize increased flexibility to provide a more differentiated recreational product to customers?
4. How has the pilot project affected the cost and net revenue associated with a representative trip?

Data collection would include trip-level catch and effort characteristics (*e.g.,* retained and discarded catch, spatial location, and number of customers), trip and season-level variable revenues and costs (*e.g.,* trip pricing, gear, bait, ice, fuel, and maintenance expenditures), and labor employment and compensation information. Many trip-level data would be collected using the iSnapper application, whereas seasonal data would be collected through supplementary survey instruments.

Section 303A(c)(6)(D), 16 U.S.C. 1853a(c)(6)(D), of the Magnuson-Stevens Act, requires a referendum to approve or implement a fishery management plan or plan amendment that creates an IFQ program for any species in the Gulf. Although the allocation-based system requested by the ACFAC might reasonably be considered to create such an IFQ program, the mere issuance of an EFP to test the program on a limited basis does not trigger the referendum requirement. The statutory language is explicit that the referendum is only required to approve a fishery management plan or plan amendment that would implement such a program. An EFP is neither a fishery management plan nor a plan amendment, and does not implement any new requirements for all or a portion of recreational participants. If issued, the EFP would only establish specific requirements for the members of the voluntary ACFAC who have requested the EFP. Therefore, NMFS has determined that no referendum is required.

Currently, the recreational red snapper fishing season begins on June 1 of each year, and is closed when NMFS projects the recreational quota will be landed. As noted above, the recreational seasons have become shorter each year, impacting the ability of charter vessels to operate in an efficient and economically viable manner. If this EFP is authorized, identified Gulf reef fish charter vessels in the ACFAC would be able to use their allocation to fish during the open recreational season, but also would be able to select days outside the designated season where they could use their red snapper allocation to meet specific customer demands. Nevertheless, in accordance with section 407(d)(1) (16 U.S.C. 1883(d)) of the Magnuson-Stevens Act, when NMFS determines the recreational red snapper fishing quota is reached, NMFS is required to prohibit the retention of red snapper caught during the rest of the fishing year. Should NMFS determine that the recreational red snapper quota is reached prior to the end of the 2015 or 2016 fishing year, including consideration of fish already harvested by the ACFAC, charter vessels participating under the EFP would have to cease retaining red snapper, even if the ACFAC still has allocation of red snapper available.

NMFS finds this application does warrant further consideration. Possible conditions the agency may impose on this permit, if it is indeed granted, include but are not limited to, a prohibition of conducting research within marine protected areas, marine sanctuaries, or special management zones, without additional authorization. A report on the research would be due at the end of the collection period, to be submitted to NMFS and reviewed by the Council.

NMFS specifically solicits comments from the public regarding the appropriateness of the potential number of vessels that would be eligible to participate in the pilot study authorized by the EFP and on the economic effects to the surrounding communities if the EFP were to be issued.

A final decision on issuance of the EFP will depend on NMFS's review of public comments received on the application, the Council's recommendation, consultations with the affected states, and the U.S. Coast Guard, as well as a determination that it is consistent with all applicable laws.

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

Dated: June 30, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–15708 Filed 7–2–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 14–25]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 14–25 with attached transmittal, policy justification, and sensitivity of technology.

Dated: June 27, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

JUN 24 2014

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 14-25, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Mexico for defense articles and services estimated to cost $225 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 14–25

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Mexico

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	$125 million
Other	$100 million
Total	$225 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 5 UH–60M Black Hawk Helicopters in standard USG configuration with designated unique equipment and Government Furnished Equipment (GFE), 13 T700–GE–701D Engines (10 installed and 3 spares), 12 Embedded Global Positioning Systems/Inertial Navigation Systems (10 installed and 2 spares), 10 M134 7.62mm Machine Guns, 5 Star Safire III Forward Looking Infrared Radar Systems, 1 Aviation Mission Planning System, and 1 Aviation Ground Power Unit. Also included are communication equipment including AN/ARC–210 RT–8100 series radios, Identification Friend or Foe (IFF) systems, aircraft warranty, air worthiness support, facility construction, spare and repair parts, support equipment, communication equipment, publications and technical documentation, personnel training and training equipment, site surveys, tool and test equipment, U.S. Government and contractor technical and logistics support services, and other related elements of program, technical and logistics support.

(iv) *Military Department:* Army (UEU)

(v) *Prior Related Cases, if any:* FMS case UEJ-$110M–3Mar10

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 24 June 2014

* as defined in Section 47(6) of the Arms Export Control Act

POLICY JUSTIFICATION

Mexico—UH–60M Black Hawk Helicopters

The Government of Mexico has requested a possible sale of 5 UH–60M Black Hawk Helicopters in standard USG configuration with designated unique equipment and Government Furnished Equipment (GFE), 13 T700–GE–701D Engines (10 installed and 3 spares), 12 Embedded Global Positioning Systems/Inertial Navigation Systems (10 installed and 2 spares), 10 M134 7.62mm Machine Guns, 5 Star Safire III Forward Looking Infrared Radar Systems, 1 Aviation Mission Planning System, and 1 Aviation Ground Power Unit. Also included are communication equipment including AN/ARC–210 RT–8100 series radios, Identification Friend or Foe (IFF) systems, aircraft warranty, air worthiness support, facility construction, spare and repair parts, support equipment, publications and technical documentation, personnel training and training equipment, site surveys, tool and test equipment, U.S. Government and contractor technical and logistics support services, and other related elements of program, technical and logistics support. The estimated cost is $225 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a strategic partner. Mexico has been a strong partner in combating organized crime and drug trafficking organizations. The sale of these UH–60M helicopters to Mexico will significantly increase and strengthen its capability to provide in-country airlift support for its forces engaged in counter-drug operations.

Mexico intends to use these defense articles and services to modernize its armed forces and expand its existing naval/maritime support in its efforts to combat drug trafficking organizations.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be Sikorsky Aircraft Company in Stratford, Connecticut; and General Electric Aircraft Company (GEAC) in Lynn, Massachusetts. There are no known offset agreements in connection with this potential sale.

Implementation of this proposed sale may require the assignment of an additional three U.S. Government and five contractor representatives in country full-time to support the delivery and training for approximately two years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 14–25

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex, Item No. vii

(vii) *Sensitivity of Technology:*

1. The UH–60M Black Hawk helicopter is a medium lift aircraft which includes two T700–GE–701D Engines. The Navigation System for each helicopter will have Embedded Global Positioning System/Inertial Navigation System (EGIs), two Digital Advanced Flight Control Systems (DAFCS), one ARN–149 Automatic Direction Finder, one ARN–147 (VOR/ILS marker Beacon System), one ARN–153 Tactical Navigation (TACAN), two air data computers, one Star Safire III Forward Looking Infrared Radar System, and one Radar Altimeter system. The communication equipment will include the AN/APX–118 or AN/APX–123 Identification Friend of Foe (IFF) system. The AN/ARC–210 RT–8100 Series Very/Ultra High Frequency (V/UHF) radio will be included in the UH–60M configuration. Exportable High Frequency or Single Channel Ground and Airborne Radio System (SINCGARS) radio capability may be included in the future.

2. The AN/APX–118 or AN/APX–123 Identification Friend or Foe (IFF) Transponder is capable of Modes 1, 2, 3, 3a and 4. The system is Unclassified unless loaded with IFF Mode 4 keying material, in which case it will become classified Secret.

3. The AN/ARC–210 RT–8100 Series radio is a V/UHF voice and data capable radio using commercial encryption.

4. The Embedded Global Positioning System/Inertial Navigation System (EGI) unit H–764G provides GPS and INS capabilities to the aircraft. The EGI will include Selective Availability anti-Spoofing Module (SAASM) security modules to be used for secure GPS Precise Positioning Service if required.

5. The Star Safire III Forward Looking Infrared Radar System is a long-range, multi-sensor infrared imaging radar system. It is considered non-standard equipment for the UH–60 Black Hawk helicopter. It will be used to enhance night flying and provide a level of safety for the VIP passengers during night flights. The hardware is Unclassified. Rangefinder performance and signal transfer function for the Infrared Imager are considered Confidential.

6. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures or equivalent systems which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

7. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security

objectives outlined in the Policy Justification.

8. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Mexico.

[FR Doc. 2014–15597 Filed 7–2–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0102]

Agency Information Collection Activities; Comment Request; Generic Application Package for Discretionary Grant Program

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 2, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0102 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alfreida Pettiford, 202–245–6110.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Generic Application Package for Discretionary Grant Program.

OMB Control Number: 1894–0006.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 9,861.

Total Estimated Number of Annual Burden Hours: 447,089.

Abstract: The Department is requesting an extension of the approval for the Generic Application Package that numerous ED discretionary grant programs use to provide to applicants the forms and information needed to apply for new grants under those grant program competitions. The Department will use this Generic Application package for discretionary grant programs that: (1) Use the standard ED or Federal-wide grant applications forms that have been cleared separately through OMB and (2) use selection criteria from the Education Department General Administrative Regulations (EDGAR); statutory selection criteria or a combination of EDGAR and statutory selection criteria authorized under EDGAR, 34 CFR 75.200. The use of the standard ED grant application forms and the use of EDGAR and/or statutory selection criteria promote the standardization and streamlining of ED discretionary grant application packages.

Dated: June 30, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–15628 Filed 7–2–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 13–157–CNG]

Emera CNG LLC; Application for Long-Term Authorization To Export Compressed Natural Gas Produced From Domestic Natural Gas Resources to Non-Free Trade Agreement Countries for a 20-Year Period

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application) filed on November 20, 2013, by Emera CNG, LLC (Emera) requesting long-term authorization to export compressed natural gas (CNG) produced from domestic sources in a volume equivalent to approximately 9.125 billion cubic feet per year (Bcf/yr) of natural gas, or 0.025 Bcf per day (Bcf/d). Emera seeks authorization to export the CNG by vessel [1] from a proposed CNG compression and loading facility (Facility) to be located at the Port of Palm Beach, in Riviera Beach, Florida. Emera seeks to export the CNG solely on its own behalf for a 20-year term, commencing on the earlier of the date of first export or five years from the date the authorization is issued.

In the portion of Emera's Application subject to this Notice, Emera requests authorization to export this CNG to any country with which the United States does not have a free trade agreement (FTA) requiring national treatment for trade in natural gas (non-FTA countries), and with which trade is not prohibited by U.S. law or policy. This Application was filed under section 3 of the Natural Gas Act (NGA). Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using

[1] As discussed below, Emera informed DOE/FE by letter dated May 2, 2014, that it seeks authority to export CNG by waterborne vessel only, not also by truck, as the Application stated. *See* Ltr. from Dan Muldoon, President of Emera, to John Anderson, U.S. Dep't of Energy, FE Docket No. 13–157–CNG (May 2, 2014) [hereafter Emera Ltr.].

procedures detailed in the *Public Comment Procedures* section no later than 4:30 p.m., Eastern time, September 2, 2014.

ADDRESSES: Electronic Filing by email: *fergas@hq.doe.gov*.

Regular Mail

U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Lisa Tracy, U.S. Department of Energy (FE–34), Office of Natural Gas Regulatory Activities, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–4523.

Cassandra Bernstein, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, Room 6B–256, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9793.

SUPPLEMENTARY INFORMATION:

Background

Applicant. Emera is a Delaware limited liability company with its principal place of business in West Palm Beach, Florida. Emera is a wholly-owned indirect subsidiary of Emera Incorporated (Emera Inc.), a corporation formed under the laws of the province of Nova Scotia, Canada, with its principal place of business in Nova Scotia, Canada. According to Emera, Emera Inc. is a publicly traded energy and services company that, in relevant part, owns and operates or has an interest in electric utilities in four Caribbean countries: the Bahamas, Barbados, Dominica, and St. Lucia.

Procedural History. In the portion of the Application not subject to this Notice, Emera sought long-term authorization to export the same volume of CNG to any country with which the United States currently has, or in the future will have, a FTA requiring the national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (FTA countries).[2] DOE/FE reviewed that portion of the Application separately pursuant to NGA section 3(c), 15 U.S.C. 717b(c), and issued an order granting the FTA export authorization on June 13, 2014, in DOE/FE Order No. 3447.[3]

Compression Project. Emera seeks long-term authorization to export CNG from a CNG compression and loading facility that it proposes to construct, own, and operate at the Port of Palm Beach, Florida. Emera states that the Facility will be located off of the Riviera Lateral, an intrastate pipeline owned and operated by Peninsula Pipeline Company, Inc. Emera states that the Facility will be located off of the Rivera Lateral, an intrastate pipeline owned and operated by Peninsula Pipeline Company, Inc. (a subsidiary of Chesapeake Utilities Corporation). Emera states that its affiliate, Emera Utility Services Incorporated (EUS), has entered into a reservation agreement with the Port of Palm Beach District, giving EUS exclusive negotiating rights to lease the site on which Emera intends to construct the Facility.[4] Emera expects construction of the Facility to be completed in 2015.

According to Emera, the proposed Facility will consist of dehydration, compression, and filling equipment with nominal loading capacity of 0.025 Bcf/d of CNG, as well as staging and loading facilities for CNG trailers, associated utilities, infrastructure, and support systems. Emera states that pressure vessels with an open ISO container frame will be filled with CNG under high pressure and loaded onto a roll on/roll off ocean-going carrier. In the Application, Emera states that it is seeking authorization to export the CNG ''via truck and ocean-going carrier'' (App. at 1, 2), but Emera subsequently clarified that ''all exports will be by waterborne vessel,'' and that it ''will not export CNG from the Facility by truck alone.'' [5]

According to Emera, the Facility initially will be capable of loading 0.008 Bcf/d of CNG (2.92 Bcf/yr). Once completed, the Facility will be capable of expanding to load and deliver CNG in a volume equivalent to approximately 0.025 Bcf/d of natural gas (9.125 Bcf/yr), the requested export volume.

Current Application

Emera seeks to export domestically produced CNG by vessel to non-FTA countries in a total volume equivalent to approximately 0.025 Bcf/d of natural gas (9.125 Bcf/yr), the same requested export volume granted in its FTA order (DOE/FE Order No. 3447). Emera requests this long-term authorization for a 20-year term, beginning on the date of the first export or five years from the date the requested authorization is granted.

Emera requests long-term authorization to engage in the proposed exports solely on its own behalf, and asserts that it will have title to the CNG at the point of export. Emera states that, although it seeks authorization to export CNG to any permitted destination, the primary purpose of the project is to fuel power generation facilities owned by an Emera affiliate, Grand Bahama Power Company (GBPC), located on the island of Grand Bahama. Emera states that its parent company, Emera Inc., owns 80.4 percent of GBPC, and that GBPC is a vertically integrated utility with a gross installed generating capacity of 102 megawatts.

Emera anticipates having a number of potential customers for the proposed exports, all of whom are expected to be located within the Caribbean. Specifically, Emera states that it expects to enter into a long-term contract to supply gas to GBPC. Under the terms of that anticipated agreement, CNG from the Facility will be transported approximately 75 nautical miles from the Port of Palm Beach to an unloading and decompression facility in Freeport, Grand Bahama. In Freeport, the natural gas pressure vessels will be unloaded from the carrier, and the gas will pass through a decompression station. The decompressed gas will be transported via pipeline to local power plant(s) owned and operated by GBPC for use in electricity generation. According to Emera, there will be an opportunity for other companies operating in Freeport in close proximity to the pipeline to utilize the exported gas.

Emera commits to observing all DOE/FE reporting requirements for exports. Citing DOE/FE precedent,[6] Emera

[2] The United States currently has FTAs requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Colombia, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Panama, Peru, Republic of Korea, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas.

[3] *Emera CNG, LLC,* DOE/FE Order No. 3447, Order Granting Long-Term Authorization to Export Compressed Natural Gas By Vessel from a Proposed CNG Compression And Loading Facility at the Port Of Palm Beach, Florida, To Free Trade Agreement Nations (June 13, 2014).

[4] A copy of the reservation agreement and related documents is appended to the Application at Appendix C.

[5] Emera Ltr. at 1.

[6] *See, e.g., Dominion Cove Point, LNP, LP,* DOE/FE Order No. 3331, Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cove Point LNG Terminal to Non-Free Trade Agreement Nations (Sept. 11, 2013).

commits to filing a copy of any relevant long-term commercial agreements (including the anticipated contract with GBPC) within 30 days of the agreement(s) being executed, including both a non-redacted copy for filing under seal and either a redacted version of the contract or major provisions of the contract for public posting.

Emera states that the natural gas supplying the proposed exports will come from domestic natural gas markets. As noted above, the Facility will be directly connected to the Riviera Lateral—the intrastate natural gas pipeline owned and operated by Peninsula Pipeline Company, Inc. which, in turn, is regulated by the Florida Pipeline Service Commission. Emera states that Peninsula Pipeline Company, Inc. is connected to Florida Gas Transmission Corporation, an interstate pipeline regulated by the Federal Energy Regulatory Commission (FERC). Emera asserts that, through the combination of Peninsula Pipeline Company, Inc. and Florida Gas Transmission Corporation, it will have access to gas supplies available throughout the Gulf Coast region and beyond.

According to Emera, it intends for the Facility to be the only source of CNG for export. In the Application, Emera states that, during times of maintenance at the Facility or at the Port of Palm Beach, CNG may be sourced from other facilities in Florida and transported to the Port or other general use port facilities (including Port Everglades, Port of Miami, Port Canaveral, or Port of Jacksonville) for export. Subsequently, however, Emera clarified that ''the Facility will be the only source and supply of CNG to be exported'' pursuant to this authorization.[7] Emera further clarified that any purchases of CNG from other facilities during maintenance periods for the Facility will be short-term (*i.e.,* pursuant to contracts of less than two years in duration), and therefore Emera intends to apply separately for blanket authorization to export CNG from those facilities, as appropriate.[8]

Request for Separate Treatment

Emera requests that DOE/FE consider the Application outside of DOE/FE's existing Order of Precedence for processing applications requesting authorization to export LNG to non-FTA countries.[9] Emera states that its Application is distinguishable from other pending non-FTA LNG export applications for several reasons, including the smaller volume of natural gas proposed for export, which Emera states will not have any detectable impact on the domestic natural gas market.

Public Interest Considerations

Emera states that a grant of the Application will serve the public interest in several respects. First, in discussing the economic impacts of the proposed exports, Emera describes the two-part 2012 LNG Export Study commissioned by DOE/FE to study the economic impacts of natural gas exports.[10] Emera states that the second part of the study conducted by NERA found that the United States would experience net economic benefits from exports of LNG, with the level of benefits increasing as the quantity of exports increases. Emera asserts that its proposed exports also will provide economic benefits to the U.S. economy. Specifically, Emera asserts that its proposed export level is *de minimis* compared to the quantities of natural gas studied in the 2012 LNG Export Study, but that its proposed exports and the Facility itself nonetheless will have a positive economic impact, consistent with NERA's findings. According to Emera, the quantity of natural gas to be exported is approximately 0.036% of all domestic consumption based on 2012 data, and thus is so minimal as to have no practical impact on natural gas prices or supply in the United States.

Emera further states that its proposed exports will have a more significant effect on the regional level. According to Emera, the construction and operation of the Facility will benefit the economy of Palm Beach County, Florida, by enhancing the value of existing pipeline infrastructure, adding to the local property tax base, creating jobs, and increasing overall economic activity and value in the region.

Second, citing the positive international impacts associated with the proposed exports, Emera states that the Facility will foster good trade relations with the Bahamas and benefit Bahamian development, consistent with U.S. policy under the Caribbean Basin Initiative. According to Emera, exporting domestic CNG from the United States would introduce an alternative to the island that would support the conversion of existing power generating stations from heavy fuel oil to natural gas.

Third, addressing the supply impacts of the proposed exports, Emera states that the quantity of exports proposed by Emera (0.025 Bcf/d of CNG) represents only 0.4% of the quantity of natural gas previously approved for export to non-FTA countries. Emera asserts that exporting this quantity of natural gas will have no detectable impact on natural gas prices in the United States or on the security of domestic supply.

Finally, Emera asserts that, in addition to stabilizing electricity rates in the area, exports of CNG to the Bahamas would have significant positive environmental impacts through the reduction of emissions of fuel oil and diesel-burning electric generators, including emissions of greenhouse gases.

Additional details can be found in Emera's Application, which is posted on the DOE/FE Web site at: *http://www.fossil.energy.gov/programs/gasregulation/authorizations/2013_applications/Emera_CNG,_LLC_13-157-CNG.html.*

Environmental Impact

Emera asserts that the proposed Facility is not subject to FERC's jurisdictional authority under NGA section 3, and therefore Emera is not required to seek FERC approval of the Facility's construction under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*[11]

[7] *Id.*

[8] *Id.*

[9] ''Order of Precedence—Non-FTA LNG Export Applications,'' *http://energy.gov/fe/downloads/order-precedence-non-fta-lng-export-applications* (last revised Mar. 24, 2014). DOE/FE notes that it recently issued a Notice of Proposed Procedures that, if finalized following public notice and comment, would affect the existing Order of Precedence and potentially obviate this request. *See* Dep't of Energy, Proposed Procedures for Liquefied Natural Gas Export Decisions, 79 FR 32,261 (June 4, 2014).

[10] As Emera states and DOE/FE notes, DOE/FE engaged the U.S. Energy Information Administration (EIA) and NERA Economic Consulting (NERA) to conduct a two-part study of the economic impacts of LNG exports, together referred to as the 2012 LNG Export Study. First, DOE/FE requested that EIA assess how prescribed levels of natural gas exports above baseline cases could affect domestic energy markets. EIA published its study, *Effect of Increased Natural Gas Exports on Domestic Energy Markets,* in January 2012. DOE also contracted with NERA to incorporate the then-forthcoming EIA case study output into NERA's general equilibrium model of the U.S. economy. NERA analyzed the potential macroeconomic impacts of LNG exports under a range of global natural gas supply and demand scenarios. DOE published the NERA study, *Macroeconomic Impacts of LNG Exports from the United States,* in December 2012. *See* LNG Export Study, *http://energy.gov/fe/services/natural-gas-regulation/lng-export-study.*

[11] DOE/FE takes administrative notice that Emera has petitioned FERC for a declaratory order stating that the proposed construction of the Facility and the planned export of CNG from the Facility via ocean-going carrier are not subject to FERC's jurisdiction under section 3 of the NGA, 15 U.S.C. 717. *See Emera CNG, LLC,* Petition for Declaratory Order Disclaiming Jurisdiction and Request for Expedited Action, Docket No. CP14–114–000 (Mar. 19, 2014).

Additionally, Emera asserts that the export of CNG via vessel is outside of FERC's regulatory jurisdiction. For these reasons, Emera states that it does not intend to file with FERC for any authorizations in connection with activities contemplated by this Application.

Emera instead requests that DOE/FE review the potential environmental impacts of the Facility under NEPA. A description of the Facility's potential environmental impacts is set forth in Appendix D to the Application. Emera states that, based on the Facility's location, scope, and other factors, it expects the environmental impacts associated with the Facility to be minimal. Finally, Emera states that, if DOE/FE determines that a different agency should conduct the NEPA review, Emera will comply with that agency's NEPA regulations.

DOE/FE Evaluation

The Application will be reviewed pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a), and DOE will consider any issues required by law or policy. To the extent determined to be relevant, these issues will include the domestic need for the natural gas proposed to be exported, the adequacy of domestic natural gas supply, U.S. energy security, and the cumulative impact of the requested authorization and any other LNG export application(s) previously approved on domestic natural gas supply and demand fundamentals. DOE may also consider other factors bearing on the public interest, including the impact of the proposed exports on the U.S. economy (including GDP, consumers, and industry), job creation, the U.S. balance of trade, and international considerations; and whether the authorization is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this Application should address these issues in their comments and/or protests, as well as other issues deemed relevant to the Application.

NEPA requires DOE to give appropriate consideration to the environmental effects of its decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Due to the complexity of the issues raised by the Applicant, interested persons will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, notices of intervention, or motions for additional procedures.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR Part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov*, with FE Docket No. 13–157–CNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 13–157–CNG. *Please Note:* If submitting a filing via email, please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue, SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on June 27, 2014.

John A. Anderson,

Director, Division of Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2014–15652 Filed 7–2–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1777–005; ER10–2983–004; ER10–2980–004.

Applicants: Sundevil Power Holdings, LLC, Castleton Energy Services, LLC, Castleton Power, LLC.

Description: Supplement to July 1, 2013 Updated Market Power Analysis

for the Southwest Region of the Wayzata Entities, et al.

Filed Date: 6/24/14.

Accession Number: 20140624–5076.

Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–1823–001.

Applicants: Energy Plus Holdings LLC.

Description: Amendment to Tariff Revision Filing to be effective 5/1/2014.

Filed Date: 6/24/14.

Accession Number: 20140624–5096.

Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2210–000; ER14–2211–000; ER14–2212–000; ER14–2213–000; ER14–2214–000; ER14–2215–000.

Applicants: Duke Energy Conesville, LLC.

Description: Supplement to June 18, 2014 Duke Energy Conesville, LLC, et al. tariff filing.

Filed Date: 6/24/14.

Accession Number: 20140624–5057.

Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2251–000.

Applicants: Commonwealth Chesapeake Company LLC.

Description: Tariff Amendment to be effective 6/25/2014.

Filed Date: 6/24/14.

Accession Number: 20140624–5061.

Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2252–000.

Applicants: San Diego Gas & Electric Company.

Description: TO4 Formula Cycle 1 Out-of-Cycle Informational Filing for Expedited Implementation of Refunds to Retail End Use Customers of San Diego Gas & Electric Company.

Filed Date: 6/24/14.

Accession Number: 20140624–5078.

Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2253–000.

Applicants: Morris Cogeneration, LLC.

Description: Tariff Amendment to be effective 6/25/2014.

Filed Date: 6/24/14.

Accession Number: 20140624–5083.

Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2254–000.

Applicants: PJM Interconnection, L.L.C.

Description: Revisions to OATT Att Q re Virtual Transactions Clarification and Waiver Request to be effective 8/25/2014 .

Filed Date: 6/24/14.

Accession Number: 20140624–5084.

Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2255–000.

Applicants: Mehoopany Wind Energy LLC.

Description: Revised Market-Based Rate Tariff to be effective 8/24/2014.

Filed Date: 6/24/14.

Accession Number: 20140624–5091.

Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2256–000.

Applicants: Fowler Ridge II Wind Farm LLC.

Description: Revised Market-Based Rate Tariff to be effective 8/24/2014.

Filed Date: 6/24/14.

Accession Number: 20140624–5093.

Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2257–000.

Applicants: Fowler Ridge III Wind Farm LLC.

Description: Revised Market Based Rate Tariff to be effective 8/24/2014.

Filed Date: 6/24/14.

Accession Number: 20140624–5095.

Comments Due: 5 p.m. ET 7/15/14.

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: June 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15629 Filed 7–2–14; 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: RP13–957–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: Resubmission of 9–9–13 Commencement of Service in CP12–496–000.

Filed Date: 6/24/14.

Accession Number: 20140624–5099.

Comments Due: 5 p.m. ET 7/7/14.

Docket Numbers: RP14–1057–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: JP Morgan Ventures Energy Corp (RTS)—6025–46 to be effective 7/1/2014.

Filed Date: 6/24/14.

Accession Number: 20140624–5036.

Comments Due: 5 p.m. ET 7/7/14.

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: June 25, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15631 Filed 7–2–14; 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: RP14–1055–000.

Applicants: Constellation ProLiance, LLC, Constellation NewEnergy—Gas Divison, Exelon Generation Company, LLC.

Description: Petition for a Temporary Waiver of Capacity Release Regulations of Constellation ProLiance, LLC, et al.

Filed Date: 6/19/14.

Accession Number: 20140619–5126.

Comments Due: 5 p.m. ET 7/1/14.

Docket Numbers: RP14–1056–000.

Applicants: MIGC LLC.

Description: Compliance Filing Capacity Purchase Posting to be effective 7/23/2014.

Filed Date: 6/23/14.

Accession Number: 20140623–5057.
Comments Due: 5 p.m. ET 7/7/14.

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: June 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15630 Filed 7–2–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1790–011; ER10–2596–003; ER10–2597–003; ER12–2200–002.
Applicants: BP Energy Company, Fowler Ridge II Wind Farm LLC, Fowler Ridge III Wind Farm LLC, Mehoopany Wind Energy LLC.
Description: Updated Market Power Analysis for Northeast Region of BP Energy Company, et al.
Filed Date: 6/24/14.
Accession Number: 20140624–5040.
Comments Due: 5 p.m. ET 8/23/14.

Docket Numbers: ER12–2498–008; ER12–2499–008; ER13–764–008.
Applicants: Alpaugh 50, LLC, Alpaugh North, LLC, CED White River Solar, LLC.
Description: Notice of Change in Status of Alpaugh North, LLC, et al.
Filed Date: 6/23/14.
Accession Number: 20140623–5170.
Comments Due: 5 p.m. ET 7/14/14.

Docket Numbers: ER14–2147–000.
Applicants: Public Service Company of New Mexico.
Description: Supplement to June 6, 2014 Public Service Company of New Mexico tariff filing.
Filed Date: 6/23/14.
Accession Number: 20140623–5171.
Comments Due: 5 p.m. ET 7/14/14.

Docket Numbers: ER14–2245–000.
Applicants: TriEagle Energy, LP.
Description: Initial Filing to be effective 6/23/2014.
Filed Date: 6/23/14.
Accession Number: 20140623–5105.
Comments Due: 5 p.m. ET 7/14/14.

Docket Numbers: ER14–2246–000.
Applicants: PJM Interconnection, L.L.C.
Description: Service Agreement No. 2933; Queue No. W2–076 to be effective 5/23/2014.
Filed Date: 6/23/14.
Accession Number: 20140623–5116.
Comments Due: 5 p.m. ET 7/14/14.

Docket Numbers: ER14–2247–000.
Applicants: PJM Interconnection, L.L.C.
Description: Service Agreement No. 3284; Queue No. W3–139 to be effective 5/23/2014.
Filed Date: 6/23/14.
Accession Number: 20140623–5123.
Comments Due: 5 p.m. ET 7/14/14.

Docket Numbers: ER14–2248–000.
Applicants: San Diego Gas & Electric Company.
Description: Petition for One-Time Limited Waiver and Request for an Expedited Ruling and Shortened Comment Period of San Diego Gas & Electric Company.
Filed Date: 6/23/14.
Accession Number: 20140623–5158.
Comments Due: 5 p.m. ET 7/7/14.

Docket Numbers: ER14–2249–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–06–24_SA 2637 Borders Wind-NSP Amended E&P (J290) to be effective 6/25/2014.
Filed Date: 6/24/14.
Accession Number: 20140624–5026.
Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2250–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–06–24_SA 2673 Odell Wind-NSP E&P Agreement (G826) to be effective 6/25/2014.
Filed Date: 6/24/14.
Accession Number: 20140624–5029.
Comments Due: 5 p.m. ET 7/15/14.

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: June 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15632 Filed 7–2–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–1711–002.
Applicants: TC Ravenswood, LLC.
Description: Oil Burn Rate Schedule to be effective 6/24/2014.
Filed Date: 6/24/14.
Accession Number: 20140624–5081.
Comments Due: 5 p.m. ET 7/7/14.

Docket Numbers: ER14–1822–001.
Applicants: New York Independent System Operator, Inc.
Description: Amendment of NYISO TCR MOB Agreement to restart 60 day clock to be effective 5/1/2014.
Filed Date: 6/24/14.
Accession Number: 20140624–5085.
Comments Due: 5 p.m. ET 7/7/14.

Docket Numbers: ER14–2258–000.
Applicants: Desert View Power LLC.
Description: Notice of Succession to be effective 6/25/2014.
Filed Date: 6/24/14.
Accession Number: 20140624–5100.
Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2259–000.
Applicants: Desert View Power LLC.
Description: Notice of Succession and Order No. 784 Compliance Filing to be effective 6/25/2014.
Filed Date: 6/24/14.
Accession Number: 20140624–5101.
Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2260–000.
Applicants: Eel River Power LLC.
Description: Revised Market Based Tariff Filing to be effective 6/25/2014.
Filed Date: 6/24/14.

Accession Number: 20140624–5102.

Comments Due: 5 p.m. ET 7/15/14.

Docket Numbers: ER14–2261–000.

Applicants: Southern California Edison Company.

Description: GIA and Distribution Service Agmt with SunEdison for Cherry Ave. Fontana Project to be effective 6/26/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5000.

Comments Due: 5 p.m. ET 7/16/14.

Docket Numbers: ER14–2262–000.

Applicants: Edgewood Energy, LLC, Shoreham Energy, LLC, Equus Power I, L.P., Pinelawn Power, LLC.

Description: J–POWER Triennial MBR Update in Docket Nos. ER10–3058, 3059, 3066, and 3065 to be effective 6/25/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5021.

Comments Due: 5 p.m. ET 8/25/14.

Docket Numbers: ER14–2263–000.

Applicants: Pinelawn Power, LLC, Equus Power I, L.P., Edgewood Energy, LLC, Shoreham Energy, LLC.

Description: J–POWER Triennial MBR Update in Docket Nos. ER10–3058, 3059, 3066, and 3065 to be effective 6/25/2014.

Filed Date: 6/25/14.

Accession Number: 20140625–5022.

Comments Due: 5 p.m. ET 8/25/14.

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: June 25, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15633 Filed 7–2–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR14–33–000]

Enbridge Energy, Limited Partnership; Notice of Filing of Supplement to Facilities Surcharge Settlement

Take notice that on June 24, 2014, Enbridge Energy, Limited Partnership (Enbridge Energy), with the support of the Canadian Association of Petroleum Producers (CAPP), submitted a Supplement to the Facilities Surcharge Settlement approved by the Commission on June 30, 2004, in Docket No. OR04–2–000, at 107 FERC ¶ 61,336 (2004).

In accordance with Rule 602(f) of the Commission's Rules of Practice and Procedure, 18 CFR 385.602(f), any person desiring to comment on this Supplement should file its comments with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, no later than July 9, 2014.

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 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated above. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protest 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) 208–676 (toll free). For TTY, call (202) 502–8659.

Comment Date: July 9, 2014.

Dated: June 26, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15636 Filed 7–2–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ14–26–000]

Oncor Electric Delivery Company LLC; Notice of Filing

Take notice that on June 6, 2014, Oncor Electric Delivery Company LLC submitted its tariff filing per 35.28(e): Oncor TFO Tariff Rate Changes, effective May 30, 2014.

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 July 7, 2014.

Dated: June 27, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15635 Filed 7–2–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2274–000]

Aesir Power, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Aesir Power, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 16, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 26, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–15634 Filed 7–2–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9015–7]

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 06/23/2014 Through 06/27/2014

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. 20140183, Draft EIS, USFS, AZ, Tonto National Forest Travel Management, Comment Period Ends: 08/18/2014, Contact: Marianne Thomas 602–225–5213.

EIS No. 20140184, Final EIS, FAA, CA, Gnoss Field Airport, Proposed Extension of Runway 13/31, Review Period Ends: 08/04/2014, Contact: Doug Pomeroy 650–827–7612.

EIS No. 20140185, Draft EIS, USFS, AZ, Flagstaff Watershed Protection Project, Comment Period Ends: 08/18/2014, Contact: Erin Phelps 928–527–8240.

Dated: June 30, 2014.

Dawn Roberts,

Office of Federal Activities.

[FR Doc. 2014–15704 Filed 7–2–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2014–0327; FRL–9913–17]

Notice of Expert Public Workshop on Alternatives and Risk Reduction Approaches to Trichloroethylene (TCE)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is holding a public workshop to gather information from experts on the use of trichloroethylene (TCE) as a degreaser, availability and efficacy of safer alternatives, and possible risk reduction approaches. This workshop will examine TCE use as a degreaser in various applications, including cold cleaning, vapor degreasing, or as an aerosol. In June, EPA completed its final risk assessment that identified health risks to people, including workers, when TCE is used as a degreaser. This effort is part of EPA's commitment to improve the safety of existing chemicals under the Toxic Substances Control Act (TSCA). Information from the workshop will be helpful as EPA works with stakeholders on potential risk reduction approaches.

DATES: The workshop will be held on July 29, 2014, from 9 a.m. to 5 p.m., and on July 30, 2014, from 9 a.m. to noon.

Written comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0327, must be received on or before July 22, 2014.

Requests to participate in the workshop must be received on or before July 22, 2014. All interested in participating are invited to pre-register at the following Web site: *http://www.epa.gov/oppt/existingchemicals/pubs/workplans.html* by July 22, 2014. Pre-registering will allow EPA to improve workshop planning.

To request accommodation of a disability, please contact the technical person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The workshop will be held at EPA Headquarters, East William Jefferson Clinton Bldg., Rm. 4225, 1201 Constitution Ave. NW., Washington, DC 20460–0001.

Submit your comments, identified by docket ID number EPA–HQ–OPPT–2014–0327, 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:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 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 al.ng with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

Submit requests to participate in the workshop, identified by docket ID number EPA–HQ–OPPT–2014–0327, to the technical person listed under **FOR FURTHER INFORMATION CONTACT**. Upon request, a teleconferencing number will be provided for those who wish to attend the workshop remotely.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Katherine Sleasman, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–7716; email address: *sleasman.katherine@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave. Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or distribute in commerce chemical substances and mixtures. 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:

• Textile Product Mills (NAICS code 314).

• Wood Product Manufacturing (NAICS code 321).

• Printing and Related Support Activities (NAICS code 323).

• Chemical Manufacturing (NAICS code 325).

• Plastics and Rubber Product Manufacturing (NAICS code 326).

• Primary Metal Manufacturing (NAICS code 331).

• Fabricated Metal Product Manufacturing (NAICS code 332).

• Machinery Manufacturing (NAICS code 333).

• Computer and Electronic Product Manufacturing (NAICS code 334).

• Electrical Equipment, Appliance, and Component Manufacturing (NAICS code 335).

• Transportation Equipment Manufacturing (NAICS code 336).

• Furniture and Product Related Manufacturing (NAICS code 337).

• Miscellaneous Manufacturing (NAICS code 339).

• Clothing and Clothing Accessory Stores (NAICS code 488).

• Warehousing and Storage (NAICS code 493).

• Repair and Maintenance (NAICS code 811).

• National Security and International Affairs (NAICS code 928).

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket ID number EPA–HQ–OPPT–2014–0327, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Background

TCE was identified for risk assessment as part of EPA's Existing Chemicals Management Program. EPA reviewed readily available information on TCE including uses, physical and chemistry properties, fate, exposure potential, and associated hazards to humans and the environment. TCE was selected based on concerns for its human health hazard (e.g., human carcinogen), and its exposure profile (i.e., widely used in consumer products and detected in drinking water, indoor environments, surface water, ambient air, groundwater, and soil) using OPPT's TSCA Work Plan screening methodology. The purpose of the workshop is to collect more information on how TCE is used as a degreaser, understand the process and efficacy considerations important to selecting safer alternatives, solicit feedback on potential alternatives to TCE, and discuss safer engineering practices and technologies that can reduce exposure to TCE. Information from the workshop will be helpful as EPA works with stakeholders on potential risk reduction approaches.

The goals of the workshop are to generate information from experts on TCE when used as a degreaser and better understand the factors when transitioning to safer alternatives. The other uses of TCE as described in the Agency's final risk assessment will be addressed separately. The workshop will include various presentations, keynote lectures, breakout sessions with case studies, and public comment opportunities. To start the workshop, EPA will present its findings from its final risk assessment available online at *http://www.epa.gov/oppt/existingchemicals/pubs/workplans.html.* Workshop experts will discuss how TCE is used as a degreaser, the process and efficacy considerations important to safer alternative selection, present case studies that examine potential alternatives to TCE, and discuss safer engineering practices, new products, and technologies that can reduce exposure to TCE. Many sessions will include charge and outcome questions to guide the discussion. This workshop will include periods for public comment. EPA's goal is to bring the experts together and understand the challenges and opportunities when making changes to decrease exposure to TCE.

III. How can I request to participate in this meeting?

You may submit a request to participate in this meeting to the technical person listed under **FOR FURTHER INFORMATION CONTACT**. Do not submit any information in your request that is considered CBI.

Requests to participate in the meeting, identified by docket ID number EPA–HQ–OPPT–2014–0327, must be received on or before July 22, 2014.

The Agency is also providing an opportunity to submit written comments in lieu of attending the workshop. Written comments, identified by docket ID number EPA–HQ–OPPT–2014–0327, must be received on or before July 22, 2014, in order to provide the Agency adequate time to compile comments for the workshop.

The Agency encourages each individual or group wishing to make brief oral comments submit their request to the technical person listed under **FOR**

FURTHER INFORMATION CONTACT on or before July 22, 2014, in order to be included on the meeting agenda. While requests to present oral comments will be accepted until the date of the meeting and, to the extent that time permits, the Agency may permit the presentation of oral comments at the meeting by interested persons who have not previously requested time. The request should identify the name of the individual making the presentation and the organization (if any) the individual represents. Oral comments at the workshop are limited to approximately 5 minutes.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 27, 2014.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2014–15662 Filed 7–2–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9913–07–OA]

Proposed Prospective Purchaser Agreement for the Company Vehicle Operations Site in Ypsilanti, Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Prospective Purchaser Agreement, notice is hereby given of a proposed administrative settlement concerning the Company Vehicle Operations Site in Ypsilanti, Michigan with the following settling parties: ARM Holdings and International Turbine Industries. The settlement requires the settling parties to execute and record a Declaration of Restrictive Covenant; provide access to the property and exercise due care with respect to existing contamination. The settlement includes a covenant not to sue the settling parties pursuant to Comprehensive Environmental Response, Compensation, and Liability Act or Resource Conservation and Recovery Act with respect to the existing contamination. Existing Contamination is defined as any waste material present or existing on or under the property as of the effective date of the settlement agreement; any waste material that migrated from the property prior to the effective date; and any waste material presently at the site that migrates onto, on, under, or from the property after the effective date.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA, Region 5, Records Center, 77 W. Jackson Blvd., 7th Fl., Chicago, Illinois 60604.

DATES: Comments must be submitted on or before 30 days after publication in the **Federal Register**.

ADDRESSES: The proposed settlement is available for public inspection at the EPA, Region 5, Records Center, 77 W. Jackson Blvd., 7th Fl., Chicago, Illinois 60604. A copy of the proposed settlement may be obtained from Peter Felitti, Assoc. Regional Counsel, EPA, Office of Regional Counsel, Region 5, 77 W. Jackson Blvd., Mail code: C–14J, Chicago, Illinois 60604. Comments should reference the Company Vehicle Operations Site, Ypsilanti, Michigan and should be addressed to Peter Felitti, Assoc. Regional Counsel, EPA, Office of Regional Counsel, Region 5, 77 W. Jackson Blvd., Mail code: C–14J, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Peter Felitti, Assoc. Regional Counsel, EPA, Office of Regional Counsel, Region 5, 77 W. Jackson Blvd., Mail code: C–14J, Chicago, Illinois 60604 or call at (312) 886–5114.

SUPPLEMENTARY INFORMATION: The Settling Parties propose to acquire ownership of a former General Motors Corporation North American operation, at 2901 Tyler Road, Ypsilanti, Michigan. The EPA identification number for the Site is #MID005356795. The Site is one of the 89 sites that were placed into an Environmental Response Trust (the ''Trust'') as a result of the resolution of the 2009 GM bankruptcy. The Trust is administrated by Revitalizing Auto Communities Environmental Response.

Dated: June 27, 2014.

Richard Karl,

Director, Superfund Division.

[FR Doc. 2014–15690 Filed 7–2–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

[Request 3064–0083, –0085, & –0120]

Agency Information Collection Activities: Submission for OMB Review; Comment

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). On March 31, 2014, (79 FR 18027), the FDIC requested comment for 60 days on a proposal to renew the following information collections: Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing) (3064–0083), Recordkeeping and Disclosure Requirements in Connection with Regulation B (Equal Credit Opportunity) (3064–0085) & Flood Insurance (3064–0120). No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these collections, and again invites comment on this renewal.

DATES: Comments must be submitted on or before September 2, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/*
- *Email: comments@fdic.gov* Include the name and number of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room NYA–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION: *Proposal to renew the following currently-approved collections of information:*

1. Title: Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing).

OMB Number: 3064–0083.

Frequency of Response: On occasion.

Affected Public: State nonmember banks and state savings associations engaging in consumer leasing.

Estimated Number of Respondents: 1,959.

Estimated Time per Response: 75 hours.

Total Annual Burden: 146,925 hours.

General Description of Collection: Regulation M (12 CFR 213), issued by the Board of Governors of the Federal Reserve System, implements the consumer leasing provisions of the Truth in Lending Act.

2. Title: Recordkeeping and Disclosure Requirements in Connection with Regulation B (Equal Credit Opportunity).

OMB Number: 3064–0085.

Frequency of Response: On occasion.

Affected Public: State nonmember banks and state savings associations engaging in credit transactions.

Estimated Number of Respondents: 4,398.

Estimated Time per Response: 137 hours.

Total Annual Burden: 602,389 hours.

General Description of Collection: Regulation B (12 CFR Part 202), issued by the Board of Governors of the Federal Reserve System, prohibits creditors from discriminating against applicants on any of the bases specified by the Equal Credit Opportunity Act, establishes guidelines for gathering and evaluating credit information, and requires creditors to give applicants a written notification of rejection of an application.

3. Title: Flood Insurance.

OMB Number: 3064–0120.

Frequency of Response: On occasion.

Affected Public: Any depository institution that makes one or more loans to be secured by a building located on property in a special flood hazard area.

Estimated Number of Respondents/Recordkeepers: 4,421.

Estimated Reporting Hours: 4,421 × 17.41 hours = 76,999.

Estimated Recordkeeping Hours: 4,421 × 14 hours = 61,894 hours.

Estimated Total Annual Reporting and Recordkeeping Burden Hours: 76,999 + 61,894 = 138,893 hours.

General Description of Collection: Each supervised lending institution is currently required to provide a notice of special flood hazards to each borrower with a loan secured by a building or mobile home located or to be located in an area identified by the Director of the Federal Emergency Management Agency as being subject to special flood hazards. The Riegle Community Development Act requires that each institution must also provide a copy of the notice to the servicer of the loan (if different from the originating lender).

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 27th day of June, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–15622 Filed 7–2–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov*.

721 Logistics LLC (NVO & OFF), 300 Stevens Drive, Lester, PA 19113, Officer: Lawrence Antonucci, Member (QI), Application Type: New NVO and OFF License.

Acme International Auto Transport, LLC (OFF), 134 Laguna Bay, Lewisville, TX 75067, Officers: Coburn S. Cutshall, Director International Division (QI), Richard S. Gay, Manager, Application Type: New OFF License.

A-Sonic Logistics (USA), Inc. (NVO & OFF), 71 South Central Avenue, Suite 300, Valley Stream, NY 11580, Officers: Cheng Y. Lai, Secretary (QI), Janet L. Tan, President, Application Type: QI Change.

Aya Logistics Inc. (NVO & OFF), 1260 Lunt Avenue, Elk Grove Village, IL 60007, Officers: Yan P. Meng, Treasurer (QI), Xiqian (Steven) Wei, President, Application Type: Add Trade Names City Union Logistics Co. Ltd & A. Yuan Logistics Inc.

Cala Distribution, LLC (NVO & OFF), 1200 Brickell Avenue, Suite 1700, Miami, FL 33131, Officers: Maria J. Cabreja, Operation Manager (QI), Daniel Toledano, Manager, Application Type: QI Change.

Den Hartogh Americas Inc. (NVO), 6021 Fairmont Parkway, Suite 140, Pasadena, TX 77505, Officers: Brenda Gonzalez, Vice President (QI), Pieter den Hartogh, President, Application Type: QI Change.

Global Voyage, LLC (OFF), 2567 North Forsyth Road, Suite 1, Orlando, FL 32807, Officers: Jocelyn Kassem, Manager (QI), Bassel Kassem, Manager, Application Type: New OFF License.

HJM Int'l Corp. (NVO), 153–39 Rockaway Blvd., Jamaica, NY 11434, Officer: Henry Mandil, President (QI), Application Type: Add OFF Service.

Horizon Lines of Guam, LLC dba Horizon Lines Express (NVO), 4064 Colony Road, Suite 200, Charlotte, NC 28211, Officers: Geoffrey Thurston, Vice President (QI), William A. Hamlin, President, Application Type: QI Change.

Impex Trans-port, Inc. (OFF), 6999–2 Merrill Road, Suite 304, Jacksonville, FL 32211, Officer: David D. Kudley, President (QI), Application Type: New OFF License.

Korea Express U.S.A. Inc. dba Korea Express Lines (NVO & OFF), 901 Castle Road, Secaucus, CA 07094, Officer: Tony Chon, Assistant Secretary, (QI), Sang Lee, President, Application Type: Name Change to CJ Korea Express U.S.A. Corporation.

OK to Ship Inc. (NVO), 917 Hutchinson Court, Brooklyn, NY 11223, Officer: Choua Mandil, President (QI), Application Type: Add OFF Service.

Randi Moreau-Sipiere dba Centurion Export (OFF), 1325 FM 1567 E, Como, TX 75431, Officer: Randi Moreau-Sipiere, Sole Proprietor (QI), Application Type: New OFF License.

Royal Port Container Lines Inc (NVO & OFF), 295 Durham Avenue, Suite 209, South Plainfield, NJ 07080, Officer: Muhammad M. Bhatti, Director (QI), Application Type: New NVO & OFF License.

TKL Logistics, Inc. (OFF), 137 Horizon Circle, Azle, TX 76020, Officer: Terry L. Locke, President (QI), Application Type: New OFF License.

Ventech Inc. dba TDT Cargo (NVO & OFF), 7774 NW 46th Street, Miami, FL 33166, Officer: Juan C. Tovar, President (QI), Daniela Gonzalez, Vice President, Application Type: Name Change to Trending Exports, Inc.

By the Commission.

Dated: June 27, 2014.

Karen V. Gregory,

Secretary.

[FR Doc. 2014–15544 Filed 7–2–14; 8:45 am]

BILLING CODE P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

The Commission gives notice that the following Ocean Transportation Intermediary license has been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 019923F.
Name: Tretaylor International, Inc.
Address: 2034 Rolling Hills Way, Rocky Face, GA 30740.
Date Reissued: May 28, 2014.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–15613 Filed 7–2–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations and Terminations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked or terminated for the reason indicated pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 13599NF.
Name: Pactrans Air & Sea, Inc.
Address: 951 Thorndale Avenue, Suite 961, Elk Grove Village, IL 60106.
Date Revoked: June 19, 2014.
Reason: Failed to maintain valid bonds.

License No.: 16693N.
Name: Horizon International Shipping, Inc.
Address: 10943 NW 122nd Street, Medley, FL 33178.
Date Surrendered: June 2, 2014.
Reason: Voluntary surrender of license.

License No.: 022408NF.
Name: Pactrans Global, LLC.
Address: 951 Thorndale Avenue, Bensenville, IL 60106.
Date Revoked: June 19, 2014.
Reason: Failed to maintain valid bonds.

License No.: 023084N.
Name: Crest Logistics Inc.
Address: 27911 Ridgecove Ct. N, Rancho Palos Verdes, CA 90275.
Date Surrendered: June 18, 2014.
Reason: Voluntary surrender of license.

License No.: 023649N.
Name: OQ Enterprises, Inc.
Address: 23990 Hesperian Blvd., Hayward, CA 94541.
Date Surrendered: June 25, 2014.
Reason: Voluntary surrender of license.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–15612 Filed 7–2–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 21, 2014.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The V. Dean Schwartz Family Trust, The Eileen B. Schwartz Revocable Trust, John B. Schwartz (individually and as trustee), and Pat D. Schwartz,* all of Blue Rapids, Kansas, as members of the John B. Schwartz Family Group acting in concert; to retain voting shares of Blue Rapids Bancshares, Inc., and thereby indirectly retain voting shares of State Bank of Blue Rapids, both in Blue Rapids, Kansas.

Board of Governors of the Federal Reserve System, June 30, 2014.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2014–15657 Filed 7–2–14; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0293;Docket No. 2014–0001; Sequence 2]

Information Collection; Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements

AGENCY: Office of Technology Strategy/Office of Government-wide Policy, General Services Administration (GSA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of the currently approved information collection requirement regarding the Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements.

DATES: Submit comments on or before September 2, 2014.

ADDRESSES: Submit comments identified by Information Collection 3090–0293, Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 3090–0293. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0293, Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0293, Reporting and Use of Information

Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 3090–0293.

Instructions: Please submit comments only and cite Information Collection 3090–0293, Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Judith R. Zawatsky, Director Outreach and Stakeholder Management, telephone 703–859–3826, email *judith.zawatsky@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection is necessary in order to comply with section 872 of the Duncan Hunter National Defense Authorization Act of 2009, Public Law 110–417, as amended by Public Law 111–212, hereafter referred to as ''the Act.'' The Act requires GSA to establish and maintain a database of information regarding the integrity and performance of certain entities awarded Federal grants and contracts and use of the information by Federal officials making awards. OMB proposed implementing guidance for grants and cooperative agreements on February 18, 2010 (75 FR 7316). That guidance is in the process of being finalized. The proposed guidance requires appropriate Federal officials to report on terminations of awards due to material failure to comply with award terms and conditions; administrative agreements with entities to resolve suspension or debarment proceedings; and findings that entities were not qualified to receive awards. Through a new award term, each recipient would provide information about certain civil, criminal, and administrative proceedings that reached final disposition within the most recent five-year period and were connected with the award or performance of a Federal or State award. As section 872 requires, an entity also would be able to submit comments to the data system about any information that the system contains about the entity.

B. Annual Reporting Burden

Initial response:

Respondents: 11,500.

Responses Per Respondent: 1.

Total Annual Responses: 11,500.

Hours Per Response: .1.

Total Response Burden Hours: 1,150.

Additional response:

Respondents: 1,600.

Responses Per Respondent: 2.

Total Annual Responses: 3,200.

Hours Per Response: .5.

Total Response Burden Hours: 1,600.

Recordkeeping Hours: 160,000.

Total number of responses: 13,100.

Total Burden Hours: 162,750.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies Of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0293, Reporting and Use of Information Concerning Integrity and Performance of Recipients of Grants and Cooperative Agreements, in all correspondence.

Dated: June 20, 2014.

Sonny Hashmi,

Chief Information Officer, Office of the Deputy CIO.

[FR Doc. 2014–15637 Filed 7–2–14; 8:45 am]

BILLING CODE 6820–WY–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0134;Docket 2014–0055; Sequence 10]

Federal Acquistion Regulation; Submission to OMB Review; Environmentally Sound Products

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning environmentally sound products. A notice was published in the **Federal Register** at 79 FR 15591 on March 20, 2014. No comments were received.

DATES: Submit comments on or before August 4, 2014.

ADDRESSES: Submit comments identified by Information Collection 9000–0134, Environmentally Sound Products, by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0134. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0134, Environmentally Sound Products''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0134, Environmentally Sound Products'' on your attached document.

• *Fax:* 202–501–4067.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Hada Flowers/IC 9000–0134, Environmentally Sound Products.

Instructions: Please submit comments only and cite Information Collection 9000–0134, Environmentally Sound Products, in all correspondence related to this collection. All comments

received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael O. Jackson, Procurement Analyst, Governmentwide Acquisition Policy, GSA, 202–208–4949 or *michaelo.jackson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

This information collection complies with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962). RCRA requires the Environmental Protection Agency (EPA) to designate items which are or can be produced with recovered materials. RCRA further requires agencies to develop affirmative procurement programs to ensure that items composed of recovered materials will be purchased to the maximum extent practicable. Affirmative procurement programs required under RCRA must contain, as a minimum: (1) A recovered materials preference program and an agency promotion program for the preference program; (2) a program for requiring estimates of the total percentage of recovered materials used in the performance of a contract, certification of minimum recovered material content actually used, where appropriate, and reasonable verification procedures for estimates and certifications; and (3) annual review and monitoring of the effectiveness of an agency's affirmative procurement program.

The items for which EPA has designated minimum recovered material content standards are grouped into eight categories: (1) Construction products, (2) landscaping products, (3) nonpaper office products, (4) paper and paper products, (5) park and recreation products, (6) transportation products, (7) vehicular products, and (8) miscellaneous products. The FAR rule also permits agencies to obtain pre-award information from offerors regarding the content of items which the agency has designated as requiring minimum percentages of recovered materials.

In accordance with RCRA, the information collection applies to acquisitions requiring minimum percentages of recovered materials, when the price of the item exceeds $10,000 or when the aggregate amount paid for the item or functionally equivalent items in the preceding fiscal year was $10,000 or more.

Contracting officers use the information to verify offeror/contractor compliance with solicitation and contract requirements regarding the use of recovered materials. Additionally, agencies use the information in the annual review and monitoring of the effectiveness of the affirmative procurement programs required by RCRA.

B. Annual Reporting Burden

A reassessment of the recovered material provision, FAR 52.223–4, and clause, FAR 52.223–9, was preformed. Based on the comprehensive reassessment performed, this information collection resulted in a small increase in the total burden hours from the previous information collection that was published in the **Federal Register** at 76 FR 40368 on July 08, 2011. The increase is likely a result of increased awareness about green purchasing across the Federal Government. The Federal Procurement Data System was searched to determine the use of the provision and clause using element 8L Recovered Materials/Sustainability for Fiscal Year 2013. No public comments were received in prior years that have challenged the validity of the Government's estimate.

Respondents: 588.

Responses Per Respondent: 75.5.

Annual Responses: 44,394.

Hours Per Response: .5.

Total Burden Hours: 22,197.

Obtaining Copies Of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB control No. 9000–0134, Environmentally Sound Products, in all correspondence.

Dated: June 27, 2014.

Karlos Morgan,

Acting Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2014–15643 Filed 7–2–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0157;Docket 2014–0055; Sequence 17]

Federal Acquisition Regulation; Submission to OMB for Review, Architect-Engineer Qualifications (Standard Form 330)

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement for the Architect–Engineer Qualifications form (SF 330). A notice was published in the **Federal Register** at 79 FR 19085, on April 7, 2014. No comments were received.

DATES: Submit comments on or before August 4, 2014.

ADDRESSES: Submit comments identified by Information Collection 9000–0157 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0157. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0157''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0157'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0157.

Instructions: Please submit comments only and cite Information Collection 9000–0157, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover Sr. Procurement Analyst, Contract Policy Division, GSA 202–501–1448 or email *Curtis.glover@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal agencies use the Standard Form (SF) 330 to obtain information from architect-engineer (A–E) firms about their professional qualifications. Federal agencies select firms for A–E contracts on the basis of professional qualifications as required by 40 U.S.C. Chapter 11, Selection of Architects Engineers, and Part 36 of the Federal Acquisition Regulation (FAR).

SF 330, Part I is used by all Executive agencies to obtain information from architect-engineer firms interested in a particular project. The information on the form is reviewed by a selection panel to assists in the selection of the most qualified architect-engineer firm to perform the specific project. The form is designed to provide a uniform method for architect-engineer firms to submit information on experience, personnel, and capabilities of the architect-engineer firm to perform, along with information on the consultants they expect to collaborate with on the specific project.

SF 330, Part II is used by all Executive agencies to obtain general uniform information about a firm's experience in architect-engineering projects. Architect-engineer firms are encouraged to update the form annually. The information obtained on this form is used to determine if a firm should be solicited for architect-engineer projects.

B. Annual Reporting Burden

Respondents: 5,000.
Responses per Respondent: 4.
Total Responses: 20,000.
Hours per Response: 29.
Total Burden Hours: 580,000.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies Of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. Please cite OMB Control No. 9000–0157, Architect-Engineer Qualifications (SF 330), in all correspondence.

Dated: June 27, 2014.

Karlos Morgan,

Acting Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2014–15641 Filed 7–2–14; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[Notice–PBS–2013–02; Docket No: 2013–0002; Sequence 12]

Federal Management Regulation; Delegations of Lease Acquisition Authority—Notification, Usage, and Reporting Requirements for General Purpose, Categorical, and Special Purpose Space Delegations; Corrections

AGENCY: Public Buildings Service (PBS), General Services Administration (GSA).

ACTION: Notice of FMR Bulletin C–2; Corrections.

SUMMARY: GSA published a notice in the **Federal Register** on April 16, 2014, regarding Delegations of Lease Acquisition Authority—Notification, Usage, and Reporting Requirements for General Purpose, Categorical, and Special Purpose Space Delegations. GSA is making corrections to the Supplementary Information section of the document.

DATE: *Effective:* July 3, 2014.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Mary Pesina, Director, Center for Lease Delegations, Office of Leasing, Public Buildings Service, at 202–236–1686, or *mary.pesina@gsa.gov*.

SUPPLEMENTARY INFORMATION:

Corrections

In the notice FR Doc. 2014–08645 published in the **Federal Register** at 79 FR 21464, April 16, 2014, make the following corrections:

1. On page 21465, in the first column, remove ''Anne E. Rung, Associate Administrator.'' and add ''Anne E. Rung, Associate Administrator, Office of Government-wide Policy.'' in its place.

2. On page 21465, in the first column, under General Services Administration heading of the bulletin portion, remove ''Add date signed'' and add ''April 10, 2014.'' in its place.

3. On page 21469, in the second column, first line, remove ''Associate Administrator.'' and add ''Associate Administrator, Office of Government-wide Policy.'' in its place.

Dated: June 26, 2014.

Carolyn Austin-Diggs,

Acting Deputy Associate Administrator, Office of Asset and Transportation Management, Office of Government-wide Policy.

[FR Doc. 2014–15645 Filed 7–2–14; 8:45 am]

BILLING CODE 6820–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Human Research Protections

AGENCY: Office of the Secretary, Office of the Assistant Secretary for Health, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a) of the Federal Advisory Committee Act, U.S.C. Appendix 2, notice is hereby given that the Secretary's Advisory Committee on Human Research Protections (SACHRP) will hold a meeting that will be open to the public. Information about SACHRP and the full meeting agenda will be posted on the SACHRP Web site at: *http://www.dhhs.gov/ohrp/sachrp/mtgings/index.html.*

DATES: The meeting will be held on Monday, July 21, 2014, from 8:30 a.m. until 5:00 p.m. and Tuesday, July 22, 2014, from 8:30 a.m. until 4:00 p.m.

ADDRESSES: Note new location! Fisher's Lane Conference Center, Terrace Level, 5635 Fisher Lane, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jerry Menikoff, M.D., J.D., Executive Secretary, SACHRP and Director, Office for Human Research Protections (OHRP), or Julia Gorey, J.D., Executive Director, SACHRP; U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 200, Rockville, Maryland 20852; 240–453–8141; fax: 240–453–6909; email address: *Julia.Gorey@hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, SACHRP was established to provide expert advice and recommendations to the Secretary of Health and Human Services, through

the Assistant Secretary for Health, on issues and topics pertaining to or associated with the protection of human research subjects.

The meeting will open to the public at 8:30 a.m., on Monday, July 21. Following opening remarks from Dr. Jerry Menikoff, Executive Secretary, SACHRP and OHRP Director, and Dr. Jeffrey Botkin, SACHRP Chair, the Subpart A Subcommittee (SAS) will give their initial report on the new SAS initiative examining informed consent. A panel of speakers will discuss comprehension and tools for validating comprehension in informed consent. SAS is charged with developing recommendations for consideration by SACHRP regarding the application of subpart A of 45 CFR part 46 in the current research environment; this subcommittee was established by SACHRP in October 2006.

On the afternoon of July 21, the Subcommittee on Harmonization (SOH) will present their initial work on the topic of the intersection of the HHS and FDA regulations and ''big data''; this presentation will be highlighted by a special expert panel discussion. The morning of July 22, the SOH will present their work to date on the topic of return of general results, also assisted by a special expert panel discussion. SOH was established by SACHRP at its July 2009 meeting and is charged with identifying and prioritizing areas in which regulations and/or guidelines for human subjects research adopted by various agencies or offices within HHS would benefit from harmonization, consistency, clarity, simplification, and/or coordination.

A public comment session will be offered on both days.

Public attendance at the meeting is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the SACHRP at the address/phone listed above at least one week prior to the meeting. Pre-registration is required for participation in the on-site public comment session; individuals may pre-register the day of the meeting or by contacting the Executive Director, SACHRP, by COB July 17. Individuals who would like to submit written statements should email or fax their comments to SACHRP at least five business days prior to the meeting.

Dated: June 27, 2014.

Julia Gorey,

Executive Director, Secretary's Advisory Committee on Human Research Protections.

[FR Doc. 2014–15593 Filed 7–2–14; 8:45 am]

BILLING CODE 4150–36–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health; Correction

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Health, Office of Minority Health.

ACTION: Notice; correction.

SUMMARY: The Department of Health and Human Services published a notice in the **Federal Register,** dated June 17, 2014, to announce a meeting of the Advisory Committee on Minority Health that will be held on Tuesday, July 8, 2014, from 9 a.m. to 5 p.m., and on Wednesday, July 9, 2014, from 9 a.m. to 4 p.m. The meeting is scheduled to be held at the Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008. The posted meeting times have been changed.

FOR FURTHER INFORMATION CONTACT: Dr. Rashida Dorsey, *OMH–ACMH@hhs.gov,* Tower Building; 1101 Wootton Parkway, Suite 600; Rockville, MD 20852; Phone: 240–453–8222; Fax: 240–453–8223.*http://www.pacha.gov.*

Correction

In the **Federal Register,** dated June 17, 2014, FR Doc. 2014–14066, on page 34531, in the second column, correct the posted meeting times noted under the **DATES** caption to read:

DATES: Tuesday, July 8, 2014, from 9 a.m. to 3 p.m., and on Wednesday, July 9, 2014, from 9 a.m. to 3 p.m.

Dated: June 26, 2014.

Rashida Dorsey,

Designated Federal Officer, Advisory Committee on Minority Health.

[FR Doc. 2014–15592 Filed 7–2–14; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2014–0010, Docket Number NIOSH 063–C]

National Institute for Occupational Safety and Health Meeting

AGENCY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of public meeting and draft document for comment.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following web-based public meeting and request for public comment on the NIOSH Fire Fighter Fatality Investigation and Prevention Program (FFFIPP) and also announces the availability of a report entitled ''NIOSH Fire Fighter Fatality Investigation and Prevention Program (FFFIPP) Progress Report and Proposed Future Directions—2014'' which is now available for public comment. To view the notice and related materials, visit *http://www.regulations.gov* and enter CDC–2014–0010 in the search field and click ''Search.''

DATES: *Meeting date and time:* August 20, 2014, 1:00 p.m.-4:00 p.m. EDT.

Public comment period: Comments must be received by 11:59 p.m. on October 20, 2014.

ADDRESSES: You may submit comments, identified by CDC–2014–0010 and Docket Number NIOSH 063–C, by either of the following two methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

Instructions: All information received in response to this notice must include the agency name and docket number (CDC–2014–0010; NIOSH 063–C). All relevant comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. All electronic comments should be formatted as Microsoft Word. Please make reference to CDC–2014–0010 and Docket Number NIOSH 063–C. All information received in response to this notice will also be available for public

examination and copying at the NIOSH Docket Office, 1150 Tusculum Avenue, Room 109, Cincinnati, OH 45226–1998.

FOR FURTHER INFORMATION CONTACT: John Myers, Chief, Surveillance and Field Investigations Branch, Division of Safety Research, 304–285–5916 or *jmyers@cdc.gov*.

SUPPLEMENTARY INFORMATION: The purpose of this web-based meeting and docket is to request public comment on the NIOSH Fire Fighter Fatality Investigation and Prevention Program (FFFIPP) and report entitled ''NIOSH Fire Fighter Fatality Investigation and Prevention Program (FFFIPP) Progress Report and Proposed Future Directions—2014.'' NIOSH is especially interested in comments related to: current investigation priorities, final report format, information dissemination, follow-back evaluations for line-of-duty-death investigations, and the use of social media.

Background: In 2011, NIOSH requested public comment through the NIOSH Docket Office, NIOSH Docket 063–B. The input provided by stakeholders to the docket was valuable in providing insight into stakeholder needs and ways to improve the FFFIPP. A description of program changes resulting from these comments can be viewed at: *http://www.cdc.gov/niosh/fire/future2011.html*. The August 20, 2014 web-based meeting will be held to seek stakeholder input. A review of past and current FFFIPP publications and reports can be viewed by going to the NIOSH FFFIPP Web site: *http://www.cdc.gov/niosh/fire.*

The web-based meeting is open to the public using Audio/LiveMeeting Conferencing, limited only by the capacities of the conferencing format. Web-based meeting requirements include: a computer, internet connection, and telephone, preferably with mute capability. This web-based meeting will be available to participants on a first come, first served basis, and is limited to 100 participants. Therefore, specific information regarding meeting participation will only be provided to registered participants. Each participant is requested to register for the meeting by sending an email to *MBowyer@cdc.gov* by 5:00 p.m. EDT, August 6, 2014 containing the: participant's name, organization name, email address, and telephone number. NIOSH will reply by email confirming registration and the details needed to participate in the web-based meeting.

Format of the Meeting: A NIOSH official from the Division of Safety Research will provide opening remarks, followed by NIOSH presentations that will include an overview of the current FFFIPP program, strategic status, and proposed future directions. Representatives from stakeholder groups that have registered and requested to speak during the web-based meeting will be allowed 10 minutes to present on the usefulness of the FFFIPP and the program products for improving fire fighter safety and health, and suggestions for enhancing the impact and future directions of the program.

An opportunity to make oral presentations will also be provided to other interested organizations or individuals, given available time on the agenda. The time allotted for these presentations will be 5 minutes. Requests to make such presentations should be made by email to *MBowyer@cdc.gov* by 5:00 p.m. EDT, August 6, 2014. All requests to present should include the: participant's name, address, telephone number, and any relevant business affiliations of the presenter.

Upon receiving the requests for presentations, NIOSH will reply by email confirming registration for all participants, details needed to participate in the web-based meeting, and notify each registered presenter of the approximate time their presentation is scheduled to begin. If a presenter is not online when his/her presentation is scheduled to begin, the remaining participants will be heard in order. After the last scheduled presenter is heard, participants who missed their assigned times may be allowed to speak, limited by time available.

Registered meeting participants who wish to speak but did not submit a request for the opportunity to make a presentation may be given this opportunity after all of the scheduled speakers, limited by time available. An email box will be established during the web-based meeting so that participants may submit requests to speak, limited by time available.

Any registered presenters who wish to use slides must provide an electronic file in Microsoft PowerPoint to *MBowyer@cdc.gov* by 5:00 p.m. EDT, August 6, 2014. NIOSH will provide an approximate time for each registered presenter by email prior to the meeting.

Meeting Agenda

1:00 p.m.—NIOSH and Registered Stakeholder Presentations

2:30 p.m.—Other Registered Presenters

Open Mike (if time is available)

4:00 p.m.—Meeting Ends

Dated: June 26, 2014.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2014–15693 Filed 7–2–14; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10169]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by August 4, 2014.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, *Fax Number:* (202) 395–5806, *OR, E-Mail: OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the

proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''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 publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program; *Use:* Section 302 of the MMA amended section 1847 of the Social Security Act (the Act) to require the implementation of the DMEPOS competitive bidding program. The Act provided the program requirements for the submission of bids in establishing payment rates and the awarding of contracts; provided the requirements for mergers and acquisitions; and a requirement for the Secretary to re-compete contracts not less often than once every 3 years. The MMA also requires the Secretary to re-compete contracts not less often than once every 3 years. The Round 1 Rebid contract period for all product categories except mail-order diabetic supplies expired on December 31, 2013. (Round 1 Rebid contracts for mail-order diabetic testing supplies ended on December 31, 2012.) The competition for the Round 1 Re-compete began in August of 2012. The Round 1 Re-compete contracts and prices became effective on January 1, 2014 and will expire on December 31, 2016. Round 2 and National Mail-Order contracts and prices will expire on June 30, 2016.

The most recent approval for this information collection request (ICR) was issued by OMB on June 10, 2013. That ICR included the estimated burden to collect the information in bidding Forms A and B for the Round 1 Re-compete. We are now seeking approval to collect the information in Forms A and B for competitions that will occur before 2017. For these upcoming competitions CMS will publish a slightly modified version of the RFB instructions and accompanying Forms A and B so that suppliers will be better able to identify and understand the requirements of the program. We decided to modify the Request for Bids (RFB) instructions and forms based on our experience from the last round of competition. The end result is expected to produce more complete and accurate information to evaluate suppliers. No new collection requirements have been added to the modified RFB instructions or Form A or B. Finally, we are retaining without change the Change of Ownership (CHOW) Purchaser Form and the CHOW Contract Supplier Notification Form, the Subcontracting Disclosure Form, and Forms C and D and their associated burden under this ICR. We intend to continue use of these forms on an ongoing basis.

Form Number: CMS–10169 (OMB control number: 0938–1016); *Frequency:* Occasionally; *Affected Public:* Private Sector—Business or other for-profits and Individuals or Households; *Number of Respondents:* 49,625; *Total Annual Responses:* 39,380; *Total Annual Hours:* 235,024. (For policy questions regarding this collection contact Michael Keane at 410–786–4495.)

Dated: June 27, 2014.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2014–15603 Filed 7–2–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval Texas Medicaid State Plan Amendment (SPA) 13–0045–MM2 and Texas Children's Health Insurance Program SPA 13–0035

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of hearing: reconsideration of disapproval.

SUMMARY: This notice announces an administrative hearing to be held on August 14, 2014, at the Department of Health and Human Services, Centers for Medicare and Medicaid Services, Division of Medicaid & Children's Health, Dallas Regional Office, 1301 Young Street, Room #801, 8th Floor Dallas, Texas 75202 to reconsider CMS' decision to disapprove Texas' Medicaid SPA 13–0045–MM2 and the CHIP SPA 13–0035.

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by (15 days after publication).

FOR FURTHER INFORMATION CONTACT: Benjamin R. Cohen, Presiding Officer, CMS, 2520 Lord Baltimore Drive, Suite L, Baltimore, Maryland 21244, Telephone: (410) 786–3169.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider CMS' decision to disapprove the Texas Medicaid SPA 13–0045–MM2 and the Children's Health Insurance Program (CHIP) SPA 13–0035 which were submitted to the Centers for Medicare and Medicaid Services (CMS) on December 31, 2013 and disapproved on March 31, 2014. In part, these SPAs request CMS approval of the state's proposed alternative single, streamlined application, both a paper version and online version, for completing an eligibility determination based on modified adjusted gross income (MAGI). Specifically, Texas's proposals requiring all applicants to submit information on assets and provide detailed information on absent parents make the application longer and the information is not necessary for completing an eligibility determination based on MAGI.

The issues to be considered at the hearing are:

- Whether Texas Medicaid SPA 13–0045–MM2, complied with the statutory requirement in section 1902(a)(19) of the Social Security Act (the Act), under which the state plan must assure that eligibility for care and services under

the plan will be determined and provided in a manner consistent with the simplicity of administration and the best interests of the recipients. Requiring applicants to provide additional detailed information, which is not necessary for determining their eligibility for coverage, is inconsistent with simplicity of administration of the state plan and is not in the best interests of Medicaid recipients or applicants.

• Whether Texas CHIP SPA 13–0035, complied with section 2101(a) of the Act which specifies that the state plan must assure that eligibility for care and services must be provided in an effective and efficient manner. Requiring applicants to provide additional detailed information, which is not necessary for determining their eligibility for coverage, is inconsistent with simplicity of administration of the state plan and is not in the best interests of CHIP recipients or applicants.

• Whether the state failed to comply with section 1902(e)(14)(C) of the Act, as added by section 2002 of the Affordable Care Act, and section 2102(b)(1)(B)(v) of the Act, as added by section 2101 of the Affordable Care Act, which prohibit the use of asset or resource tests as criteria for Medicaid and CHIP eligibility among eligibility groups subject to MAGI, including children, pregnant women, parents, and, if eligible in a state, other nondisabled, nonelderly adults. Consistent with these statutory provisions, questions about assets and resources were not included in the Secretary's model single streamlined application, which was released on April 30, 2013.

• Whether the state complied with the requirements of sections 1902(a)(4) and 2101(a) of the Act, as implemented in 42 CFR 435.907 and 42 CFR 457.330, for approval of an alternative single, streamlined application. While an alternative application may be tailored to accommodate state preferences and policies, it must also reflect the general principles of the model application and must comply with the applicable provisions of law and regulation. The regulations at 42 CFR 435.907 and 42 CFR 457.330 note specifically that the alternative application may be no more burdensome on the applicant than the model application. CMS guidance released June 18, 2013 further clarified that the application may only include questions that ''are necessary for determining eligibility for coverage in a Qualified Health Plan (QHP) and all insurance affordability programs, or the administration of these programs.''

Section 1116 of the Act and federal regulations at 42 CFR part 430, establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. CMS is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing, and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to Texas announcing an administrative hearing to reconsider the disapproval of its SPAs reads as follows:

Ms. Kay Ghahremani, State Medicaid Director, Texas Health and Human Services Commission, P.O. Box 13247, Austin, TX 78711.

Dear Ms. Ghahremani:

I am responding to your request for reconsideration of the decision to disapprove Texas's Medicaid state plan amendment (SPA) 13–0045–MM2 and the Children's Health Insurance Program (CHIP) SPA 13–0035, which were submitted to the Centers for Medicare and Medicaid Services (CMS) on December 31, 2013 and disapproved on March 31, 2014. I am scheduling a hearing on your request for reconsideration to be held on August 14, 2014, at the Department of Health and Human Services, Centers for Medicare and Medicaid Services, Division of Medicaid & Children's Health, Dallas Regional Office, 1301 Young Street, Room #801, Dallas, Texas 75202.

In part, these SPAs request CMS approval of the state's proposed alternative single, streamlined application, both a paper version and online version, for completing an eligibility determination based on modified adjusted gross income (MAGI). Specifically, Texas's proposals requiring all applicants to submit information on assets and provide detailed information on absent parents make the application longer and the information is not necessary for completing an eligibility determination based on MAGI.

In your request for reconsideration, you described changes that the state is considering with respect to these SPAs, and we will continue to talk with you about these changes. In the event that CMS and the state come to agreement on resolution of the issues, which formed the basis for disapproval, these SPAs may be moved to approval prior to the scheduled hearing.

The issues to be considered at the hearing are:

• Whether Texas Medicaid SPA 13–0045–MM2, complied with the statutory requirement in section 1902(a)(19) of the Social Security Act (the Act), under which the state plan must assure that eligibility for care and services under the plan will be determined and provided in a manner consistent with simplicity of administration and the best interests of the recipients. Requiring applicants to provide additional detailed information, which is not necessary for determining their eligibility for coverage, is inconsistent with the simplicity of administration of the state plan and is not in the best interests of Medicaid recipients or applicants.

• Whether Texas CHIP SPA 13–0035, complied with section 2101(a) of the Act which specifies that the state plan must assure that eligibility for care and services must be provided in an effective and efficient manner. Requiring applicants to provide additional detailed information, which is not necessary for determining their eligibility for coverage, is inconsistent with simplicity of administration of the state plan and is not in the best interests of CHIP recipients or applicants.

• Whether the state failed to comply with section 1902(e)(14)(C) of the Act, as added by section 2002 of the Affordable Care Act, and section 2102(b)(1)(B)(v) of the Act, as added by section 2101 of the Affordable Care Act which prohibit the use of asset or resource tests as criteria for Medicaid and CHIP eligibility among eligibility groups subject to MAGI, including children, pregnant women, parents, and, if eligible in a state, other nondisabled, nonelderly adults. Consistent with these statutory provisions, questions about assets and resources were not included in the Secretary's model single streamlined application, which was released on April 30, 2013.

• Whether the state complied with the requirements of sections 1902(a)(4) and 2101(a) of the Act, as implemented in 42 CFR 435.907 and 42 CFR 457.330, for approval of an alternative single, streamlined application. While an alternative application may be tailored to accommodate state preferences and policies, it must also reflect the general principles of the model application and must comply with the applicable provisions of law and regulation. The regulations at 42 CFR 435.907 and 42 CFR 457.330 note specifically that the alternative application may be no more burdensome on the applicant than the model application. CMS guidance released June 18, 2013 further clarified that the application may only include questions ''that are necessary for determining eligibility for coverage in a Qualified Health Plan (QHP) and all insurance affordability programs, or for the administration of these programs.''

If the hearing date is not acceptable, I would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed by federal regulations at 42 CFR part 430.

I am designating Mr. Benjamin R. Cohen as the presiding officer. If these arrangements present any problems, please contact the Mr. Cohen at (410) 786–3169. In order to

facilitate any communication that may be necessary between the parties prior to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the state at the hearing.

Sincerely,

Marilyn Tavenner,
Administrator.

Section 1116 of the Social Security Act (42 U.S.C. section 1316; 42 CFR section 430.18)

(Catalog of Federal Domestic Assistance program No. 13.714, Medicaid Assistance Program.)

Dated: June 27, 2014.

Marilyn Tavenner,

Administrator, Center for Medicare & Medicaid Services.

[FR Doc. 2014–15615 Filed 7–2–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0801]

Agency Information Collection Activities; Proposed Collection; Comment Request; Exports: Notification and Recordkeeping Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (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 export notification and recordkeeping requirements for persons exporting human drugs, biological products, devices, animal drugs, food, cosmetics, and tobacco that may not be marketed or sold in the United States.

DATES: Submit either electronic or written comments on the collection of information by September 2, 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, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Exports: Notification and Recordkeeping Requirements—21 CFR 1.101 (OMB Control Number 0910–0482)—Extension

Section 801 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 381) charges the Secretary of Health and Human Services, through FDA, with the responsibility of assuring exports (Exports: Notification and Recordkeeping Requirements—§ 1.101 (21 CFR 1.101)) which pertain to the exportation of unapproved new drugs, biologics, devices, animal drugs, food, cosmetics, and tobacco products are not be sold in the United States.

The respondents to this information collection are exporters who have notified FDA of their intent to export unapproved products that may not be sold or markets in the United States as allowed under section 801(e) of the FD&C Act. In general, the notification identifies the product being exported (e.g. name, description, and in some cases, country of destination) and specifies where the notifications were sent. These notifications are sent only for an initial export. Subsequent exports of the same product to the same destination or in the case of certain countries identified in section 802(b) of the FD&C Act (21 U.S.C. 382) would not result in a notification to FDA.

The recordkeepers to this information collection are exporters who export human drugs, biologics, devices, animal drugs, foods, cosmetics, and tobacco products that may not be sold in the United States and maintain records demonstrating their compliance with the requirements in section 801(e)(1) of the FD&C Act.

On March 30, 2012, OMB approved ''Further Amendments to General Regulations of the Food and Drug Administration to Incorporate Tobacco Products,'' OMB control number 0910–0690, which amended, among other sections, § 1.101 to incorporate tobacco products. This amendment reflects the Agency's authority over tobacco products under the Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31) and added tobacco products to the list of products covered under § 1.101(a) and (b).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
1.101(d) (Non-Tobacco products)	73	503	36,719	15	550,785

[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	No. of recordkeepers	No. of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
1.101(b), (c), and (e) (Non-Tobacco Products)	320	3	960	22	21,120
1.101(b) (Non-Tobacco Products for Office of International Programs only)	1	189	189	22	4,158
1.101(b) (Tobacco Products Only)	158	3	474	22	10,428
Total					35,706

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 26, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15647 Filed 7–2–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0307]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Antiparasitic Drug Use and Antiparasitic Resistance Survey

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 (the PRA).

DATES: Fax written comments on the collection of information by August 4, 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–NEW and title ''Antiparasitic Drug Use and Antiparasitic Resistance Survey.'' 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, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *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.

Antiparasitic Drug Use and Antiparasitic Resistance Survey—21 CFR 514.4 (OMB Control Number—0910–NEW)

Resistance of parasites to one or more of the major classes of FDA-approved antiparasitic drugs is a documented problem in cattle, horses, sheep, and goats in the United States. The results from this survey will provide FDA information that can be used to make decisions about future approaches to antiparasitic drugs. FDA will make the results of the survey publicly available.

FDA's Center for Veterinary Medicine (CVM) plans to survey members of veterinary professional organizations using an Internet-based survey instrument. The questions in the survey are designed to elicit professional opinions regarding the use of antiparasitic drugs and the awareness of antiparasitic drug resistance. The survey will query subjects on topics including: (1) Awareness of the issues related to antiparasitic drug resistance; (2) methods currently being used to detect and/or monitor for antiparasitic drug resistance; (3) management practices being used or recommended to manage or reduce antiparasitic drug resistance; and (4) labeling and marketing considerations for antiparasitic drugs.

In the **Federal Register** of December 3, 2012 (77 FR 71603), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received several comments in response to the notice, which are discussed below.

(Comment) The first comment stated that the collection is not necessary for the proper performance of FDA's functions.

(CVM Response) We disagree. The mission of the Office of New Animal Drug Evaluation within CVM is to expeditiously approve safe and effective, properly labeled, quality manufactured new animal drugs through a science-based approach in a regulatory environment. This collection is necessary for the proper performance of FDA/CVM's mission because it will help us gather information that can be used to appropriately label antiparasitic drugs and, thereby, enhance the sustainability and continued availability of approved antiparasitic drugs.

(Comment) Another comment stated that while assessing the current situation in the field is important, the information to be gained from the survey will have little practical utility because the data will be of opinions held by an extremely small sample size.

(CVM Response) The target population for this survey is the subset of veterinarians and parasitologists who have a direct opportunity to observe and assess the antiparasitic resistance issues in the field. CVM understands that a part of the target population, namely

veterinarians with training and experience with large animals, are diminishing in numbers in some areas of the United States (*https://www.avma.org/KB/Resources/Reference/Pages/Food-Supply-Veterinary-Medicine-Data-Maps.aspx*). While a wider and more general sampling of veterinarians would provide a larger sample size, such sampling would then include those who have opinions on the topic of antiparasitic resistance but not direct experience with the animal populations of interest. CVM designed the survey with input from subject matter experts, statisticians, and epidemiologists to reach the largest and most representative sample of this target population. Sample size, as well as total survey error, was considered in the design.

(Comment) One comment stated that there are numerous variables involved in the field; thus, measuring resistance by observational methods has questionable validity. Re-infection is a significant confounder which could mimic resistance. Resistance should be determined more scientifically, such as through a challenge model.

(CVM Response) The survey is not designed to measure antiparasitic resistance but to collect information from clinical experts who diagnose and treat the relevant animal populations and to provide a basis to assist in the design of labeling for approved antiparasitic drug products and the design of educational outreach programs. Data from laboratory-based, experimental models is extremely important for characterizing antiparasitic resistance. For successful translational research, both ''bench'' research, such as challenge models, and research from clinical or field settings, such as collecting the observations of clinicians treating and monitoring real animal patients are needed (*http://www.accessdata.fda.gov/scripts/animaldrugsatfda/details.cfm?dn=045-578*).

(Comment) One comment stated that many antiparasitic drugs are available as over-the-counter drugs. Inappropriate or inconsistent administration could produce a perceived resistance.

(CVM Response) CVM has not designed the survey to estimate the prevalence of resistance and agrees with the comment that the survey should not be used to draw conclusions about potential causes of resistance. The collection of such data would require a multiyear, multisite study of parasite resistance and antiparasitic drug use in multiple species in diverse geographic regions throughout the country. Such a study would be prohibitively expensive and complicated and is outside the scope of this survey. However, the survey is appropriately designed to gauge the level of awareness and concern about antiparasitic drug resistance issues among veterinarians using drugs in different clinical practice and production settings, as well as among academic parasitologists and scientists involved in drug research and development. In addition, the survey is designed to investigate methods currently used by veterinarians to detect, monitor, and manage parasites and antiparasitic drug resistance.

(Comment) Another comment suggested FDA's efforts regarding drug safety and efficacy are vital. The survey could potentially yield a small glimpse of conditions in the field; however, the information to be gathered seems to be an ill fit with postmarket surveillance as well as adverse event reporting.

(CVM Response) We agree that the survey should not attempt to obtain the same data as that obtained through postmarket surveillance and adverse event reporting. The survey is not designed to yield data or reports of adverse drug reactions, lack of effectiveness, or product defects which is obtained as part of postmarket surveillance. Information regarding the current state of awareness and concern about antiparasitic drug resistance issues in the field is important because it will assist CVM in the enhancement of appropriate labeling for the safe and effective use of approved antiparasitic drug products. The survey is one tool in a comprehensive antiparasitic resistance management strategy within CVM aimed at facilitating collaboration with CVM stakeholders on the issues related to antiparasitic resistance.

(Comment) Another comment stated that recommendations regarding the management or reduction of antiparasitic resistance are aspects of medical management and preventative herd health within the practice of veterinary medicine. Such recommendations are based upon veterinary expertise combined with several factors including animal owner capabilities, animal species and health, and the parasitic risks. The respondent questioned FDA's reasoning and intended regulatory use in gathering such information from responders, especially since such recommendations are available in scientific literature.

(CVM Response) The proposed survey is not intended as a replacement for the review of scientific research in published literature or the recommendations of expert veterinary parasitologists. As announced for the ''Antiparasitic Drug Use and Resistance in Ruminants and Equines; Public Meeting; Request for Comments'' (77 FR 7588, February 13, 2012; Docket No. FDA–2012–N–0102), CVM is committed to accessing and highlighting current research associated with the development and management of antiparasitic resistance in the United States. The survey is not designed to lead to any new recommendations regarding the management or reduction of antiparasitic resistance or provide recommendations related to the practice of veterinary medicine, but rather obtain information regarding the awareness and use of a variety of available strategies for detecting, monitoring, and/or managing antiparasitic resistance. CVM will not use the survey to undermine efforts of other organizations to provide science-based recommendations regarding the management or reduction of antiparasitic resistance. Instead, information obtained from the survey will be used to ensure properly labeled, safe, and effective antiparasitic drugs are available to veterinarians. In doing so, CVM will be providing the best array of options for veterinarians to choose from as they serve their patients and will be fulfilling its mission to protect human and animal health.

(Comment) Finally, one comment suggested that if a survey is to be done, it should be redesigned so that, while it may still gather opinions, it focuses on obtaining pertinent scientific information and more accurately targets respondents possessing the appropriate expertise on this particular subject. Also, that the incorporation of a scientific literature review may be beneficial in addressing some of the questions proposed.

(CVM Response) CVM believes that there are other more appropriate ways to obtain specific scientific information regarding antiparasitic resistance, such as holding public meetings, directly consulting with experts in the field of veterinary parasitology, and reviewing published literature available on the subject. As previously discussed, this survey is designed specifically to obtain information on the levels of awareness and concern related to antiparasitic resistance issues among veterinarians, key stakeholders for CVM.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Portion of study	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
Pre-test	7	1	7	.5 (30 minutes).	3.5
Survey	650	1	650	.5 (30 minutes).	325
Total					328.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA calculated the total annual responses by multiplying the number of respondents by the annual frequency. FDA calculated the total hours by multiplying the estimated hours per response by the number of respondents.

Dated: June 27, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15648 Filed 7–2–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Direct Service and Contracting Tribes; Tribal Management Grant Program

Announcement Type: New and Competing Continuation.

Funding Announcement Number: HHS–2014–IHS–TMD–0001.

Catalog of Federal Domestic Assistance Number: 93.228.

Key Dates

Application Deadline Date: August 5, 2014.

Review Date: August 18, 2014.

Earliest Anticipated Start Date: September 15, 2014.

Signed Tribal Resolutions Due Date: August 15, 2014.

Proof of Non-Profit Status Due Date: August 15, 2014.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting competitive grant applications for the Tribal Management Grant (TMG) program. This program is authorized under 25 U.S.C. 450h(b)(2) and 25 U.S.C. 450h(e) of the Indian Health Self-Determination and Education Assistance Act (ISDEAA), Public Law (Pub. L.) 93–638, as amended. This program is described in the Catalog of Federal Domestic Assistance under 93.228.

Background

The TMG Program is a competitive grant program that is capacity building and developmental in nature and has been available for Federally-recognized Indian Tribes and Tribal organizations (T/TO) since shortly after the passage of the ISDEAA in 1975. It was established to assist T/TO to assume all or part of existing IHS programs, functions, services, and activities (PFSA) and further develop and improve their health management capability. The TMG Program provides competitive grants to T/TO to establish goals and performance measures for current health programs; assess current management capacity to determine if new components are appropriate; analyze programs to determine if T/TO management is practicable; and develop infrastructure systems to manage or organize PFSA.

Purpose

The purpose of this IHS grant announcement is to announce the availability of the TMG Program to enhance and develop health management infrastructure and assist T/TO in assuming all or part of existing IHS PSFA through a Title I contract and assist established Title I contractors and Title V compactors to further develop and improve their management capability. In addition, TMGs are available to T/TO under the authority of 25 U.S.C. 450h(e) for: (1) Obtaining technical assistance from providers designated by the T/TO (including T/TO that operate mature contracts) for the purposes of program planning and evaluation, including the development of any management systems necessary for contract management and the development of cost allocation plans for indirect cost rates; and (2) the planning, designing, monitoring, and evaluation of Federal programs serving the T/TO, including Federal administrative functions.

II. Award Information

Type of Award

Grant.

Estimated Funds Available

The total amount of funding identified for the current fiscal year (FY) 2014 is approximately $1,412,000. Individual award amounts are anticipated to be between $50,000 and $100,000. The amount of funding available for both competing and continuation awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately 16–18 awards will be issued under this program announcement.

Project Period

The project periods vary based on the project type selected. Project periods could run from one, two, or three years and will run consecutively from the earliest anticipated start date of September 15, 2014 through September 14, 2015 for one year projects; September 15, 2014 through September 14, 2016 for two year projects; and September 15, 2014 through September 14, 2017 for three year projects. Please refer to ''Eligible TMG Project Types, Maximum Funding Levels and Project Periods'' below for additional details. State the number of years for the project period and include the exact dates.

III. Eligibility Information

1. Eligibility

Eligible Applicants: ''Indian Tribes'' and ''Tribal organizations'' (T/TO) as defined by the ISDEAA are eligible to apply for the TMG Program. The definitions for each entity type are outlined below. Only one application per T/TO is allowed.

Definitions: ''Indian Tribe'' means any Indian tribe, band, nation, or other

organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. 25 U.S.C. 450b(e).

''Tribal organization'' means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities. 25 U.S.C. 450b(l).

Tribal organizations must provide proof of non-profit status.

Eligible TMG Project Types, Maximum Funding Levels and Project Periods: The TMG Program consists of four project types: (1) Feasibility study; (2) planning; (3) evaluation study; and (4) health management structure. Applicants may submit applications for one project type only. Applicants must state the project type selected. Applications that address more than one project type will be considered ineligible. The maximum funding levels noted include both direct and indirect costs. Applicant budgets may not exceed the maximum funding level or project period identified for a project type. Applicants whose budget or project period exceed the maximum funding level or project period will be deemed ineligible and will not be reviewed. Please refer to Section IV.5, ''Funding Restrictions'' for further information regarding ineligible project activities.

1. Feasibility Study (Maximum Funding/Project Period: $70,000/12 Months)

The Feasibility Study must include a study of a specific IHS program or segment of a program to determine if Tribal management of the program is possible. The study shall present the planned approach, training, and resources required to assume Tribal management of the program. The study must include the following four components:

- Health needs and health care services assessments that identify existing health care services and delivery systems, program divisibility issues, health status indicators, unmet needs, volume projections, and demand analysis.
- Management analysis of existing management structures, proposed management structures, implementation plans and requirements, and personnel staffing requirements and recruitment barriers.
- Financial analysis of historical trends data, financial projections and new resource requirements for program management costs and analysis of potential revenues from Federal/non-Federal sources.
- Decision statement/report that incorporates findings, conclusions and recommendations; the presentation of the study and recommendations to the Tribal governing body for determination regarding whether Tribal assumption of program(s) is desirable or warranted.

2. Planning (Maximum Funding/Project Period: $50,000/12 Months)

Planning projects entail a collection of data to establish goals and performance measures for the operation of current health programs or anticipated PFSA under a Title I contract. Planning projects will specify the design of health programs and the management systems (including appropriate policies and procedures) to accomplish the health priorities of the T/TO. For example, planning projects could include the development of a Tribal Specific Health Plan or a Strategic Health Plan, etc. Please note that updated Healthy People information and Healthy People 2020 objectives are available in electronic format at the following Web site: *http://www.health.gov/healthypeople/publications.* The Public Health Service (PHS) encourages applicants submitting strategic health plans to address specific objectives of Healthy People 2020.

3. Evaluation Study (Maximum Funding/Project Period: $50,000/12 Months)

The Evaluation Study must include a systematic collection, analysis, and interpretation of data for the purpose of determining the value of a program. The extent of the evaluation study could relate to the goals and objectives, policies and procedures, or programs regarding targeted groups. The evaluation study could also be used to determine the effectiveness and efficiency of a Tribal program operation (i.e., direct services, financial management, personnel, data collection and analysis, third-party billing, etc.), as well as to determine the appropriateness of new components of a Tribal program operation that will assist Tribal efforts to improve their health care delivery systems.

4. Health Management Structure (Average Funding/Project Period: $100,000/12 Months; Maximum Funding/Project Period: $300,000/36 Months)

The first year maximum funding level is limited to $150,000 for multi-year projects. The Health Management Structure component allows for implementation of systems to manage or organize PFSA. Management structures include health department organizations, health boards, and financial management systems, including systems for accounting, personnel, third-party billing, medical records, management information systems, etc. This includes the design, improvement, and correction of management systems that address weaknesses identified through quality control measures, internal control reviews, and audit report findings under the Office of Management and Budget (OMB) *Circular A–133,* Audits of States, Local Governments and Non-Profit Organizations and ISDEAA requirements. For the minimum standards for the management systems used by Indian T/TO when carrying out self-determination contracts, please see 25 CFR part 900, Contracts Under the Indian Self-Determination and Education Assistance Act, Subpart F—''Standards for Tribal or Tribal Organization Management Systems,'' §§ 900.35–900.60. For operational provisions applicable to carrying out Self-Governance compacts, please see 42 CFR part 137, Tribal Self-Governance, Subpart I,—''Operational Provisions'' §§ 137.160–137.220.

Please see Section IV ''Application and Submission Information'' for information on how to obtain a copy of the TMG application package.

Note: Please refer to Section IV.2 ''Application and Submission Information/Subsection 2, Content and Form of Application Submission'' for additional proof of applicant status documents required such as Tribal resolutions, proof of non-profit status, etc.

To be eligible for this ''New/Competing Continuation Announcement,'' an applicant must be one of the following as defined by 25 U.S.C. 450b:

i. An Indian Tribe, as defined by 25 U.S.C. 450b(e); or

ii. A Tribal organization, as defined by 25 U.S.C. 450b(l).

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the ''Estimated Funds Available''

section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

The following documentation is required:

Tribal Resolution

A. *Signed Tribal Resolution*—A signed Tribal resolution of the Indian Tribes served by the project *must accompany* the electronic application submission. An Indian Tribe or tribal organization that is proposing a project affecting another Indian Tribe must include resolutions from all affected Tribes to be served. Applications by Tribal organizations will not require a specific Tribal resolution if the current Tribal resolution(s) under which they operate would encompass the proposed grant activities.

Draft Tribal resolutions are acceptable in lieu of an official signed resolution and must be submitted along with the electronic application submission prior to the official application deadline date or prior to the start of the Objective Review Committee (ORC) date.

Final Signed Tribal Resolutions: An official signed Tribal resolution must be received by the DGM prior to the beginning of the Objective Review. If an official signed resolution is not received by the Review Date listed under the Key Dates section on page one of this announcement, the application will be considered incomplete and ineligible.

B. Mail the official signed resolution to the DGM, Attn: Mr. Pallop Chareonvootitam, Grants Management Specialist (GMS), 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852. Applicants submitting Tribal resolutions after or aside from the required online electronic application submission deadline date must verify/have proof that the information was received by the IHS/DGM timely in order to satisfy eligibility requirements. It is highly recommended that the documentation be sent by a delivery method that includes delivery confirmation and tracking. Please contact Mr. Pallop Chareonvootitam, GMS, by telephone at (301) 443–5204 prior to the review date regarding submission questions.

C. Tribal organizations applying for technical assistance and/or training grants must submit documentation that the Tribal organization is applying upon the request of the Indian Tribe/Tribes it intends to serve.

D. Documentation for Priority I Participation requires a copy of the **Federal Register** notice or letter from the Bureau of Indian Affairs verifying establishment of Federally-recognized Tribal status within the last five years. The date on the documentation must reflect that Federal recognition was received during or after March 2009.

E. Documentation for Priority II Participation requires a copy of the most current transmittal letter and Attachment A from the Department of Health and Human Services (HHS), Office of Inspector General (OIG), National External Audit Review Center (NEAR). See ''FUNDING PRIORITIES'' below for more information. If an applicant is unable to locate a copy of the most recent transmittal letter or needs assistance with audit issues, information or technical assistance may be obtained by contacting the IHS, Office of Finance and Accounting, Division of Audit at (301) 443–1270, or the NEAR help line at (800) 732–0679 or (816) 426–7720. Federally-recognized Indian Tribes or Tribal organizations not subject to Single Audit Act requirements must provide a financial statement identifying the Federal dollars in the footnotes. The financial statement must also identify specific weaknesses/recommendations that will be addressed in the TMG proposal and that are related to 25 CFR part 900, Subpart F—''Standards for Tribal and Tribal Organization Management Systems.''

F. Documentation of Consortium Participation—If an Indian Tribe submitting an application is a member of an eligible intertribal consortium, the Tribe must:

—Identify the consortium.

—Indicate if the consortium intends to submit a TMG application.

—Demonstrate that the Tribe's application does not duplicate or overlap any objectives of the consortium's application.

—Identify all consortium member Tribes.

—Identify if any of the member Tribes intend to submit a TMG application of their own.

—Demonstrate that the consortium's application does not duplicate or overlap any objectives of the other consortium members who may be submitting their own TMG application.

FUNDING PRIORITIES: The IHS has established the following funding priorities for TMG awards:

- PRIORITY I—Any Indian Tribe that has received Federal recognition (including restored, funded, or unfunded) within the past five years, specifically received during or after March 2009, will be considered Priority I.
- PRIORITY II—Federally-recognized Indian Tribes or Tribal organizations submitting a competing continuation application or a new application for the sole purpose of addressing audit material weaknesses will be considered Priority II.

Priority II participation is only applicable to the Health Management Structure project type. For more information, see ''Eligible TMG Project Types, Maximum Funding Levels and Project Periods'' in Section II.

- PRIORITY III—Eligible Direct Service and Title I Federally-recognized Indian Tribes or Tribal Organizations submitting a competing continuation application or a new application will be considered Priority III.
- PRIORITY IV—Eligible Title V Self Governance Federally-recognized Indian Tribes or Tribal Organizations submitting a competing continuation or a new application will be considered Priority IV.

The funding of approved Priority I applicants will occur before the funding of approved Priority II applicants. Priority II applicants will be funded before approved Priority III applicants. Priority III applicants will be funded before Priority IV applicants. Funds will be distributed until depleted.

The following definitions are applicable to the PRIORITY II category:

Audit finding means deficiencies which the auditor is required by OMB Circular A–133, Subpart E 'Auditors', Section 510 'Audit findings', Subsection (a) 'Audit findings reported', to report in the schedule of findings and questioned costs.

Material weakness—''Statements on Auditing Standards 115'' defines material weakness as a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Significant deficiency—Statements on Auditing Standards 115 defines significant deficiency as a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

The audit findings are identified in Attachment A of the transmittal letter received from the HHS/OIG/NEAR. Please identify the material weaknesses to be addressed by underlining the item(s) listed on the Attachment A.

Federally-recognized Indian Tribes or Tribal organizations not subject to

Single Audit Act requirements must provide a financial statement identifying the Federal dollars received in the footnotes. The financial statement should also identify specific weaknesses/recommendations that will be addressed in the TMG proposal and that are related to 25 CFR part 900, Subpart F—''Standards for Tribal and Tribal Organization Management Systems.''

Please refer to Section IV, ''Application and Submission Information,'' particularly Item 5, ''Funding Restrictions'' and Section V. ''Application Review/Information'' regarding other application submission information and/or requirements.

Letters of Intent will not be required under this funding opportunity announcement.

Proof of Non-Profit Status

Organizations claiming non-profit status must submit proof. A copy of the 501(c)(3) Certificate must be received with the application submission by the Application Deadline Date listed under the Key Dates section on page one of this announcement.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_funding.*

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–2114.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. *Mandatory* documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed five pages).
- Project Narrative (must be single spaced and not exceed 15 pages).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Tribal Resolution. (Submission of either a final signed resolution or a draft resolution with the initial application is mandatory. If submitting a draft resolution, it is the applicant's responsibility to ensure that the final signed resolution is submitted prior to the objective review of applications date.)
- 501(c)(3) Certificate (if applicable).
- Position Descriptions for Key Personnel.
- Resumes for Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required) in order to receive IDC.
- Organizational Chart (optional).
- Documentation of current Office of Management and Budget (OMB) A–133 required Financial Audit (if applicable).

Acceptable forms of documentation include:

- Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
- Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/sac/dissem/accessoptions.html?submit=Go+To+Database*

Public Policy Requirement

All Federal-wide public policies apply to IHS grants and cooperative agreements with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate Word document that is no longer than 15 pages and must: be single-spaced, be type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½″ × 11″ paper.

Be sure to succinctly address and answer all questions listed under each part of the narrative and place all responses and required information in the correct section (noted below), or they shall not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming more familiar with the applicant's activities and accomplishments prior to this grant award. If the narrative exceeds the page limit, only the first 15 pages will be reviewed. The 15-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

Part A: Program Information (2 page limitation)

Section 1: Needs

Describe how the T/TO has determined the need to either enhance or develop its management capability to either assume PFSAs or not in the interest of self-determination. Note the progression of previous TMG projects/awards if/as applicable.

Part B: Program Planning and Evaluation (11 page limitation)

Section 1: Program Plans

Describe fully and clearly the direction the T/TO plans to take with the selected TMG project type in addressing their health management infrastructure including how the T/TO plans to demonstrate improved health and services to the community or communities it serves. Include proposed timelines.

Section 2: Program Evaluation

Describe fully and clearly the improvements that will be made by the T/TO that will impact their management capability or prepare them for future improvements to their organization that will allow them to manage their health care system and identify the anticipated or expected benefits for the Tribe.

Part C: Program Report (2 page limitation)

Section 1: Describe major accomplishments over the last 24 months.

Please identify and describe significant program achievements associated with the delivery of quality health services. Provide a comparison of the actual accomplishments to the goals established for the project period, or if applicable, provide justification for the lack of progress.

Section 2: Describe major activities over the last 24 months.

Please identify and summarize recent major health related project activities of the work done during the project period.

B. Budget Narrative: This narrative must include a line item budget with a narrative justification for all expenditures identifying reasonable and allowable costs necessary to accomplish

the goals and objectives as outlined in the project narrative. Budget should match the scope of work described in the project narrative. The page limitation should not exceed five pages.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 12:00 a.m., midnight Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. Grants.gov will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Paul Gettys, DGM (*Paul.Gettys@ihs.gov*) at (301) 443–2114. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

If the applicant needs to submit a paper application instead of submitting electronically via Grants.gov, a waiver must be requested. Prior approval must be requested and obtained from Ms. Tammy Bagley, Acting Director of DGM, (see Section IV.6 below for additional information). The waiver must: (1) Be documented in writing (emails are acceptable), before submitting a paper application and (2) include a clear justification for the need to deviate from the required electronic grants submission process. Written waiver request can be sent to *Tammy.Bagley@ihs.gov.* Once the waiver request has been approved, the applicant will receive a confirmation of approval and the mailing address to submit the application. Paper applications that are submitted without a copy of the signed waiver from the Acting Director of the DGM will not be reviewed or considered further for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5:00 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. *Late applications will not be accepted for processing or considered for funding.*

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant receives a waiver to submit paper application documents, they must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the Application Deadline Date listed in the Key Dates section on page one of this announcement.

Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- If it is determined that a waiver is needed, the applicant must submit a request in writing (emails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov.* Please include a clear justification for the need to deviate from the standard electronic submission process.
- If the waiver is approved, the application should be sent directly to the DGM by the Application Deadline Date listed in the Key Dates section on page one of this announcement.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for SAM and Grants.gov could take up to fifteen working days.
- Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this Funding Announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download the application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the Office of Direct Service and Contracting Tribes will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

All HHS recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on subawards. Accordingly, all IHS grantees must notify potential first-tier subrecipients that no entity may receive a first-tier subaward unless the entity has provided its DUNS

number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 15 page narrative should only include the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information. The narrative section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 60 points is required for funding. Points are assigned as follows:

1. Criteria

A. Introduction and Need for Assistance (20 points)

(1) Describe the T/TO's current health operation. Include what programs and services are currently provided (i.e., Federally-funded, State-funded, etc.), information regarding technologies currently used (i.e., hardware, software, services, etc.), and identify the source(s) of technical support for those technologies (i.e., Tribal staff, Area Office, vendor, etc.). Include information regarding whether the T/TO has a health department and/or health board and how long it has been operating.

(2) Describe the population to be served by the proposed project. Include the number of eligible IHS beneficiaries who currently use the services.

(3) Describe the geographic location of the proposed project including any geographic barriers to the health care users in the area to be served.

(4) Identify all TMGs received since FY 2009, dates of funding and a summary of project accomplishments. State how previous TMG funds facilitated the progression of health development relative to the current proposed project. (Copies of reports will not be accepted.)

(5) Identify the eligible project type and priority group of the applicant.

(6) Explain the need/reason for the proposed project by identifying specific gaps or weaknesses in services or infrastructure that will be addressed by the proposed project. Explain how these gaps/weaknesses have been assessed.

(7) If the proposed project includes information technology (i.e., hardware, software, etc.), provide further information regarding measures taken or to be taken that ensure the proposed project will not create other gaps in services or infrastructure (i.e., negatively affect or impact IHS interface capability, Government Performance and Results Act reporting requirements, contract reporting requirements, Information Technology (IT) compatibility, etc.) if applicable.

(8) Describe the effect of the proposed project on current programs (i.e., Federally-funded, State-funded, etc.) and, if applicable, on current equipment (i.e., hardware, software, services, etc.). Include the effect of the proposed project on planned/anticipated programs and/or equipment.

(9) Address how the proposed project relates to the purpose of the TMG Program by addressing the appropriate description that follows:

- Identify if the T/TO is an IHS Title I contractor. Address if the self-determination contract is a master contract of several programs or if individual contracts are used for each program. Include information regarding whether or not the Tribe participates in a consortium contract (i.e., more than one Tribe participating in a contract). Address what programs are currently provided through those contracts and how the proposed project will enhance the organization's capacity to manage the contracts currently in place.
- Identify if the T/TO is not a Title I organization. Address how the proposed project will enhance the organization's management capabilities, what programs and services the organization is currently seeking to contract and an anticipated date for contract.
- Identify if the T/TO is an IHS Title V compactor. Address when the T/TO entered into the compact and how the proposed project will further enhance the organization's management capabilities.

B. Project Objective(s), Work Plan and Approach (40 points)

(1) Identify the proposed project objective(s) addressing the following:

- Objectives must be measureable and (if applicable) quantifiable.
- Objectives must be results oriented.
- Objectives must be time-limited.

Example: By installing new third-party billing software, the Tribe will increase the number of bills processed by 15 percent at the end of 12 months.

(2) Address how the proposed project will result in change or improvement in program operations or processes for each proposed project objective. Also address what tangible products are expected from the project (i.e., policies and procedures manual, health plan, etc.).

(3) Address the extent to which the proposed project will build local capacity to provide, improve, or expand services that address the need(s) of the target population.

(4) Submit a work plan in the Appendix which includes the following information:

- Provide the action steps on a timeline for accomplishing the proposed project objective(s).
- Identify who will perform the action steps.
- Identify who will supervise the action steps taken.
- Identify what tangible products will be produced during and at the end of the proposed project.
- Identify who will accept and/or approve work products during the duration of the proposed project and at the end of the proposed project.
- Include any training that will take place during the proposed project and who will be providing and attending the training.
- Include evaluation activities planned in the work plans.

(5) If consultants or contractors will be used during the proposed project,

please include the following information in their scope of work (or note if consultants/contractors will not be used):

- Educational requirements.
- Desired qualifications and work experience.
- Expected work products to be delivered on a timeline.

If a potential consultant/contractor has already been identified, please include a resume in the Appendix.

(6) Describe what updates (i.e., revision of policies/procedures, upgrades, technical support, etc.) will be required for the continued success of the proposed project. Include when these updates are anticipated and where funds will come from to conduct the update and/or maintenance.

C. Program Evaluation (20 points)

Each proposed objective requires an evaluation component to assess its progression and ensure its completion. Also, include the evaluation activities in the work plan.

Describe the proposed plan to evaluate both outcomes and processes. Outcome evaluation relates to the results identified in the objectives, and process evaluation relates to the work plan and activities of the project.

(1) For outcome evaluation, describe:

- What will the criteria be for determining success of each objective?
- What data will be collected to determine whether the objective was met?
- At what intervals will data be collected?
- Who will collect the data and their qualifications?
- How will the data be analyzed?
- How will the results be used?

(2) For process evaluation, describe:

- How will the project be monitored and assessed for potential problems and needed quality improvements?
- Who will be responsible for monitoring and managing project improvements based on results of ongoing process improvements and their qualifications?
- How will ongoing monitoring be used to improve the project?
- Describe any products, such as manuals or policies, that might be developed and how they might lend themselves to replication by others.
- How will the organization document what is learned throughout the project period?

(3) Describe any evaluation efforts planned after the grant period has ended.

(4) Describe the ultimate benefit to the Tribe that is expected to result from this project. An example of this might be the ability of the Tribe to expand preventive health services because of increased billing and third party payments.

D. Organizational Capabilities, Key Personnel and Qualifications (15 points)

This section outlines the broader capacity of the organization to complete the project outlined in the work plan. It includes the identification of personnel responsible for completing tasks and the chain of responsibility for successful completion of the projects outlined in the work plan.

(1) Describe the organizational structure of the T/TO beyond health care activities, if applicable.

(2) Provide information regarding plans to obtain management systems if the T/TO does not have an established management system currently in place that complies with 25 CFR part 900, Subpart F, ''Standards for Tribal or Tribal Organization Management Systems.'' State if management systems are already in place and how long the systems have been in place.

(3) Describe the ability of the organization to manage the proposed project. Include information regarding similarly sized projects in scope and financial assistance as well as other grants and projects successfully completed.

(4) Describe what equipment (i.e., fax machine, phone, computer, etc.) and facility space (i.e., office space) will be available for use during the proposed project. Include information about any equipment not currently available that will be purchased through the grant.

(5) List key personnel who will work on the project. Include all titles of key personnel in the work plan. In the Appendix, include position descriptions and resumes for all key personnel. Position descriptions should clearly describe each position and duties, indicating desired qualifications and experience requirements related to the proposed project. Resumes must indicate that the proposed staff member is qualified to carry out the proposed project activities. If a position is to be filled, indicate that information on the proposed position description.

(6) Address how the T/TO will sustain the position(s) after the grant expires if the project requires additional personnel (i.e., IT support, etc.). State if there is no need for additional personnel.

(7) If the personnel are to be only partially funded by this grant, indicate the percentage of time to be allocated to the project and identify the resources used to fund the remainder of the individual's salary.

E. Categorical Budget and Budget Justification (5 points)

(1) Provide a categorical budget for each of the 12-month budget periods requested.

(2) If indirect costs are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the Appendix.

(3) Provide a narrative justification explaining why each categorical budget line item is necessary and relevant to the proposed project. Include sufficient cost and other details to facilitate the determination of cost allowability (i.e., equipment specifications, etc.).

Multi-Year Project Requirements (if applicable)

For projects requiring a second and/or third year, include only Year 2 and/or Year 3 narrative sections (objectives, evaluation components and work plan) that differ from those in Year 1. For every project year, include a full budget justification and a detailed, itemized categorical budget showing calculation methodologies for each item. The same weights and criteria which are used to evaluate a one-year project or the first year of a multi-year project will be applied when evaluating the second and third years of a multi-year application. A weak second and/or third year submission could negatively impact the overall score of an application and result in elimination of the proposed second and/or third years with a recommendation for only a one-year award.

Appendix Items

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart.
- Additional documents to support narrative (i.e. data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the ORC based on evaluation criteria in this funding announcement. The ORC could be composed of both Tribal and Federal reviewers appointed by the IHS program to review and make recommendations

on these applications. The technical review process ensures selection of quality projects in a national competition for limited funding. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. Applicants will be notified by DGM, via email, to outline minor missing components (i.e., budget narratives, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval (60 points required) and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the weaknesses and strengths of their application submitted. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved but Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved'', but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2014, the approved application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS Grants Management Official announcing to the Project Director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Grants are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

- 45 CFR part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR part 74, Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, and other Non-profit Organizations.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- 2 CFR part 225—Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87).
- 2 CFR part 230—Cost Principles for Non-Profit Organizations (OMB Circular A–122).

E. Audit Requirements:

- OMB Circular A–133, Audits of States, Local Governments, and Non-profit Organizations.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm*. For questions regarding the indirect cost policy, please call (301) 443–5204 to request assistance.

4. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Reports must be submitted electronically via GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Division of Payment Management, HHS at: *http://www.dpm.psc.gov*. It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information

being reported on all required reports: the Progress Reports and Federal Financial Report.

C. Federal Subaward Reporting System (FSRS)

This award may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier subawards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 subaward obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after and (2) the primary awardee will have a $25,000 subaward obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting. For the full IHS award term implementing this requirement and additional award applicability information, visit the Grants Management Grants Policy Web site at: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics*.

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Ms. Patricia Spotted Horse, Program Analyst, Office of Direct Service and Contracting Tribes, Indian Health Service, 801 Thompson Avenue, Suite 220, Rockville, MD 20852–1609, Telephone: (301) 443–1104, Fax: (301) 443–4666, Email: *Patricia.SpottedHorse@ihs.gov*.

2. Questions on grants management and fiscal matters may be directed to: Mr. Pallop Chareonvootitam, Grants Management Specialist, Division of Grants Management, Office of Management Services, Indian Health Service, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852–1609, Telephone: (301) 443–5204, Fax: (301) 443–9602, Email: *Pallop.Chareonvootitam@ihs.gov*.

3. Questions on systems matters may be directed to: Mr. Paul Gettys, Grant Systems Coordinator, Division of Grants Management, Office of Management Services, Indian Health Service, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 443–9602, E-Mail: *Paul.Gettys@ihs.gov*.

VIII. Other Information

The PHS strongly encourages all cooperative agreement and PHS contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: June 25, 2014.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2014–15595 Filed 7–2–14; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-day Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NICHD)

SUMMARY: *Eunice Kennedy Shriver* National Institute of Child Health and Human Development, as part of its 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. This notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Sarah L. Glavin, Deputy Director, Office of Science Policy, Analysis and Communication, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development, National Institutes of Health, 31 Center Drive, Room 2A18, Bethesda, Maryland 20892, or call a non-toll free number (301) 496–1877 or Email your request, including your address to *glavins@mail.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication

Proposed Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (NICHD), 0925–0643, Expiration Date 10/31/2014, EXTENSION, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH).

Need and Use of Information Collection: There are no changes being requested for this submission. The proposed 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 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 information about the NICHD's 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 NICHD and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses

will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the NICHD's services will be unavailable.

The NICHD will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered 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 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 4,950.

ESTIMATED ANNUALIZED BURDEN HOURS

Estimated annual reporting burden				
Type of collection	Number of respondents	Annual frequency per response	Hours per response	Total hours
Conference/Training—Pre and Post Surveys	100	1	15/60	25
Usability Testing	100	1	30/60	50
Focus Groups	750	1	1	750
Customer Satisfaction Survey	13,500	1	15/60	3,375
In-depth Interviews or Small Discussion Group	750	1	1	750
Total	15,200			4,950

Dated: June 24, 2014.

Sarah L. Glavin,

Deputy Director, Office of Science Policy, Analysis, and Communications, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health.

[FR Doc. 2014–15669 Filed 7–2–14; 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: Plasticity, Neuroprotection, and Function in Brain Injury and Cognitive Impairment.

Date: July 24, 2014.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alessandra C Rovescalli, Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205 MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Plasticity, Neuroprotection, and Function in Brain Injury and Addiction.

Date: July 25, 2014.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alessandra C Rovescalli, Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205 MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mechanisms of Neurodegenerative Disease and Injury.

Date: July 25, 2014.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Christine A Piggee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7850, Bethesda, MD 20892, 301–435–0657, *christine.piggee@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Biology.

Date: July 28, 2014.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Charles Morrow, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, 301–451–4467, *morrowcs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Structure and Function of 3–O-sulfated Heparan Sulfate.

Date: July 29–30, 2014.

Time: 7:00 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: Kathryn M Koeller, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koellerk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Adverse Drug Reactions in Children.

Date: July 29, 2014.

Time: 8:00 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 (Telephone Conference Call).

Contact Person: Janet M Larkin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7840, Bethesda, MD 20892, 301–806–2765, *larkinja@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: A Resource for Biomedical Mass Spectrometry.

Date: July 29–31, 2014.

Time: 5:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Chase Park Plaza, 212 N. Kingshighway, St Louis, MO 63108.

Contact Person: Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC, Bethesda, MD 20892, *belangerm@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: June 27, 2014.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15582 Filed 7–2–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine Notice of Meetings Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, Lister Hill National Center for Biomedical Communications, September 11, 2014, 9:00 a.m. to September 12, 2014, 11:00 a.m., National Library of Medicine, Building 38, Board Room, 8600 Rockville Pike, Bethesda, MD 20892 which was published in the **Federal Register** on June 9, 2014, 79 FR 110, Page 32968.

The meeting of the Board of Scientific Counselors, Lister Hill National Center for Biomedical Communications, will be held on September 18–19, 2014 instead of September 11–12, 2014, at 9:00 a.m. and will end at 11:00 a.m. The meeting is partially closed to the public.

Dated: June 27, 2014.

Michelle Trout,

Program Analyst, Office of the Federal Advisory Committee Policy.

[FR Doc. 2014–15557 Filed 7–2–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of National Institutes of Health Workshop on the Enrollment and Retention of Participants in NIH-Funded Clinical Trials

SUMMARY: The National Institutes of Health (NIH) is conducting a workshop with interested stakeholders in order to hear perspectives on issues related to the enrollment and retention of research participants in NIH-funded clinical

trials. The workshop will be open to the public.

DATES: The workshop will be held on Friday, July 25, 2014, from 8:15 a.m. to 5:45 p.m., in the NIH Porter Neuroscience Research Center, 35 Convent Drive, Bethesda, Maryland 20892.

FOR FURTHER INFORMATION CONTACT: Registration and workshop information is available at the NIH Office of Science Policy (OSP) Web site (*http://osp.od.nih.gov*). OSP's mailing address is 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892. Additional questions about the workshop may be directed to the office by calling 301–436–9838, or by emailing *OCRBP-OSP@od.nih.gov*.

SUPPLEMENTARY INFORMATION: The NIH's ability to improve the efficiency and effectiveness of its clinical trials is critical to the agency's mission to foster research strategies that protect and improve human health. The goal of the workshop is to explore strategies to enhance enrollment, recruitment, and retention of participants in clinical trials.

The meeting agenda covers a range of topics related to the enrollment and retention of clinical trial participants, including: current challenges in clinical trial participant enrollment; cultural and social considerations in clinical trial participant enrollment and outreach; recruitment and outreach considerations for underrepresented and vulnerable populations; roles for public foundations in clinical trial participant enrollment and retention; public private partnerships to improve patient and public awareness and engagement; models to identify and support clinical trial participants; and strategies for tracking and monitoring clinical trial participation and post-trial communication. A full meeting agenda will be available prior to the workshop at the NIH OSP Web site (*http://od.osp.nih.gov*).

The meeting will be open to the public, with attendance limited to the space available. Instructions for preregistration (required) are available on the NIH OSP Web site (*http://osp.od.nih.gov*). Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

In the interest of security, the NIH has instituted stringent procedures for entrance onto its Bethesda campus. All vehicles, including taxis, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. For more information about the security measures at the NIH, please visit the Web site at *http://www.nih.gov/about/visitorsecurity.htm*.

Dated: June 27, 2014.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2014–15681 Filed 7–2–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI Opportunities for Collaborative Research at the NIH Clinical Center.

Date: July 31, 2014.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, (Telephone Conference Call).

Contact Person: William J Johnson, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7178, Bethesda, MD 20892–7924, 301–435–0725, *johnsonwj@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: June 27, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15556 Filed 7–2–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given for the meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention National Advisory Council (CSAP NAC) on July 7, 2014.

The meeting will include the review, discussion and evaluation of grant applications reviewed by the Initial Review Group, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, this meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c)(4) and (6) and (c)(9)(B) and 5 U.S.C. App. 2, Section 10(d).

Substantive program information, a summary of the meeting, and a roster of committee members may be obtained either by accessing the SAMHSA Committee's Web site after the meeting, *http://nac.samhsa.gov/*, or by contacting the council's Designated Federal Officer.

Committee Name: Substance Abuse and Mental Health Services, Administration Center for Substance Abuse Prevention, National Advisory Council.

Date/Time/Type: July 7, 2014 from 2pm to 3pm EDT: (CLOSED).

Place: Teleconference.

Contact: Matthew J. Aumen, Designated Federal Officer, SAMHSA CSAP NAC, 1 Choke Cherry Road, Rockville, Maryland 20857, Telephone: 240–276–2419, Fax: 240–276–2430 and Email: *matthew.aumen@samhsa.hhs.gov*.

Cathy J. Friedman,

Public Health Analyst, Substance Abuse and Mental Health, Services Administration.

[FR Doc. 2014–15568 Filed 7–2–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet July 24, 2014, 2:00–3:30 p.m. in a closed teleconference meeting.

The meeting will include discussions and evaluations of grant applications reviewed by SAMHSA's Initial Review Groups, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. 552b(c)(4) and (6) and (c)(9)(B).

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA Committee Web site at *http://beta.samhsa.gov/about-us/advisory-councils/csat-national-advisory-council* or by contacting the CSAT National Advisory Council Designated Federal Officer, Ms. Cynthia Graham (see contact information below).

Committee Name: SAMHSA's Center for Substance Abuse Treatment, National Advisory Council.

Date/Time/Type: July 24, 2014, 2:00–3:30 p.m. CLOSED.

Place: SAMHSA Building, 1 Choke Cherry Road, Rockville, Maryland 20857.

Contact: Cynthia Graham, M.S., Designated Federal Officer, SAMHSA CSAT National Advisory Council, 1 Choke Cherry Road, Room 5–1035, Rockville, Maryland 20857, Telephone: (240) 276–1692, Fax: (240) 276–1690, Email: *cynthia.graham@samhsa.hhs.gov*.

Cathy J. Friedman,

Public Health Analyst, SAMHSA.

[FR Doc. 2014–15611 Filed 7–2–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0330; OMB Control Numbers 1625-(0020, 0024, 0029, 0031, 0085)]

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 collections of information: 1625–0020, Security Zones, Regulated Navigation Areas, and Safety Zones; 1625–0024, Safety Approval of Cargo Containers; 1625–0029, Self-propelled Liquefied Gas Vessels; 1625–0031, Plan Approval and Records for Electrical Engineering Regulations—Title 46 CFR Subchapter J; and 1625–0085, Streamlined Inspection Program. Our ICRs describes the information we seek to collect from the public. Before submitting these ICRs to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before September 2, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0330] 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 ICRs 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, US COAST GUARD, 2703 MARTIN LUTHER KING JR AVE. SE., STOP 7710, WASHINGTON DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: 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–2014–0330], and must be received by September 2, 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–2014–0330], 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–2014–0330'' 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–2014–0330'' 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:* Security Zones, Regulated Navigation Areas, and Safety Zones.

OMB Control Number: 1625–0020.

Summary: The Coast Guard collects this information only when someone seeks a security zone, regulated navigation area, or safety area. It uses the information to assess the need to establish one of these areas.

Need: Section 1226 and 1231 of 33 U.S.C. and 50 U.S.C. 191 and 195, and parts 6 and 165 of 33 CFR give the Coast Guard Captain of the Port (COTP) the authority to designate security zones in the U.S. for as long as the COTP deems necessary to prevent damage or injury. Section 1223 of 33 U.S.C. authorizes the Coast Guard to prescribe rules to control vessel traffic in areas he or she deems hazardous because of reduced visibility, adverse weather, or vessel congestion. Section 1225 of 33 U.S.C. authorizes the Coast Guard to establish rules to allow the designation of safety zones where access is limited to authorized persons, vehicles, or vessels to protect the public from hazardous situations.

Forms: Not applicable.

Respondents: Federal, State, and local government agencies, owners and operators of vessels and facilities.

Frequency: On occasion.

Burden Estimate: The estimated burden increased from 272 hours to 413 hours a year due to an increase in the estimated number of responses.

2. *Title:* Safety Approval of Cargo Containers.

OMB Control Number: 1625–0024.

Summary: This information collection is associated with requirements for owners and manufacturers of cargo containers to submit information and keep records associated with the approval and inspection of those containers. This information is required to ensure compliance with the International Convention for Safe Containers (CSC), 29 U.S.T. 3707; T.I.A.S. 9037.

Need: This collection of information addresses the reporting and recordkeeping requirements for containers in 49 CFR parts 450 through 453. These rules are necessary since the U.S. is signatory to the CSC. The CSC requires all containers to be safety approved prior to being used in trade. These rules prescribe only the minimum requirements of the CSC.

Forms: Not Applicable.

Respondents: Owners and manufacturers of containers and organizations that the Coast Guard delegates to act as an approval authority.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 104,095 hours to 98,452 hours a year due to a decrease in the estimated number of responses.

3. *Title:* Self-propelled Liquefied Gas Vessels.

OMB Control Number: 1625–0029.

Summary: The information is needed to ensure compliance with our rules for the design and operation of liquefied gas carriers.

Need: Title 46 U.S.C. sections 3703 and 9101 authorizes the Coast Guard to establish regulations to protect life, property, and the environment from the hazards associated with the carriage of dangerous liquid cargo in bulk. Title 46 C.F.R. part 154 prescribes the rules for the carriage of liquefied gases in bulk on self-propelled vessels by governing the design, construction, equipment, and operation of these vessels and the safety of personnel aboard them.

Forms: Not applicable.

Respondents: Owners and operators of self-propelled vessels carrying liquefied gas.

Burden Estimate: The estimated burden has increased from 6,754 hours to 7,890 hours a year due to an increase in the estimated number of respondents.

4. *Title:* Plan Approval and Records for Electrical Engineering Regulations—Title 46 CFR Subchapter J.

OMB Control Number: 1625–0031.

Summary: The information is needed to ensure compliance with our rules on electrical engineering for the design and construction of U.S. Flag commercial vessels.

Need: Title 46 U.S.C. 3306 and 3703 authorize the Coast Guard to establish rules to promote the safety of life and property in commercial vessels. The electrical engineering rules appear at 46 CFR chapter I, subchapter J (parts 110 through 113).

Forms: Not applicable.

Respondents: Owners, operators, shipyards, designers, and manufacturers of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 4,754 hours

to 6,843 hours a year due to an estimated increase in the annual number of responses.

5. *Title:* Streamlined Inspection Program.

OMB Control Number: 1625–0085.

Summary: The Coast Guard established an optional Streamlined Inspection Program (SIP) to provide owners and operators of U.S. vessels an alternative method of complying with inspection requirements of the Coast Guard.

Need: Section 3306 of 46 U.S.C. authorizes the Coast Guard to prescribe regulations necessary to carry out the inspections of vessels required to be inspected under 46 U.S.C. 3301, and 46 U.S.C. 3103 allows the Coast Guard to rely on reports, documents, and records of other persons who have been determined to be reliable to ensure compliance with vessels and seamen requirements under 46 U.S.C. subtitle II. The Streamlined Inspection Program regulations under 46 CFR part 8, subpart E, offer owners and operators of inspected vessels an alternative to traditional Coast Guard inspection procedures. Owners and operators of vessels opting to participate in the program will maintain a vessel in compliance with a Company Action Plan (CAP) and Vessel Action Plan (VAP) and have their own personnel periodically perform many of the tests and examinations conducted by marine inspectors of the Coast Guard. The Coast Guard expects participating vessels will continuously meet a higher level of safety and readiness throughout the inspection cycle.

Forms: Not applicable.

Respondents: Owners and operators of vessels.

Frequency: On occasion. Application and plan development occur only once at enrollment. Updates and revisions are required to be made every two years and the Officer in Charge, Marine Inspection (OCMI) and the company will review the plans every five years.

Burden Estimate: The estimated burden has decreased from 2,774 hours to 2,334 hours a year due to a decrease in the number of SIP participants (i.e., companies and vessels).

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: June 26, 2014.

Marshall B. Lytle,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2014–15671 Filed 7–2–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5793–N–01]

Notice of Calendar Year (CY) 2014 Annual Factors for Determining Public Housing Agency Administrative Fees for the Section 8 Housing Choice Voucher and Moderate Rehabilitation Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This Notice announces the monthly per unit fee amounts for use in determining the on-going administrative fee for housing agencies administering the rental voucher and moderate rehabilitation programs, including Single Room Occupancy during CY 2014.

DATES: *Effective Date:* January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Miguel Fontanez, Director, Housing Voucher Financial Management Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4222, 451 Seventh Street SW., Washington, DC 20410–8000, telephone number 202–402–2934. (This is not a toll-free number). Hearing or speech impaired individuals may call TTY number 1 (800) 877–8337.

SUPPLEMENTARY INFORMATION:

Purpose and Substantive Description

This Notice provides the Department's methodology to determine the CY 2014 administrative fees rates by area, which the Office of Housing Voucher Program (OHVP) will utilize to compensate public housing authorities (PHAs) for administering the Housing Choice Voucher (HCV) programs. The PIH Notice 2014–05, Implementation of the Federal Fiscal Year (FY) 2014 Funding Provision for the Housing Choice Voucher Program,[1] issued on March 18, 2014, describes the settlement process for this compensation, which will be a result of the mandate enacted in the ''Consolidated Appropriations Act, 2014'' (Pub. L. 113–76), signed on January 17, 2014.

B. FY 2014 Methodology

For CY 2014, in accordance with the Consolidated Appropriations Act, 2014, administrative fees will be paid on the basis of units leased as of the first day of each month; this data will be extracted from the Voucher Management System (VMS) at the close of each reporting cycle.

As noted in the attachment to this notice, two fee rates are provided for each public housing authority (PHA). The first rate, Column A, applies to the first 7200 unit months leased in CY 2014. The second rate, Column B, applies to all remaining unit months leased in CY 2014. In years prior to CY 2010, a Column C rate was also provided, which applied to all unit months leased in units owned by the PHA. For CY 2014 there are no Column C administrative fee rates. Fees for leasing PHA-owned units will be earned in the same manner and at the same Column A and Column B rates as for all other leasing.

Administrative fees are updated annually using the change in average wages for local government workers in each State metropolitan and non-metropolitan portion. Data on average wages come from the Bureau of Labor Statistics (BLS) Quarterly Census of Employment and Wages (QCEW) program.

The fee rates calculated for CY 2014, using the standard procedure described above, in many cases resulted in rates lower than those provided for CY 2013. In those cases, the affected PHAs are being held harmless at the CY 2013 rates.

The fee rates for each PHA are generally those rates covering the areas in which each PHA has the greatest proportion of its participants, based on Public Housing Information Center (PIC) data. In some cases, PHAs have participants in more than one fee area. If a PHA so chooses, the PHA may request that the Department establish a blended fee rate schedule that will consider proportionately all areas in which participants are located. Once a blended rate schedule is calculated, it will be used to determine the PHA's fee eligibility for all months of CY 2014. A PHA that received a blended fee rate schedule for 2013 will not receive it automatically for 2014; it must be requested. Requests for blended fee rates for CY 2014 were due on April 15, 2014, per instructions provided in the CY 2014 HCV Funding Implementation Notice, PIH 2014–05, published on March 18, 2014. HUD will evaluate the requests and will notify housing agencies of the results during the month of July, 2014.

These fee rates also apply to the Moderate Rehabilitation program and the 5-Year Mainstream Program.

[1] PIH Notice 2014–05 can be found at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/notices/pih.*

Paperwork Reduction Act Statement

The information collection requirements contained in this document are pending the approval by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and have been assigned OMB control number 2502–0348. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid control number.

Accordingly, the Department publishes the monthly per unit fee amount to be used for determining PHA administrative fees under the Housing Choice Voucher and Moderate Rehabilitation programs as set forth on the schedule appended to this notice.

The fee rates are posted on HUD's Web site at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv*.

Dated: June 26, 2014.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 2014–15712 Filed 7–2–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5750–N–27]

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: 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; (These are not toll-free numbers).

Dated: June 26, 2014.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 07/04/2014

Suitable/Available Properties

Building

Maryland

4 Buildings
Aberdeen Proving Ground
APG MD 21010
Landholding Agency: Army
Property Number: 21201420026
Status: Unutilized
Directions: E1375, E3244, E3306, E3615
Comments: off-site removal only; no future agency need; secured area; contact Army for more info. on a specific property & accessibility/removal reqs.

Unsuitable Properties

Building

Arizona

18 Buildings
Davis Monthan
4855 S. Wickenberg Avenue

Tucson AZ 85707
Landholding Agency: Air Force
Property Number: 18201420016
Status: Underutilized
Directions: FBNV7613; FBNV7708; FBNV7713; FBNV2350; FBNV2550; FBNV3501; FBNV4065; FBNV7403; FBNV7409; FBNV7427; FBNV7431; FBNV7434; FBNV7435; FBNV7437; FBNV7446; FBNV7507; FBNV7513; FBNV7514
Comments: public access denied and no alternate without compromising national security.
Reasons: Secured Area.

[FR Doc. 2014–15411 Filed 7–2–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FW–HQ–NCTC–2014–N137: FF09X32000–FXGO16610900400–145]

Proposed Information Collection; Application for Training, National Conservation Training Center

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on December 31, 2014. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by September 2, 2014.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0115'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Fish and Wildlife Service National Conservation Training Center (NCTC) in Shepherdstown, West Virginia, provides natural resource and other professional training for Service employees, employees of other Federal agencies, and other affiliations, including State agencies, private individuals, not-for-profit organizations, and university personnel. FWS Form 3–2193 (Training Application) is a quick and easy method for prospective students who are not from the Department of the Interior to request training. We encourage applicants to use FWS Form 3–2193 and to submit their requests electronically. However, we do not require applicants to complete both a training form required by their agency and FWS Form 3–2193. NCTC will accept any single training request as long as each submission identifies the name, address, and phone number of the applicant, sponsoring agency, class name, start date, and all required financial payment information.

NCTC uses data from the form to generate class rosters, class transcripts, and statistics, and as a budgeting tool for projecting training requirements. It is also used to track attendance, mandatory requirements, tuition, and invoicing for all NCTC–sponsored courses both onsite and offsite.

II. Data

OMB Control Number: 1018–0115.

Title: Application for Training, National Conservation Training Center.

Service Form Number: 3–2193.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Persons who wish to participate in training given at or sponsored by the National Conservation Training Center (NCTC).

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion when applying for training at NCTC.

Estimated Annual Number of Respondents: 500.

Estimated Total Annual Responses: 500.

*Estimated Time Per Res*ponse: 10 minutes.

Estimated Total Annual Burden Hours: 84.

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 27, 2014.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2014–15616 Filed 7–2–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FW–HQ–ES–2014–N138; FXHC11220900000–145–FF09E33000]

Proposed Information Collection; Land-Based Wind Energy Guidelines

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on December 31, 2014. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by September 2, 2014.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0148'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

As wind energy production increased, both developers and wildlife agencies recognized the need for a system to evaluate and address the potential negative impacts of wind energy projects on species of concern. We issued voluntary Land-Based Wind Energy Guidelines (*http://www.fws.gov/windenergy*) in March 2012 to provide a structured, scientific process for addressing wildlife conservation concerns at all stages of land-based wind energy development. The Guidelines also promote effective communication among wind energy developers and Federal, State, tribal, and local conservation agencies. When used in concert with appropriate regulatory tools, the Guidelines are the best practical approach for conserving species of concern.

The Guidelines discuss various risks to species of concern from wind energy projects, including collisions with wind turbines and associated infrastructure; loss and degradation of habitat from turbines and infrastructure; fragmentation of large habitat blocks into smaller segments that may not support sensitive species; displacement and behavioral changes; and indirect effects such as increased predator populations or introduction of invasive plants. The Guidelines assist developers in identifying species of concern that may potentially be affected by proposed projects, including, but not limited to:

- Migratory birds;
- Bats;
- Bald and golden eagles and other birds of prey;
- Prairie chickens and sage grouse; and
- Listed, proposed, or candidate endangered and threatened species.

The Guidelines follow a tiered approach. The wind energy developer begins at Tier 1 or Tier 2, which entails gathering of existing data to help identify any potential risks to wildlife and their habitats at proposed wind energy project sites. The developer then proceeds through subsequent tiers, as appropriate, to collect information in increasing detail until the level of risk is adequately ascertained and a decision on whether or not to develop the site can be made. Many projects may not proceed beyond Tier 1 or 2, when developers become aware of potential barriers, including high risks to wildlife. Developers would only have an interest in adhering to the Guidelines for those projects that proceed beyond Tier 1 or 2.

At each tier, wind energy developers and operators should retain documentation to provide to the Service. Such documentation may include copies of correspondence with the Service, results of pre- and post-construction studies conducted at project sites, bird and bat conservation strategies, or any other record that supports a developer's adherence to the Guidelines. The extent of the documentation will depend on the conditions of the site being developed. Sites with greater risk of impacts to wildlife and habitats will likely involve more extensive communication with the Service and longer durations of pre- and post-construction studies than sites with little risk.

Distributed or community-scale wind energy projects are unlikely to have significant adverse impacts to wildlife and their habitats. The Guidelines recommend that developers of these small-scale projects do the desktop analysis described in Tier 1 or Tier 2 using publicly available information to determine whether they should communicate with the Service. Since such project designs usually include a single turbine associated with existing development, conducting a Tier 1 or Tier 2 analysis for distributed or community-scale wind energy projects should incur limited nonhour burden costs. For such projects, if there is no potential risk identified, a developer will have no need to communicate with the Service regarding the project or to conduct studies described in Tiers 3, 4, and 5.

Adherence to the Guidelines is voluntary. Following the Guidelines does not relieve any individual, company, or agency of the responsibility to comply with applicable laws and regulations. Developers of wind energy projects have a responsibility to comply with the law; for example, they must obtain incidental take authorization for species protected by the Endangered Species Act and/or Bald and Golden Eagle Protection Act.

II. Data

OMB Control Number: 1018–0148.

Title: Land-Based Wind Energy Guidelines.

Service Form Number: None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Developers and operators of wind energy facilities.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Activity (reporting and recordkeeping)	Number of respondents	Number of responses	Completion time per response (hours)	Total annual burden hours	Nonhour burden cost per response	Total annual nonhour burden cost
Tier 1 (desktop analysis)	150	150	83	12,450	$2,000	$300,000
Tier 2 (site characterization)	110	110	375	41,250	4,000	440,000
Tier 3 (pre-construction studies)	80	80	2,880	230,400	23,000	1,840,000
Tier 4 (post-construction fatality monitoring and habitat studies)	50	50	2,550	127,500	95,000	4,750,000
Tier 5 (other post-construction studies	10	10	2,400	24,000	191,000	1,910,000
Totals	400	400		435,600		9,240,000

Estimated Annual Nonhour Burden Cost: $9,240,000. Costs will depend on the size and complexity of issues associated with each project. These expenses may include, but are not limited to: Travel expenses for site

visits, studies conducted, and meetings with the Service and other Federal and State agencies; training in survey methodologies; data management; special transportation such as all-terrain vehicles or helicopters; equipment needed for acoustic, telemetry, or radar monitoring, and carcass storage.

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 27, 2014.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2014–15617 Filed 7–2–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N068; FXES11120800000F2–145–FF08ECAR00]

Incidental Take Permit Application and Draft Environmental Assessment for the Proposed West Valley Habitat Conservation Plan, City of Colton, San Bernardino County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that we, the U.S. Fish and Wildlife Service (Service), have received an application for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act), from the City of Colton (City), San Bernardino County, California. The Service, in cooperation and coordination with the City, has prepared a draft environmental assessment (EA) under the National Environmental Policy Act (NEPA) for the City's permit application and proposed West Valley Habitat Conservation Plan (HCP). We have prepared the draft EA to analyze the impacts of the Service's proposed issuance of the requested permit for incidental take of the Delhi Sands flower-loving fly. The draft EA considers the environmental effects associated with the City's implementation of the proposed West Valley HCP, as well as the measures the City will undertake to minimize and mitigate the effects of incidental take to the maximum extent practicable. We provide the analysis in the draft EA to inform the public of the proposed action, alternatives, and associated impacts; and to disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives. We request public comment on the draft EA and proposed West Valley HCP for the City's proposed activities.

DATES: We will accept comments received or postmarked on or before September 2, 2014.

ADDRESSES: *Obtaining Documents:* You may use one of the methods below to request printed copies or a CD–ROM of the documents. Please send your requests or comments by any one of the following methods, and specify ''West Valley HCP'' in your request or comment.

Submitting Comments: You may submit comments or requests for copies or more information by one of the following methods.

- *Email: fw8cfwocomments@fws.gov.* Include ''West Valley HCP'' in the subject line of the message.
- *U.S. Mail:* U.S. Fish and Wildlife Service, Palm Springs Fish and Wildlife Office, Attn: Mr. Kennon A. Corey, Assistant Field Supervisor, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.
- *In-Person Drop-off, Viewing, or Pickup:* Telephone 760–322–2070 to make an appointment during regular business hours to drop off comments or view received comments at the address identified above.
- *Fax:* Mr. Kennon A. Corey, Assistant Field Supervisor, 760–322–4648, Attn: West Valley HCP.

FOR FURTHER INFORMATION CONTACT: Ms. Jenness McBride, Division Chief, Coachella and Imperial Valleys, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262, telephone 760–322–2070. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339 to contact the person identified above during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the person identified above. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of our draft EA for the City of Colton's proposed West Valley HCP, in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.;* NEPA), and NEPA implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6, as well as the availability of the City's 10(a)(1)(B) permit application in compliance with section 10(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). The draft EA considers the environmental effects associated with issuing the City's requested incidental take permit and implementation of the proposed West Valley HCP, including impacts to the endangered Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*).

Background

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and Federal regulations at 50 CFR part 17 prohibit the ''take'' of fish and wildlife species listed as endangered or threatened. Take of listed fish and wildlife is defined under the Act as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed animal species, or to attempt to engage in such conduct'' (16 U.S.C. 1538). Harm includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). Under limited circumstances, we may issue permits to authorize incidental take of listed wildlife species, which the Act defines as take that is incidental to, and not the purpose of, the carrying out of otherwise lawful activities.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. In addition to meeting

other criteria, activities covered by an incidental take permit must not jeopardize the continued existence in the wild of federally listed wildlife or plants. The incidental take permit, if issued, would confer assurances to the City regarding the endangered Delhi Sands flower-loving fly under the Service's ''No Surprises'' regulation at 50 CFR 17.22(b)(5). Take authorization for the Delhi Sands flower-loving fly would become effective upon permit issuance.

We are considering issuing a 30-year permit to the City that would authorize take of the Delhi Sands flower-loving fly incidental to activities described in the City's proposed West Valley HCP. Based on the results of focused surveys, we consider undeveloped portions of the proposed West Valley HCP area, which contain habitat of varying suitability, as occupied by the Delhi Sands flower-loving fly. Therefore, we have determined that the City's proposed activities would result in incidental take of that species. No other federally listed species are known to occupy the West Valley HCP area. The permit, if issued, would authorize incidental take of the Delhi Sands flower-loving fly associated with proposed urban development on approximately 79.4 acres, and with proposed habitat restoration and management of approximately 50.4 acres of on-site conservation areas, located in the City of Colton, San Bernardino County, California.

The West Valley HCP covers an approximately 416.3-acre area in the City of Colton, generally located south of San Bernardino Avenue, north of Valley Boulevard, west of Hermosa Avenue, and east of the City of Colton boundary with the City of Rialto. The West Valley HCP also covers an approximately 5.8-acre portion of East Slover Avenue south of Interstate 10 and west of Pepper Avenue.

Within the West Valley HCP area described above, the City has proposed certain urban development projects as Covered Activities for which the City would receive incidental take authorization under the Service's section 10(a)(1)(B) permit, provided those activities are otherwise lawful. Implementation of covered activities would result in the incidental take of the Delhi Sands flower-loving fly on approximately 79.4 acres of suitable habitat. The City's proposed Covered Activities include the following projects:

(1) New commercial, residential, industrial, and agricultural and/or horticultural development.

(2) Redevelopment programs and projects.

(3) Construction of public or public use facilities and structures, such as public roadways to their ultimate width as identified in the City's General Plan; improvements identified in adopted Transportation Improvement Programs; public utility infrastructure; trails and public access facilities; and other public facilities and projects identified in the City's General Plan.

(4) Ongoing operation, use, and maintenance of public and private facilities in the City.

(5) Restoration, monitoring, and management of existing and proposed conservation areas.

(6) Abandonment of a portion of East Slover Avenue to prevent illegal off-highway vehicle use in adjacent habitat.

(7) Activities undertaken in response to law enforcement and other emergencies.

To minimize and mitigate incidental take of the Delhi Sands flower-loving fly resulting from Covered Activities, the City proposes to set aside approximately 50.4 acres of suitable habitat in four permanent, on-site conservation areas for the species. The City would fund the restoration and management of the conservation areas through development fees and an agreement with the Riverside Land Conservancy, a non-profit land trust. We consider the conservation and management of 50.4 acres would offset the direct impacts of development on 79.4 acres of suitable habitat because the habitat placed in conservation would include the majority of high quality habitat occupied by the Delhi Sands flower-loving fly within the West Valley HCP area. In addition, the configuration of the four proposed conservation areas includes two large, connected blocks of occupied habitat, conservation of habitat contiguous to existing conserved habitat, and connectivity to existing conserved habitat immediately west of the HCP area.

National Environmental Policy Act Compliance

We provide this notice under section 10(c) of the Act and Service regulations for implementing NEPA. We have prepared a draft EA for the proposed action and have made it and the City's permit application available for public inspection (see **ADDRESSES**). NEPA requires that a range of reasonable alternatives, including the proposed action, be described. The draft EA analyzes three alternatives, which we developed in coordination with the City. The alternatives addressed include (1) the proposed action, which is permit issuance for incidental take associated with covered activities and establishment of on-site conservation areas; (2) an alternative for permit issuance with off-site conservation at the Colton Dunes Conservation Bank; and (3) the no-action alternative, which is no permit issuance and no comprehensive City-initiated HCP or conservation areas.

Public Review

The Service invites the public to comment on the permit application, including the proposed West Valley HCP and draft EA, during the public comment period. Copies of the documents will be available during a 60-day public comment period (see **DATES**). If you wish to comment, you may submit your comments to the address listed in **ADDRESSES**. 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 may 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.

Next Steps

Issuance of an incidental take permit is a Federal proposed action subject to compliance with NEPA. We will evaluate the application, associated documents, and any public comments we receive to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If we determine that those requirements are met, we will issue a permit to the Applicant for the incidental take of Delhi Sands flower-loving fly. We will make our final permit decision no sooner than 60 days from the date of this notice.

Dated: June 27, 2014.

Alexandra Pitts,

Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2014–15702 Filed 7–2–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2014–N132; 40120–1112–0000–F2]

Incidental Take Permit for Hydrocarbon Exploration Well Pad Construction; Lamar County, Mississippi

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: Under the Endangered Species Act, we, the U.S. Fish and Wildlife Service, announce the receipt and availability of a proposed low-effect habitat conservation plan and accompanying incidental take permit (ITP) for take of the gopher tortoise incidental to construction of a hydrocarbon exploration well pad in Lamar County, Mississippi. We invite public comments on these documents.

DATES: We must receive any written comments at our Mississippi Field Office (see **ADDRESSES**) on or before August 4, 2014.

ADDRESSES: *Obtaining Documents:* Documents are available for public inspection by appointment during normal business hours at the Fish and Wildlife Service's Mississippi Field Office, 6578 Dogwood View Parkway, Jackson, MS 39213. Please submit comments by U.S. mail to the Fish and Wildlife Service's Mississippi Field Office.

Submitting Comments: For how to submit comments, see Public Comments in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Mr. David Felder, Fish and Wildlife Biologist (see **ADDRESSES**); telephone: 601–321–1131.

SUPPLEMENTARY INFORMATION:

Introduction

We announce the availability of the proposed low-effect habitat conservation plan (HCP) which analyzes the take of the threatened gopher tortoise (*Gopherus polyphemus*) incidental to construction of a hydrocarbon exploration well pad. The applicant (Tellus Operating Group, LLC) requests a 5-year ITP under section 10(a)(1)(B) of the Endangered Species Act (Act; 16 U.S.C. 1531 *et seq.*). If we approve the ITP, the applicant anticipates the taking of up to two individual gopher tortoises over the 5-year span of the ITP.

Applicant's Proposal

The applicant proposes to minimize and mitigate the take of two gopher tortoises by relocating the tortoises impacted by well pad construction to unoccupied burrows within the tortoise colony using Service-approved relocation methods. The relocated tortoises will be monitored for 6 months. The relocated tortoises will be on lands owned and managed by the applicant as a long-leaf pine forest, where prescribed burning is conducted on a one-to-two-year cycle. All fees associated with the relocation, monitoring, and future management of on-site tortoise habitat will be paid by Tellus Operating Group, LLC.

Service's Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including the proposed mitigation and minimization measures, will individually and cumulatively, have a minor or negligible effect on the species covered in the HCP. Therefore, issuance of the ITP is a ''low-effect'' action and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA) (40 CFR 1506.6), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1), and as defined in our Habitat Conservation Planning Handbook (November 1996).

We base our determination that issuance of the ITP qualifies as a low-effect action on the following three criteria: (1) Implementation of the project would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) Implementation of the project would result in minor or negligible effects on other environmental values or resources; and (3) Impacts of the plan, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant. As more fully explained in our environmental action statement and associated Low-Effect Screening Form, the applicant's proposed project qualifies as a ''low-effect'' project. This preliminary determination may be revised based on our review of public comments that we receive in response to this notice.

Public Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

If you wish to comment, you may submit comments by any one of several methods. Please reference TE39407B–0 in such comments. You may mail comments to the Fish and Wildlife Service's Mississippi Field Office (see **ADDRESSES**). You may also comment via the internet to *david_felder@fws.gov.* Please include your name and return address in your internet message. If you do not receive a confirmation from us that we have received your internet message, contact us directly at either telephone number listed under **FOR FURTHER INFORMATION CONTACT**. Finally, you may hand-deliver comments to the office listed under **ADDRESSES**.

Covered Area

The area encompassed by the HCP and ITP application is the 4.85 acre hydrocarbon exploration well pad, located at latitude 31.068518, longitude—89.616833, Lamar County, Mississippi.

Next Steps

We will evaluate the ITP application, including the HCP and any comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of a section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP. If we determine that the requirements are met, we will issue the ITP for the incidental take of gopher tortoises.

Authority

We provide this notice under Section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: June 27, 2014.

Stephen Ricks,

Field Supervisor, Mississippi Field Office.

[FR Doc. 2014–15703 Filed 7–2–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2014–0038]

Atlantic Wind Lease Sale 3 (ATLW3) Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore Maryland—Final Sale Notice MMAA104000

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Final Sale Notice for Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore Maryland.

SUMMARY: This document is the Final Sale Notice (FSN) for the sale of two commercial wind energy leases on the Outer Continental Shelf (OCS) offshore Maryland, pursuant to BOEM's regulations at 30 CFR 585.216. BOEM is offering Lease OCS–A 0489 (North Lease Area) and Lease OCS–A 0490 (South Lease Area) for sale using a multiple factor auction format. The two lease areas (LAs) together comprise the Maryland Wind Energy Area (WEA) described in the *Call for Information and Nominations* (Call) published on February 3, 2012 (see ''Area Offered for Leasing'' below for a description of the WEA and LAs) (77 FR 5552). The two LAs are identical to those announced in the *Proposed Sale Notice (PSN) for Commercial Leasing for Wind Power on the Outer Continental Shelf (OCS) Offshore Maryland,* which was published on December 18, 2013, in the **Federal Register** with a 60-day public comment period (78 FR 76643). This FSN contains information pertaining to the areas available for leasing, lease provisions and conditions, auction details, the lease form, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution. The issuance of the leases resulting from this lease sale would not constitute an approval of project-specific plans to develop offshore wind energy. Such plans, expected to be submitted by successful lessees, will be subject to subsequent environmental and public review prior to a decision to proceed with development.

DATES: BOEM will hold a mock auction for the eligible bidders on August 12, 2014. The monetary auction will be held online and will begin at 8:30 a.m. Eastern Daylight Time (EDT) on August 19, 2014. Additional details are provided in the section entitled, ''Deadlines and Milestones for Bidders.''

FOR FURTHER INFORMATION CONTACT: Erin C. Trager, BOEM Office of Renewable Energy Programs, 381 Elden Street, HM 1328, Herndon, Maryland 20170, (703) 787–1320 or *erin.trager@boem.gov.*

Authority: This FSN is published pursuant to subsection 8(p) of the OCS Lands Act (43 U.S.C. 1337(p)) (''the Act''), as amended by section 388 of the Energy Policy Act of 2005 (EPAct), and the implementing regulations at 30 CFR Part 585, including 30 CFR 585.211 and 585.216.

Background: The two LAs offered in this FSN are the same areas BOEM announced in the PSN on December 18, 2013 (78 FR 76643). BOEM received 20 comment submissions in response to the PSN, which are available in the **Federal Register** docket for this notice through BOEM's Web site at: *http://www.boem.gov/State-Activities-Maryland/*. BOEM also has posted a document containing responses to comments submitted during the PSN comment period and listing other changes that BOEM has implemented for this lease sale since publication of the PSN. The document entitled, *Response to Comments and Explanation of Changes can be found at the following URL: http://www.boem.gov/State-Activities-Maryland/*.

On February 3, 2012, BOEM published a Notice of Availability (NOA) (77 FR 5560) for the final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for commercial wind lease issuance and site assessment activities on the Atlantic OCS offshore New Jersey, Delaware, Maryland, and Virginia, pursuant to the National Environmental Policy Act (NEPA). Consultations ran concurrently with the preparation of the EA and included consultation under the Endangered Species Act (ESA), Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), section 106 of the National Historic Preservation Act (NHPA), and the Coastal Zone Management Act (CZMA). The two LAs identified in this FSN together comprise the Maryland Wind Energy Area (WEA) described in the preferred alternative in the *Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore New Jersey, Delaware, Maryland, and Virginia Final Environmental Assessment* (Regional EA), which can be found at:*http://www.boem.gov/uploadedFiles/BOEM/Renewable_Energy_Program/Smart_from_the_Start/Mid-Atlantic_Final_EA_012012.pdf*.

On May 29, 2012, BOEM initiated consultation with the National Marine Fisheries Service under the ESA for geological and geophysical (G&G) activities in support of oil and gas exploration and development, renewable energy, and marine minerals in the Mid and South Atlantic Planning Areas. Formal consultation concluded on July 19, 2013, with receipt of a Biological Opinion that, along with the previous informal consultation, informed the development of the Maryland commercial wind lease packages.

Additional environmental reviews will be conducted upon receipt of the lessees' proposed project-specific plans, such as a Site Assessment Plan (SAP) or Construction and Operations Plan (COP).

Relevant Information for Potential Bidders

Potential bidders should be aware of the following items under consideration by BOEM relevant to or situated near the Maryland WEA.

Atlantic Grid Holdings LLC Right of Way (ROW) Grant Request: On March 31, 2011, Atlantic Grid Holdings LLC submitted an unsolicited application for a ROW grant. Following publication of a notice to determine competitive interest in the grant area and a 60-day public comment period, BOEM published its determination of no competitive interest on May 15, 2012 (77 FR 28620). The nomination and associated notices can be found at: *http://www.boem.gov/Renewable-Energy-Program/State-Activities/Regional-Proposals.aspx.* On May 1, 2013, Atlantic Grid Holdings LLC submitted a supplement to its application, which can be found at the web address above. BOEM anticipates that the Maryland lease sale will occur prior to a decision regarding the granting of a ROW to Atlantic Grid Holdings LLC, as a result of the required environmental compliance documentation that is still needed. BOEM does not foresee the activities under the ROW grant interfering with the lessee's ability to develop the lease areas.

Final Rule: Timing Requirements for the Submission of a SAP or General Activities Plan (GAP) for a Renewable Energy Project on the Outer Continental Shelf: On April 17, 2014, BOEM published its Final Rule to extend timing requirements for submitting a SAP and a GAP pursuant to its renewable energy regulations. Effective May 19, 2014, all OCS renewable energy lessees and grantees will have 12 months from lease or grant issuance to submit a SAP or GAP. Previously, BOEM regulations required lessees and grantees to submit a SAP or a GAP

either 60 days after BOEM determined there was no competitive interest in the lease or grant, or six months after the lease or grant was issued competitively. Leases OCS–A 0489 and OCS–A 0490 have been updated to conform to the Final Rule. The Final Rule can be found at: *http://www.boem.gov/FR-79-21617/.*

Potential Future Restrictions—Navigational Safety: Potential bidders should note that portions of certain sub-blocks in both the North and South LAs may not be available for future development (i.e., installation of wind facilities) due to navigational safety concerns, as discussed below.

Proximity to Delaware Bay Traffic Separation Scheme (TSS)

During discussions with the Maryland Intergovernmental Task Force on June 24, 2011, the U.S. Coast Guard (USCG) recommended that BOEM not approve the installation of wind facilities within 1 nautical mile of a TSS to help ensure navigational safety. This recommendation was reiterated at subsequent Task Force meetings. Moreover, the USCG has expressed that it may determine in the future that a larger setback is necessary under certain circumstances. Tables 1 and 2 list potentially affected blocks and assume a 1 nautical mile setback from an extended Delaware Bay TSS. Maps identifying these sub-blocks are available on BOEM's Web site at: *http://www.boem.gov/State-Activities-Maryland/.*

TABLE 1—NORTH LEASING AREA: BLOCKS WITH POTENTIAL RESTRICTIONS

Protraction name	Protraction No.	Block No.	Sub block
Salisbury	NJ18–05	6624	D,H.
Salisbury	NJ18–05	6625	E,I,N.
Salisbury	NJ18–05	6675	B,C,G,H,L,P.
Salisbury	NJ18–05	6676	M.
Salisbury	NJ18–05	6726	A,B,F.

TABLE 2—SOUTH LEASING AREA: BLOCKS WITH POTENTIAL RESTRICTIONS

Protraction name	Protraction No.	Block No.	Sub block
Salisbury	NJ18–05	6726	J,K,O,P.
Salisbury	NJ18–05	6776	D,H.
Salisbury	NJ18–05	6777	E,I,J,N.
Salisbury	NJ18–05	6827	C,G,H,L.
Salisbury	NJ18–05	6828	M.

Traditional Tug, Towing, and Barge Traffic Route

On April 22, 2013, BOEM received a letter from the USCG providing analysis of tug, towing, and barge traffic that currently transits through the MD WEA. The letter discussed potential safety implications of allowing offshore wind development in the area, particularly in the southeastern corner of the WEA, and requested that BOEM consider leasing two smaller LA configurations. This letter can be found on BOEM's Web site at: *http://www.boem.gov/State-Activities-Maryland/.*

BOEM gathered input regarding the area to lease from the members of BOEM's Maryland Intergovernmental Task Force during a Task Force webinar held on June 27, 2013, and received additional comments and correspondence from relevant stakeholders since that time. This includes correspondence received on August 29, 2013, from the American Waterways Operators (AWO), an organization representing the U.S. tugboat, towboat, and barge industry. In its August letter, AWO expressed concern with the Maryland WEA and its potential to disrupt traditional transit routes through the southeastern corner of the WEA. AWO stated that if full build-out were to occur in the Maryland WEA, this development could cause tugboats to navigate further east or west from their current north-south routes, which, in certain weather conditions, could put these vessels at greater risk and jeopardize safe transit due to different sea state conditions farther offshore and greater congestion closer inshore. This letter can be found on BOEM's Web site at: *http://www.boem.gov/State-Activities-Maryland/.*

In a letter to BOEM dated September 4, 2013, the Business Network for Maryland Offshore Wind requested that BOEM refrain from making any reductions to the Maryland WEA prior to leasing. They provide responses to the points in USCG's April 22, 2013, letter and suggest that reducing the area now, prior to receipt of a COP and an associated navigational risk assessment, would be premature. The letter suggests that any reduction of the area due to potential navigational safety risk and any associated costs of rerouting traffic would be best addressed during review of each lessee's COP in the context of a comprehensive Environmental Impact Statement (EIS).

After considering the issues raised by the USCG and other relevant parties and evaluating all information available to date pertaining to tug, towing, and barge traffic through the Maryland WEA, BOEM has decided not to reduce the size of the MD WEA offered in this FSN. BOEM will receive additional vessel traffic data and analysis in the future, which will better inform BOEM's decisions whether to approve, disapprove, or approve with conditions a lessee's COP, particularly with regard to site-specific restrictions or mitigations to alleviate navigational concerns. Additional information that BOEM expects to have available to inform its decision would include the final navigational safety risk assessment that will be submitted with each lessee's COP, and the results of two ongoing studies: (1) The U.S. Coast Guard's Atlantic Coast Port Access Route Study (ACPARS), and (2) a BOEM-funded study, ''Marine Vessel Traffic and Wind Energy Development Infrastructure on the OCS—Risk Analysis,'' being conducted by the Department of Energy's Pacific Northwest National Laboratory (PNNL). Further discussion on this topic is provided in the *Response to Comments and Explanation of Changes, which can be found at the following URL:http://www.boem.gov/State-Activities-Maryland/.*

List of Eligible Bidders: BOEM has determined that the following companies are legally, technically, and

financially qualified, pursuant to 30 CFR 585.106 and 107, to hold a commercial wind lease offshore Maryland, and are therefore eligible to participate in this lease sale as bidders.

Company name	Company No.
Apex Offshore Maryland, LLC	15048
Bluewater Wind Maryland LLC	15018
Convalt Energy LLC	15051
Dominion Wind Development, LLC	15049
EDF Renewable Development, Inc.	15028
Energy Management, Inc.	15015
Fishermen's Energy, LLC	15005
Green Sail Energy LLC	15045
IBERDROLA RENEWABLES, Inc.	15019
Maryland Offshore Wind LLC	15016
Orisol Energy US, Inc.	15020
RES America Developments Inc.	15021
SCS Maryland Energy LLC	15050
Sea Breeze Energy LLC	15044
Seawind Renewable Energy Corporation LLC	15017
US Wind Inc.	15023

Deadlines and Milestones for Bidders: This section describes the major deadlines and milestones in the auction process from publication of this FSN to execution of a lease pursuant to this sale.

• Bidder's Financial Form (BFF): Each eligible bidder must submit a BFF to BOEM by July 17, 2014. The BFF is available at: *http://www.boem.gov/State-Activities-Maryland/.* Once this information has been processed by BOEM, bidders may log into *pay.gov* and leave bid deposits. BOEM may disallow any bidder who fails to submit the BFF by this deadline from participating in the auction.

• Bid Deposits: Each bidder must submit an adequate bid deposit by August 1, 2014, as described in the ''Bid Deposits'' section. BOEM may disallow any bidder who fails to submit the bid deposit by this deadline from participating in the auction.

• Non-Monetary Package: Each bidder must submit a non-monetary package, if it is applying for a credit, by August 8, 2014.

• Mock Auction: BOEM will hold a Mock Auction on August 12, 2014. The Mock Auction will be held online. BOEM will contact each eligible bidder and provide instructions for participation. Only bidders eligible to participate in this auction will be permitted to participate in the Mock Auction.

• Panel Convenes to Evaluate Non-Monetary Packages: On August 15, 2014, the panel described in the ''Auction Procedures'' section will convene to consider non-monetary packages. The panel will send determinations of eligibility to BOEM, who will inform each bidder by email of the panel's determination of their status.

• Monetary Auction: On August 19, 2014, BOEM, through its contractor, will hold the monetary stage of the auction. The auction will start at 8:30 a.m. EDT. The auction will proceed electronically according to a schedule to be distributed by the BOEM Auction Manager at the time of the auction. BOEM anticipates that the auction may continue on consecutive business days, as necessary, until the auction ends according to the procedures described in the Auction Format section of this notice.

• Announce Provisional Winner: BOEM will announce the provisional winner of the lease sale after the auction ends.

• Reconvene the Panel: The panel will reconvene to verify auction results.

• Refund Non-Winners: BOEM will return the bid deposits of any bidders who did not win a lease.

• Department of Justice (DOJ) Review: BOEM will afford DOJ 30 days to conduct an antitrust review of the auction, pursuant to 43 USC 1337(c), which reads, in relevant part:

Antitrust review of lease sales. (1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary [of the Interior] shall allow the Attorney General, in consultation with the Federal Trade Commission, 30 calendar days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.

• Deliver the Leases: BOEM will send three lease copies to each winner, with instructions on how to accept and execute the lease. The first year's rent payment is due 45 days after the winner receives the lease for execution.

• Return the Leases: The auction winner will have 10 business days from receiving the lease copies in which to post financial assurance, pay any outstanding balance of their bonus bids, and sign and return the three copies.

• Execute the Leases: Once BOEM has received the lease copies and verified that all required materials have been received, BOEM will make a final determination regarding its execution of the lease and execute if appropriate.

• Reject Unsuccessful Bids: Once the lease has been executed, BOEM will provide unsuccessful bidders a written statement of the reasons their bids were rejected.

Areas Offered for Leasing: The North and South LAs described for leasing in this FSN are the same areas described in the Maryland PSN (78 FR 76643, December 18, 2013). The North and South LAs together contain 9 whole OCS blocks and 80 sub-blocks, or approximately 79,707 acres. The North LA consists of 32,737 acres and the South LA consists of 46,970 acres. If there are adequate bids, two leases will be issued pursuant to this lease sale. A description of the LAs and lease activities can be found in Addendum ''A'' of each lease, which BOEM has made available with this notice on its Web site at: *http://www.boem.gov/State-Activities-Maryland/.*

Map of the Area Offered for Leasing: A map of the North and South LAs can be found at the following URL: *http://www.boem.gov/State-Activities-Maryland/.*

A large scale map showing boundaries of the area with numbered blocks is available from BOEM at the following address: Bureau of Ocean Energy Management, Office of Renewable Energy Programs, 381 Elden Street HM 1328, Herndon, Virginia 20170, Phone: (703) 787–1300, Fax: (703) 787–1708.

Withdrawal of Blocks: Interested parties should note that BOEM reserves the right to withdraw portions of the LAs prior to its execution of a lease based upon relevant information provided to the Bureau.

Lease Terms and Conditions: BOEM has included specific terms, conditions, and stipulations for the OCS commercial wind leases in the Maryland WEA within Addendum ''C'' of each lease. BOEM reserves the right to apply additional terms and conditions to activities conducted on the lease incident to any future approval or approval with modifications of a SAP and/or COP. Each lease, including Addendum ''C'', is available on BOEM's Web site at: *http://www.boem.gov/State-Activities-Maryland/. Each lease consists of an instrument with 20 sections and the following seven attachments:*

• Addendum ''A'' (Description of Leased Area and Lease Activities);

• Addendum ''B'' (Lease Term and Financial Schedule);

• Addendum ''C'' (Lease-Specific Terms, Conditions, and Stipulations);

• Addendum ''D'' (Project Easement);

• Addendum ''E'' (Rent Schedule);

• Appendix A to Addendum ''C'' (Incident Report: Protected Species Injury or Mortality); and

• Appendix B to Addendum ''C'' (Required Data Elements for Protected Species Observer Reports).

Addenda ''A'', ''B'', and ''C'' provide detailed descriptions of lease terms and conditions. Addenda ''D'' and ''E'' will

be completed at the time of COP approval.

Plans: Pursuant to 30 CFR 585.601, the lessee must submit a SAP within the 1 year Preliminary Term. If the lessee intends to continue its commercial lease with an operations term, the lessee must submit a COP at least 6 months before the end of the site assessment term.

Financial Terms and Conditions: This section provides an overview of the basic annual payments that the Lessee must pay under the lease terms, and the financial assurance requirements that will be associated with each lease.

Rent: The first year's rent payment of $3 per acre for the entire leased area is due within 45 days of the date the winning bidder receives the lease for execution. Thereafter, annual rent payments are due on the anniversary of the Effective Date of the lease, i.e., the Lease Anniversary. Once the first commercial operations under the lease begin, rent will be charged on the part of the lease not authorized for commercial operations, i.e., not generating electricity. However, instead of geographically dividing the LA into acreage that is ''generating'' and acreage that is ''non-generating,'' the fraction of the lease accruing rent is based on the fraction of the total nameplate capacity of the project that is not yet in operation. The fraction is the nameplate capacity not yet authorized for commercial operations at the time payment is due, divided by the maximum nameplate capacity authorized in the lessee's most recent approved COP. This fraction is then multiplied by the amount of rent that would be due for the lessee's entire leased area at the rental rate of $3 per acre to obtain the annual rent due for a given year.

For example, for a lease the size of 32,737 acres (the size of the Maryland North LA), the amount of rent payment will be $98,211 per year if the entire leased area is not yet authorized for commercial operations. If the lessee has 250 megawatts (MW) authorized under commercial operations and its most recent approved COP specifies a maximum project size of 500 MW, the rent payment will be $49,106 (reflecting that rental payments are rounded up to the nearest whole dollar).

The lessee also must pay rent for any project easement associated with the lease commencing on the date that BOEM approves the COP (or modification) that describes the project easement. Annual rent for a project easement that is 200 feet wide and centered on the transmission cable would be $70 per statute mile. For any additional acreage required, the lessee must also pay the greater of $5 per acre per year or $450 per year.

Operating Fee: For the purposes of calculating the initial annual operating fee payment, an operating fee rate is applied to a proxy for the wholesale market value of the electricity expected to be generated from the project during its first 12 months of operations. This initial payment is prorated to reflect the period between the commencement of commercial operations and the Lease Anniversary. The initial annual operating fee payment is due within 45 days of the start of commercial operations. Thereafter, subsequent annual operating fee payments are due on or before each Lease Anniversary.

The subsequent annual operating fee payments are calculated by multiplying the operating fee rate by the imputed wholesale market value of the projected annual electric power production. For the purposes of this calculation, the imputed market value is the product of the project's nameplate capacity, the total number of hours in the year (8,760), a capacity utilization factor, and the annual average price of electricity derived from a historical regional wholesale power price index. For example, an annual operating fee for a 100 MW wind facility operating at 40% capacity (decimal equivalent is 0.4) with a regional wholesale power price of $40/MWh under an operating fee rate of 2% (decimal equivalent is 0.02) would be calculated to be $277,440 as follows: Annual operating fee = 100 MW × 8,670 hours/year × 0.4 × $40/MWh power price × 0.02.

Operating Fee Rate: The operating fee rate is set at 0.02 (i.e., 2%) during the entire life of commercial operations.

Nameplate Capacity: Nameplate capacity is the maximum rated electric output, expressed in MW, which the turbines of the wind facility under commercial operations can produce at their rated wind speed as designated by the turbine's manufacturer. The nameplate capacity at the start of each year of commercial operations on the lease will be specified in the COP. For example, if the Lessee has 20 turbines under commercial operations rated by the design manufacturer at 5 MW of output each, the nameplate capacity of the wind facility at the rated wind speed of the turbines would be 100 MW.

Capacity Factor: The capacity factor relates to the amount of energy delivered to the grid during a period of time compared to the amount of energy the wind facility would have produced at full capacity during that same period of time. This factor is represented as a decimal between zero and one. There are several reasons why the amount of power delivered is less than the theoretical 100% of capacity. For a wind facility, the capacity factor is mostly determined by the availability of wind. Transmission line loss and down time for maintenance or other purposes also affect the capacity factor.

The capacity factor for the year in which the commercial operation date occurs and for the first six full years of commercial operations on the lease is set to 0.4 (i.e., 40%) to allow for one year of installation and testing followed by five years at full availability. At the end of the sixth year, the capacity factor may be adjusted to reflect the performance over the previous five years based upon the actual metered electricity generation at the delivery point to the electrical grid. Similar adjustments to the capacity factor may be made once every five years thereafter. The maximum change in the capacity factor from one period to the next will be limited to plus or minus 10 percent of the previous period's value.

Wholesale Power Price Index: The wholesale power price, expressed in dollars per MW-hour, is determined at the time each annual operating fee payment is due, based on the weighted average of the inflation-adjusted peak and off-peak spot price indices for the Northeast—PJM West power market for the most recent year of data available as reported by the Federal Energy Regulatory Commission (FERC) as part of its annual *State of the Markets Report* with specific reference to the summary entitled, ''Electric Market Overview: Regional Spot Prices.'' The wholesale power price is adjusted for inflation from the year associated with the published spot price indices to the year in which the operating fee is to be due based on the Lease Anniversary using annual implicit price deflators as reported by the U.S. Department of Commerce's Bureau of Economic Analysis.

Financial Assurance: Within 10 business days after receiving the lease copies, the provisional winner must provide an initial lease-specific bond or other approved means of meeting the Lessor's initial financial assurance requirements in the amount of $100,000. BOEM will base the amount of all SAP, COP, and decommissioning financial assurance requirements on estimates of the cost to meet all accrued lease obligations. BOEM will determine the amount of supplemental and decommissioning financial assurance requirements on a case-by-case basis.

The financial terms can be found in Addendum ''B'' of the lease, which BOEM has made available with this notice on its Web site at: *http://*

www.boem.gov/State-Activities-Maryland/.

BID Deposit: A bid deposit is an advance cash deposit submitted to BOEM in order to participate in the auction. No later than August 1, 2014, each bidder must have submitted a bid deposit of $450,000 per unit of desired initial eligibility. Each lease is worth one unit of bid eligibility in the auction. The required bid deposit for any participant intending to bid on both leases in the first round of the auction will be $900,000. Any participant intending to bid on only one of the leases during the auction must submit a bid deposit of $450,000. Any bidder that fails to submit the bid deposit by August 1, 2014, may be disqualified from participating in the auction. Bid deposits will be accepted online via *pay.gov.*

Following publication of the FSN, each bidder must fill out the BFF included in the FSN. BOEM has made a copy of the proposed BFF available with this notice on its Web site at: *http://www.boem.gov/State-Activities-Maryland/.* This form requests that each bidder designate an email address, which the bidder should use to create an account in *pay.gov.* After establishing the *pay.gov* account, bidders may use the Bid Deposit Form on the *pay.gov* Web site to leave a deposit.

Following the auction, bid deposits will be applied against any bonus bids or other obligations owed to BOEM. If the bid deposit exceeds a bidder's total financial obligation, the balance of the bid deposit will be refunded to the bidder. BOEM will refund bid deposits to unsuccessful bidders.

Minimum Bid: In this auction, approximately 32,737 acres will be offered for sale as Lease OCS–A 0489 (North Lease Area), and approximately 46,970 acres will be offered for sale as Lease OCS–A 0490 (South Lease Area). The minimum bid is $2 per acre for each LA. Therefore, the minimum acceptable bid will be $65,474 for the North Lease Area and $93,940 for the South Lease Area.

Auction Procedures

Summary

For the sale of Lease OCS–A 0489 (North Lease Area) and Lease OCS–A 0490 (South Lease Area), BOEM will use a multiple-factor auction format with a multiple-factor bidding system. Under this system, BOEM may consider a combination of monetary and nonmonetary factors, or ''variables,'' in determining the outcome of the auction. BOEM has appointed a panel of three BOEM employees for the purposes of reviewing the non-monetary packages and verifying the results of the lease sale. BOEM reserves the right to change the composition of this panel prior to the date of the lease sale. The panel will meet to consider non-monetary packages on August 15, 2014. The panel will determine whether any bidder has earned a non-monetary credit to be used during the auction, and, if one or more bidders have earned such a credit, the percentage the credit will be worth.

The auction will balance consideration of two variables: (1) a cash bid, and (2) a non-monetary credit, i.e., if a bidder holds a Power Purchase Agreement (PPA), or a Maryland Public Service Commission (PSC) issued Offshore Renewable Energy Credit (OREC), as described herein. In sum, these two variables comprise the multi-factor bid or ''As-Bid'' auction price. A bidder's As-Bid price, which is the sum of its cash bid and any credit portion earned, can be submitted by the bidder at BOEM's asking price or as an Intra-Round Bid price subject to certain conditions, as described more fully herein. BOEM's regulations at 30 CFR 585.220(a)(4) and 585.221(a)(6) provide for multiple-factor auctions, wherein both monetary and nonmonetary bid variables may be considered.

Overview of the Multiple-Factor Bidding Format Proposed for This Sale

Under a multiple-factor bidding format, as set forth at 30 CFR 585.220(a)(4), BOEM may consider a combination of factors as part of a bid. The regulations state that one bid proposal per bidder will be accepted, but do not further specify the procedures to be followed in the multiple-factor format. A multiple-factor format is intended to allow BOEM flexibility in administering the auction and in balancing the variables presented. The regulations leave to BOEM the determination of how to administer the multiple-factor auction format to ensure the receipt of a fair return under the Act, 43 U.S.C. 1337(p)(2)(A). BOEM has chosen to do this through an auction format that considers a non-monetary factor along with ascending bidding over multiple rounds, sharing certain useful information with bidders at the end of each auction round (e.g., the number of live bids associated with each LA), and ensuring that a bidder's live bid submitted in the final round of the auction will win the LAs included in that bid. This auction format enhances competition and reduces bidder uncertainty more effectively than other auction types that BOEM considered because the multiple-factor format provides for sharing relevant information and allowing bidders to respond in subsequent rounds as that information is revealed.

BOEM's regulations at 30 CFR 585.220(a)(4) provide for a multi-round auction in which each bidder may submit only one proposal per LA or for a set of LAs in each round of the auction. This formulation presents an administratively efficient auction process. It also takes advantage of the flexibility built into the regulations by enabling BOEM to benefit from both the consideration of more than one bidding factor and the price discovery involved in successive rounds of bidding.

The auction will be conducted in a series of rounds. At the start of each round, BOEM will state an asking price for the North LA and an asking price for the South LA. The asking price for a bid on both LAs is the sum of the asking prices for the North LA and the South LA. Each bidder will indicate whether it is willing to meet the asking price for one or both LAs. A bid submitted at the full asking price for one or both LAs in a particular round is referred to as a ''live bid.'' A bidder must submit a live bid for at least one of the LAs in each round to participate in the next round of the auction. As long as there is at least one LA that is included in two or more live bids, the auction continues, and the next round is held.

A bidder may meet the asking price by submitting a monetary bid equal to the asking price or, if it has earned a credit, by submitting a multiple-factor bid—that is, a live bid that consists of a monetary element and a non-monetary element, the sum of which equals the asking price. A multiple-factor bid would consist of the sum of a cash portion and any credit portion that the bidder has earned.

An uncontested bid is a live bid that does not overlap with other live bids in that round. For example, a bid for both the North and the South LAs is considered contested if any LA included in that bid is included in another bid — a bid cannot be ''partially uncontested.'' If a bidder submits an uncontested bid consisting of one LA, and the auction continues for another round, BOEM automatically carries that same live bid forward as a live bid into the next round, and BOEM's asking price for the LA contained in the uncontested bid would remain unchanged from the previous round. If the price on the LA in that bid rises later in the auction because another bidder places a live bid on that LA, BOEM will stop automatically carrying forward the previously uncontested bid. Once the

asking price goes up, the bidder that placed the previously carried-forward bid is free to bid on either LA at the new asking prices.

Following each round in which either LA is contained in more than one live bid, BOEM will raise the asking price for that LA by an increment determined by BOEM. The auction concludes when neither the North LA nor the South LA is included in more than one live bid. The series of rounds and the rising asking prices set by BOEM will facilitate consideration of the first variable—the cash portion of the bid.

The second variable—a credit of up to 25% of a monetary bid for holding a PPA or a Maryland OREC Order—will be applied throughout the auction rounds as a form of imputed payment against the asking price for the highest priced LA in a bidder's multiple-factor bid. This credit serves to supplement the amount of a cash bid proposal made by a particular bidder in each round. In the case of a bidder holding a credit and bidding on more than one LA, the credit will be applied only on the LA with the highest asking price. More details on the non-monetary factors are found in the ''Credit Factors'' section herein.

Under BOEM's regulations at 30 CFR 585.222(d), a panel will weigh the variables and determine the winner(s) of the auction. The regulations state that BOEM ''will determine the winning bid for proposals submitted under the multiple-factor bidding format on the basis of selection by the panel. . .'' 30 CFR 585.224(h). The panel will evaluate each non-monetary package to determine whether it meets the criteria provided in this FSN, and therefore whether it will qualify for a credit for its holder. It is possible that the panel could determine that no bidder qualifies for a non-monetary credit during the auction, in which case the auction would otherwise proceed as described in the FSN. The panel will determine the winning bids for each LA in accordance with the procedures described in this FSN.

Details of the Auction Process

Bidding—Live Bids

Each bidder is allowed to submit a live bid for one LA (North or South), or both LAs based on its ''eligibility'' at the opening of each round. A bidder's initial eligibility is determined based on the amount of the bid deposit submitted by the bidder by August 1, 2014. To be eligible to offer a bid on one LA at the start of the auction, a bidder must submit a bid deposit of $450,000. To be eligible to offer a bid on both the North and South LAs in the first round of the auction, the bidder must submit a bid deposit of $900,000. A bidder's bid deposit will be used by BOEM as a down payment on any monetary obligations incurred by the bidder should it be awarded a lease.

As the auction proceeds, a bidder's continuing eligibility is determined by the number of LAs included in its live bid submitted in the round prior to the current round. That is, if a bidder submitted a live bid on one LA in the previous round, that bidder may submit a bid that includes at most one LA in the current round. If a bidder submitted a live bid comprised of both LAs in the previous round, that bidder may submit a live bid that also includes these two LAs in the current round. Unless a bidder has an uncontested bid that is carried forward into the next round, a bidder that submitted a live bid for both LAs may choose to submit a live bid for one LA. Thus, eligibility in successive rounds may stay the same or go down, but it can never go up.

In the first round of the auction, bidders have the following options:

A bidder with an initial eligibility of one (that is, a bidder who submitted a bid deposit of $450,000) may:

- Submit a live bid on the North LA or the South LA, or
- Submit nothing, and drop out of the bidding.

A bidder with an initial eligibility of two (that is, a bidder who submitted a bid deposit of $900,000) may:

- Submit a live bid for both the North and South LAs,
- Submit a live bid for either the North LA or the South LA, or
- Submit nothing, and drop out of the bidding.

Before each subsequent round of the auction, BOEM will raise the asking price for any LA that received more than one live bid in the previous round. BOEM will not raise the asking price for a LA that received only one or no live bids in the previous round.

BOEM, in its sole discretion, will determine asking price increments. BOEM will base asking price increments on a number of factors, including:

- Making the increments sufficiently large that the auction will not take an unduly long time to conclude; and
- Decreasing the increments as the asking price of a LA nears its apparent final price.

BOEM reserves the right during the auction to increase or decrease increments if it determines, in its sole discretion, that a different increment is warranted to enhance the efficiency of the auction process. Asking prices for the LAs included in multiple live bids in the previous round will be raised and rounded to the nearest whole dollar amount to obtain the asking prices in the current round.

A bidder must submit a live bid in each round of the auction (or have an uncontested live bid automatically carried forward by BOEM) for it to remain active and continue bidding in future rounds. All of the live bids submitted in any round of the auction will be preserved and considered binding until determination of the winning bids is made. Therefore, the bidders are responsible for payment of the bids they submit and can be held accountable for up to the maximum amount of those bids determined to be winning bids during the final award procedures.

Between rounds, BOEM will release the following information:

- The level of demand for each LA in the previous round of the auction (i.e., the number of live bids that included the LA); and
- The asking price for each LA in the upcoming round of the auction.

In any subsequent round of the auction, if a bidder's previous round bid was uncontested, and the auction continues for another round, then BOEM will automatically carry forward that bid as a live bid in the next round. A bidder whose bid is being carried forward will not have an opportunity to modify or drop its bid until some other bidder submits a live bid that overlaps with the LA in the carried forward bid. Note that in this sale, a carried-forward bid will always be for only one LA—if a live bid consisting of both North and South was uncontested, the auction would end. In particular, for rounds in which a bidder finds its uncontested bid is carried forward, the bidder will be unable to do the following:

- Switch to the other LA;
- Submit an Intra-Round Bid (see herein for discussion of Intra-Round Bids); or
- Drop out of the bidding.

In this scenario, the bidder is effectively ''frozen'' through future auction rounds for as long as its bid for that LA remains uncontested. Moreover, the bidder may be bound by that bid or, indeed, by any other bid which BOEM determines is a winning bid in the award stage. Hence, a bidder cannot drop an uncontested bid. In no scenario can a bidder be relieved of any of its bids from any round until a determination is made in the award stage about the LAs won by the bidder.

If a bidder's bid is not being carried forward by BOEM (i.e., a contested bid), a bidder with an eligibility of one (that is, a bidder who submitted a live bid for

either the North LA or the South LA in the previous round) may:

- Submit a live bid for either the North LA or the South LA;
- Submit an Intra-Round Bid for the same LA for which the bidder submitted a live in the previous round, and exit the auction; or
- Submit nothing, and drop out of the bidding.

Additionally, if a bid is not being carried forward by BOEM (i.e., a contested bid), a bidder with an eligibility of two (that is, a bidder who submitted a live bid for both North and South in the previous round) may:

- Submit a live bid for both the North and South LAs;
- Submit a live bid for either the North LA or the South LA;
- Submit an Intra-Round Bid for both the North and South LAs, and a live bid for either the North LA or the South LA;
- Submit an Intra-Round Bid for both the North and South LAs, no live bids, and exit the auction; or
- Submit nothing, and drop out of the bidding.

Subsequent auction rounds occur in this sale as long as either the North LA or the South LA is contested. The auction concludes at the end of the round in which neither the North LA nor the South LA is included in the live bid of more than one bidder, e.g., all live bids are uncontested.

Bidding—Intra-Round Bids

All asking prices and asking price increments will be determined by the BOEM Auction Manager. Intra-round bidding allows bidders to more precisely express the maximum price they are willing to offer for the North, South, or both LAs while also minimizing the chance of ties. An Intra-Round Bid must consist of a single offer price for exactly the same LA(s) included in the bidder's live bid in the previous round.

When submitting an Intra-Round Bid, the bidder is indicating that it is not willing to meet the current round's asking price, but it is willing to pay more than the previous round's asking price. In particular, in an Intra-Round Bid, the bidder specifies the maximum (higher than the previous round's asking price and less than the current round's asking price) that it is willing to offer for the specific LA(s) in its previous round's live bid.

Although an Intra-Round Bid is *not* a live bid, in the round in which a valid Intra-Round Bid is submitted for both LAs, the bidder's eligibility for a live bid in that same round and future rounds is permanently reduced from including two LAs to one LA. In other words, once an Intra-Round Bid is submitted, the bidder will never again have the opportunity to submit a live bid on as many LAs as it has bid in previous rounds.

BOEM will not consider the presence of Intra-Round Bids for the purpose of determining whether to increase the asking price for a particular LA or to end the auction. Also, BOEM will not count or share with bidders between rounds the number of Intra-Round Bids received for each LA.

All of the Intra-Round Bids submitted during the auction will be preserved, and may be determined to be winning bids. Therefore, bidders are responsible for payment of the bids they submit and may be held accountable for up to the maximum amount of any Intra-Round Bids or live bids determined to be winning bids during the final award procedures.

Determining Provisional Winners

After the bidding ends, BOEM will determine the provisionally winning bids in accordance with the process described in this section. This process consists of two stages: Stage 1 and Stage 2, which are described herein. Once the auction itself ends, nothing further is required of bidders within or between Stages 1 and 2. [In practice, the stages of the process will be determined by the auction software, which will analyze the monetary and credit portion of the bids, determine provisional winners, find the LAs won by the provisional winners, and calculate the applicable bid prices to be paid by the winners for the LAs they won.] This evaluation will be reviewed, checked and validated by the panel. The determination of provisional winners, in both stages, will be based on the two auction variables, as well as on a bidder's adherence to the rules of the auction, and the absence of conduct detrimental to the integrity of the competitive auction.

- *Stage 1*

Live bids submitted in the final round of the auction are Qualified Bids. Live bids submitted before the final round and any Intra-Round Bids submitted in any round of the auction are Contingent Bids. In Stage 1, a bidder with a Qualified Bid is provisionally assured of winning the LA(s) included in its final round bid, regardless of any other Contingent Bids. If both LAs receive live bids in the final round, they are awarded to bidders in Stage 1, and the second award stage is not necessary. If either the North LA or the South LA received a Contingent Bid but not a Qualified Bid, BOEM will proceed to Stage 2 to award the leases.

Following the auction, all winning bidders must pay the price associated with their winning bids, which may consist of cash and non-monetary credits or just cash.

- *Stage 2*

In Stage 2, BOEM will consider Contingent Bids to determine if the LA(s) not awarded in Stage 1 can be awarded in Stage 2. BOEM will award these LAs in Stage 2 based upon the Contingent Bids that maximize the total As-Bid prices in the auction. However, in order to preserve the award of Qualified Bids in Stage 1, the only circumstance in which a Contingent Bid may replace a Qualified Bid is when the Contingent Bid is submitted by the same bidder and includes the LA of the Qualified Bid it replaces. For example, suppose a particular bidder placed a live bid for the North LA in the final round of this auction and a live bid was not entered for the South LA in that round. In Stage 2, BOEM would then consider only awards in which this bidder receives the North LA and possibly also the South LA (e.g., as a result of a Contingent Bid for both the North LA and South LA). If the bidder's Qualified Bid is replaced by its Contingent Bid for the North and South LAs (represented either by an Intra-Round bid for both LAs or by a bid comprising both LAs in the previous round), the bidder would pay the price associated with its Contingent Bid for the LAs contained therein.

Under certain circumstances, different combinations of Contingent Bids from two or more bidders may result in the same total As-Bid price. In such cases, BOEM will resolve the resulting tie with a random drawing.

In the event a bidder submits a bid for a LA that the panel and BOEM determine to be a winning bid, the bidder will be expected to sign the applicable lease documents in a timely manner and submit the full cash payment due, pursuant to 30 CFR 585.224. If a bidder fails to timely sign and pay for the lease, then BOEM will not issue the lease to that bidder, and the bidder will forfeit its bid deposit. BOEM may consider failure of a bidder to timely pay the full amount due as an indication that the bidder is no longer financially qualified to participate in other lease sales under BOEM's regulations at 30 CFR 585.106 and 585.107.

Credit Factors

Prior to the auction, BOEM will convene a panel pursuant to 30 CFR 585.222(d) to evaluate bidders' non-monetary packages to determine whether and to what extent each bidder

is eligible for a non-monetary credit applicable to the As-Bid auction price for one of the LAs in each round of the auction, as described herein. In order to receive a credit for a PPA or Maryland OREC Order, a bidder must be legally, technically and financially eligible to acquire a commercial OCS wind lease, and any single PPA or Maryland OREC Order cannot be used by more than one bidder in the auction.

The percentage credit that will be applicable to each bidder throughout the auction and award process is determined based on the panel's evaluation of required documentation submitted by the bidders as of August 8, 2014. Bidders will be informed by email before the monetary auction about the percentage credit applicable to their bids. A bidder may not receive more than one credit, and the bid credit will be applicable to only one LA. Any non-monetary credit will be applicable only to the higher priced LA in a bid for both LAs. For an Intra-Round Bid containing both LAs, the higher priced LA will be determined using the previous round's asking prices. In each round, the auction system will display to each bidder information showing how their As-Bid auction prices are affected by the credit imputed to their bid to determine their net monetary payment due to BOEM, should their bids prevail as winning bids in the award stages. Application of the credit percentage to the appropriate As-Bid auction price will be rounded to the nearest whole dollar amount.

The bidder's credit percentage is limited to the greater of 25% for a Maryland OREC Order, or up to 25% for a PPA. This credit percentage will be applied to the highest priced LA related to the bidder's latest live bid or Intra-Round Bid. During each round, bidders are informed by the BOEM Auction System how the credit applies to their live bid and any Intra-Round Bid. In the case of a live bid for both LAs, the credit will apply only to the LA having the highest current round asking price. In the case of an Intra-Round Bid for both LAs, the credit will apply only to the higher-priced LA, but the applicable price for calculating the credit will be based on the previous round's asking prices, not on any additional amount above the previous round's asking prices as reflected in the incremental amount associated with its Intra-Round Bid.

The panel will review the non-monetary package submitted by each bidder, and, based on the criteria of a PPA or Maryland OREC Order as provided in this FSN, determine whether bidders have established that they are qualified to receive a credit and the percentage at which that credit will apply. If the panel determines that no bidder has qualified for a non-monetary factor, the auction will proceed with each bidder registered with no imputed credit.

Credit Factor Definitions

The definitions herein will apply to the factors for which bidders may earn a credit.

Power purchase agreement (PPA) is any legally enforceable long-term contract negotiated between an electricity generator (Generator) and a power purchaser (Buyer) that identifies, defines, and stipulates the rights and obligations of one party to produce, and the other party to purchase, energy from an offshore wind project to be located in the lease sale area. The PPA must have been approved by a public utility commission or the equivalent. The PPA must state that the Generator will sell to the Buyer and the Buyer will buy from the Generator capacity, energy, and/or environmental attribute products from the project, as defined in the terms and conditions set forth in the PPA. Energy products to be supplied by the Generator and the details of the firm cost recovery mechanism approved by the state's public utility commission or other applicable authority used to recover expenditures incurred as a result of the PPA must be specified in the PPA. To qualify, a PPA must contain the following terms or supporting documentation:

(i) A complete description of the proposed project;

(ii) Identification of both the electricity Generator and Buyer that will enter into a long term contract;

(iii) A timeline for permitting, licensing, and construction;

(iv) Pricing projected under the long term contract being sought, including prices for all market products that would be sold under the proposed long term contract;

(v) A schedule of quantities of each product to be delivered and projected electrical energy production profiles;

(vi) The term for the long-term contract;

(vii) Citations to all filings related to the PPA that have been made with state and Federal agencies, and identification of all such filings that are necessary to be made; and

(viii) Copies of or citations to interconnection filings related to the PPA.

If the panel determines a bidder has executed a PPA for at least 250 MW, it will be eligible for the entire 25% credit. If the panel determines a bidder has executed a PPA for an amount less than 250 MW, the bidder may still be eligible for a non-monetary credit proportional to the PPA's fraction of 250 MW. The smaller percentage for a partial credit will be calculated according to the formula below:

$$\text{Partial Credit} = \frac{(\text{Full Credit} * \text{Partial PPA})}{\text{Full PPA}}$$

Where:

- Partial Credit = Percent credit for which a smaller PPA is eligible.
- Full PPA = 250 MW.
- Full Credit = 25%.
- Partial PPA = amount (less than 250 MW) of power under contract.

Maryland OREC Order is an order issued by the Maryland PSC approving a qualifying offshore wind project and establishing an OREC pricing schedule, pursuant to Public Utilities Article § 7–704.1 of the Maryland Code Annotated. If the panel determines a bidder has been issued a Maryland OREC Order, it will be eligible for the entire 25% credit.

Additional Information Regarding the Auction

Non-Monetary Auction Procedures

All bidders seeking a non-monetary auction credit are required to submit a non-monetary auction package. If a bidder seeks a non-monetary auction credit, this submission must contain information sufficient to establish the bidder's eligibility to receive a non-monetary credit in the monetary phase of the auction. Further information on this subject can be found in the section of this notice entitled, ''Credit Factor Definitions.'' If a bidder does not submit a non-monetary package by August 8, 2014, to BOEM, then BOEM will assume that bidder is not seeking a non-monetary auction credit and the panel will not consider that bidder for a non-monetary auction credit.

Bidder Authentication

Prior to the auction, the Auction Manager will send several bidder authentication packages to the bidders shortly after BOEM has processed the BFFs. One package will contain tokens for each authorized individual. Tokens are digital authentication devices. The tokens will be mailed to the Primary Point of Contact indicated on the BFF. This individual is responsible for distributing the tokens to the individuals authorized to bid for that company. Bidders are to ensure that each token is returned within three business days following the auction. An addressed, stamped envelope will be provided to facilitate this process. In the event that a bidder fails to submit a BFF, a bid deposit, or does not participate in the auction, BOEM will de-activate that bidder's token and login information, and the bidder will be asked to return its tokens.

The second package contains login credentials for authorized bidders. The login credentials will be mailed to the address provided in the BFF for each authorized individual. Bidders can confirm these addresses by calling 703–787–1320. This package will contain user login information and instructions for accessing the Auction System Technical Supplement and Alternative Bidding Form. The login information, along with the tokens, will be tested during the Mock Auction.

Monetary Auction Times

This section will describe, from a bidder's perspective, how the auction will take place. This information will be elaborated on and clarified in the Auction System Technical Supplement available on BOEM's Web site at: *http://www.boem.gov/State-Activities-Maryland/.* The Auction System Technical Supplement describes auction procedures that are incorporated by reference in this notice, except where the procedures described in the Auction System Technical Supplement directly contradict this notice.

The monetary auction will begin at 8:30 a.m. EDT on August 19, 2014. Bidders may log in as early as 6:30 a.m. on that day. We recommend that bidders log in no later than 7:30 a.m. on that day to ensure that any login issues are resolved prior to the start of the auction. Once bidders have logged in, they should review the auction schedule, which lists the start times, end times, and recess times of each round in the auction. Each round is structured as follows:

- Round bidding begins;
- Bidders enter their bids;
- Round bidding ends and the Recess begins;
- Sometime during the Recess, previous Round results are posted;
- Bidders review the previous Round results and prepare their next Round bids;
- Next Round bidding begins.

The first round will last about 30 minutes, though subsequent rounds may be closer to 20 minutes in length. Recesses are anticipated to last approximately 10 minutes. The descriptions of the auction schedule and asking price increments included with this FSN are tentative. Bidders should consult the auction schedule on the bidding Web site during the auction for updated times. Bidding will continue until about 6:00 p.m. each day. BOEM anticipates the auction will last one or two business days, but bidders are advised to prepare to continue bidding for additional business days as necessary to resolve the auction.

BOEM and the auction contractors will use the auction platform messaging service to keep bidders informed on issues of interest during the auction. For example, BOEM may change the schedule at any time, including during the auction. If BOEM changes the schedule during the auction, it will use the messaging feature to notify bidders that a revision has been made, and direct bidders to the relevant page. BOEM will also use the messaging system for other changes and items of particular note during the auction.

Bidders may place bids at any time during the round. At the top of the bidding page, a countdown clock will show how much time remains in the round. Bidders have until the scheduled time to place bids. Bidders should do so according to the procedures described in the Auction System Technical Supplement and practiced at the Mock Auction. No information about the round is available until the round has closed and results have been posted, so there should be no strategic advantage to placing bids early or late in the round.

Alternate Bidding Procedures

Any bidder who is unable to place a bid using the online auction and would be interested in placing a bid using the Alternate Bidding Procedures must:

- Call BOEM/the BOEM Auction Manager at the help desk number that is listed in the Auction Manual *before* the end of the round. BOEM will authenticate the caller to ensure he/she is authorized to bid on behalf of the company. The bidder must explain to the BOEM Auction Manager the reasons for which he/she is forced to place a bid using the Alternate Bidding Procedures. BOEM may, in its sole discretion, permit or refuse to accept a request for the placement of a bid using the Alternate Bidding Procedures.
- The Alternate Bidding Procedures enable a bidder who is having difficulties accessing the Internet to submit its bid via an Alternate Bidding Form that can be faxed to the auction manager. If the bidder has not placed a bid, but calls BOEM before the end of the round and notifies BOEM that it is preparing a bid using the Alternate Bidding Procedures, and submits the Alternate Bidding Form by fax before the round ends, BOEM will likely accept the bid, though acceptance or rejection of the bid is within BOEM's sole discretion. When using the Alternate Bidding Procedures, if the bidder calls during the round, but does not submit the bid until after the round ends (but before the round is posted), BOEM may or may not accept the bid, in part based on how much time remains in the recess. Bidders are strongly encouraged to submit the Alternate Bidding Form before the round ends. If the bidder calls during the recess following the round, but before the previous round's results have been posted, BOEM will likely reject its bid, even if it has otherwise complied with all of BOEM's Alternate Bidding Procedures. If the bidder calls to enter a bid after results have been posted, BOEM will reject the bid.

Except for bidders who have uncontested bids in the current round, failure to place a bid during a round will be interpreted as dropping out of the auction. It is possible that bids entered in prior rounds, before the bidder stopped bidding, may be awarded one or both LAs pursuant to BOEM's stage 2 procedures. Bidders are held accountable for all bids placed during the auction. This is true if they continued bidding in the last round, if they placed an Exit Bid, or if they stopped bidding during the auction.

Acceptance, Rejection, or Return of Bids: BOEM reserves the right and authority to reject any and all bids. In any case, no lease will be awarded to any bidder, and no bid will be accepted, unless (1) the bidder has complied with all requirements of the FSN, applicable regulations and statutes, including, among others, those related to: bidder qualifications, bid deposits, and adherence to the integrity of the competitive bidding process, (2) the bid conforms with the requirements and rules of the auction, and (3) the amount of the bid has been determined to be adequate by the authorized officer. Any

bid submitted that does not satisfy any of these requirements may be returned to the bidder submitting that bid by the Program Manager of BOEM's Office of Renewable Energy Programs and, in that case, would not be considered for acceptance.

Process for Issuing the Leases: If BOEM proceeds with lease issuance, it will issue three unsigned copies of the lease to each winning bidder. Within 10 business days after receiving the lease copies, the winning bidder must:

1. Execute the lease on the bidder's behalf;
2. File financial assurance, as required under 30 CFR 585.515–537; and
3. Pay by electronic funds transfer (EFT) the balance of the bonus bid (bid amount less the bid deposit). BOEM requires bidders to use EFT procedures (not *pay.gov,* the Web site bidders used to submit bid deposits) for payment of the balance of the bonus bid, following the detailed instructions contained in the ''Instructions for Making Electronic Payments'' available on BOEM's Web site at: *http://www.boem.gov/State-Activities-Maryland/*.

If the winning bidder does not meet these three requirements within 10 business days of receiving the lease copies as described above, or if the winning bidder otherwise fails to comply with applicable regulations or the terms of the FSN, the winning bidder will forfeit its bid deposit. BOEM may extend this 10 business-day time period if it determines the delay was caused by events beyond the winning bidder's control.

In the event that the provisional winner does not execute and return the leases according to the instructions in this notice, BOEM reserves the right to reconvene the panel to determine whether it is possible to identify a bid that would have won in the absence of the bid previously determined to be the winning bid. In the event that a new winning bid is selected by the panel, BOEM will follow the procedures in this section for the new winner(s).

BOEM will not execute a lease until (1) the three requirements above have been satisfied, (2) BOEM has accepted the winning bidder's financial assurance, and (3) BOEM has processed the winning bidder's payment. The winning bidder may meet financial assurance requirements by posting a surety bond or by setting up an escrow account with a trust agreement giving BOEM the right to withdraw the money held in the account on demand by BOEM. BOEM may accept other forms of financial assurance on a case-by-case basis in accordance with its regulations. BOEM encourages provisionally winning bidders to discuss the financial assurance requirement with BOEM as soon as possible after the auction has concluded.

Within 45 days of the date that the winning bidder receives the lease copies, the winning bidder must pay the first year's rent using the *pay.gov* Renewable Energy Initial Rental Payment form available at: *https://pay.gov/paygov/forms/formInstance.html?agencyFormId=27797604*.

Subsequent annual rent payments must be made following the detailed instructions contained in the ''Instructions for Making Electronic Payments'' available on BOEM's Web site at: *http://www.boem.gov/State-Activities-Maryland/*.

Anti-Competitive Behavior: In addition to the auction rules described in this notice, bidding behavior is governed by Federal antitrust laws designed to prevent anticompetitive behavior in the marketplace. Compliance with the BOEM's auction procedures will not insulate a party from enforcement of the antitrust laws.

In accordance with the Act at 43 U.S.C. 1337(c), following the auction, and before the acceptance of bids and the issuance of leases, BOEM will ''allow the Attorney General, in consultation with the Federal Trade Commission, 30 days to review the results of the lease sale.''

If a bidder is found to have engaged in anti-competitive behavior or otherwise violated BOEM's rules in connection with its participation in the competitive bidding process, BOEM may reject the high bid.

Anti-competitive behavior determinations are fact specific. However, such behavior may manifest itself in several different ways, including, but not limited to:

- An agreement, either express or tacit, among bidders to not bid in an auction, or to bid a particular price;
- An agreement among bidders not to bid for the LA;
- An agreement among bidders not to bid against each other; and
- Other agreements among bidders that have the effect of limiting the final auction price.

BOEM may decline to award a lease pursuant to the Act at 43 U.S.C. 1337(c) if it is determined by the Attorney General in consultation with the Federal Trade Commission that doing so would be inconsistent with the antitrust laws (e.g., heavily concentrated market, etc.).

For more information on whether specific communications or agreements could constitute a violation of Federal antitrust law, please see: *http://www.justice.gov/atr/public/business-resources.html*, or consult counsel.

Bidder's Financial Form Self-Certification: Each bidder is required to sign the self-certification, in accordance with 18 U.S.C. 1001 (Fraud and False Statements) in the BFF, which can be found on BOEM's Web site: *http://www.boem.gov/State-Activities-Maryland/*. The form must be filled out and returned to BOEM in accordance with the ''Deadlines and Milestones for Bidders'' section of this notice.

Non-Procurement Debarment and Suspension Regulations: Pursuant to regulations at 43 CFR Part 42, Subpart C, an OCS renewable energy lessee must comply with the Department of the Interior's non-procurement debarment and suspension regulations at 2 CFR parts 180 and 1400 and agree to communicate the requirement to comply with these regulations to persons with whom the lessee does business as it relates to this lease, by including this term as a condition in their contracts and other transactions.

Force Majeure: The Program Manager of BOEM's Office of Renewable Energy Programs has the discretion to change any date, time, and/or location specified in the FSN in case of a *force majeure* event that the Program Manager deems may interfere with a fair and proper lease sale process. Such events may include, but are not limited to: natural disasters (e.g., earthquakes, hurricanes, floods), wars, riots, acts of terrorism, fire, strikes, civil disorder or other events of a similar nature. In case of such events, bidders should call 703–787–1320 or access the BOEM Web site at: *http://www.boem.gov/Renewable-Energy-Program/index.aspx*.

Appeals: The appeals procedures are provided in BOEM's regulations at 30 CFR 585.225 and 585.118(c). Pursuant to 30 CFR 585.225:

(a) If BOEM rejects your bid, BOEM will provide a written statement of the reasons, and refund any money deposited with your bid, without interest.

(b) You will then be able to ask the BOEM Director for reconsideration, in writing, within 15 business days of bid rejection, under 30 CFR 585.118(c)(1). We will send you a written response either affirming or reversing the rejection.

The procedures for appealing final decisions with respect to lease sales are described in 30 CFR 585.118(c).

Protection of Privileged or Confidential Information

BOEM will protect privileged or confidential information that you submit as required by the Freedom of

Information Act (FOIA). Exemption 4 of FOIA applies to trade secrets and commercial or financial information that you submit that is privileged or confidential. If you wish to protect the confidentiality of such information, clearly mark it and request that BOEM treat it as confidential. BOEM will not disclose such information, subject to the requirements of FOIA. Please label privileged or confidential information ''Contains Confidential Information'' and consider submitting such information as a separate attachment.

However, BOEM will not treat as confidential any aggregate summaries of such information or comments not containing such information. Additionally, BOEM may not treat as confidential the legal title of the commenting entity (e.g., the name of your company). Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

Dated: June 23, 2014.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2014–15759 Filed 7–2–14; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0011]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision and Extension of a Currently Approved Collection; Department of Justice Equitable Sharing Agreement and Certification

AGENCY: Asset Forfeiture and Money Laundering Section, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Criminal Division, Asset Forfeiture and Money Laundering Section, 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 September 2, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jennifer Bickford, Acting Assistant Deputy Chief, Asset Forfeiture and Money Laundering Section, 1400 New York Avenue NW., Washington, DC 20005 (phone: 202–514–1263).

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 Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision and extension of a currently approved collection of the Department of Justice Equitable Sharing Agreement and Certification, a previously approved collection for which approval will expire on September 30, 2014.

(2) *The Title of the Form/Collection:* Department of Justice Equitable Sharing Agreement and Certification.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is not an agency form number. The applicable component within the Department of Justice is the Asset Forfeiture and Money Laundering Section, in the Criminal Division.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The Attorney General is required by statute to ''assure that any property transferred to a State or local law enforcement agency . . . will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.'' 21 U.S.C. 881(e)(3). The Asset Forfeiture and Money Laundering Section (AFMLS) ensures such cooperation by requiring that all such ''equitably shared'' funds be used only for law enforcement purposes and not be distributed to other governmental agencies by the recipient law enforcement agencies. By requiring that law enforcement agencies that participate in the Equitable Sharing Program (Program) file an Equitable Sharing Agreement and Certification (ESAC), AFMLS can readily ensure compliance with its statutory obligations.

The ESAC requires information regarding the receipt and expenditure of Program funds from the participating agency. Accordingly, it seeks information that is exclusively in the hands of the participating agency.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 7,600 state and local law enforcement agencies electronically file the ESAC annually with AFMLS. It is estimated that it takes 30 minutes per year to enter the information. All of the approximately 7,600 agencies must fully complete the form each year to maintain compliance and continue participation in the Department of Justice Equitable Sharing Program.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 3,800 hours. It is estimated that respondents will take 30 minutes to complete the form. (7,600 participants × 30 minutes = 3,800 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., 3E.405B, Washington, DC 20530.

Dated: June 30, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–15627 Filed 7–2–14; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Open Group, L.L.C.

Notice is hereby given that, on June 16, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Open Group, L.L.C. (''TOG'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ALC Group, Kenmore, AUSTRALIA; APISA Alternativas en Productividad Integral, S.A. de C.V., Mexico City, MEXICO; archiSpark sp. z.o.o., Katowice, POLAND; ARTe Group B.V., Maastricht, THE NETHERLANDS; Avionics Interface Technologies, L.L.C., Omaha, NE; AVISTA, Incorporated, Platteville, WI; BCS-Dr. Juergen Pitschke, Dresden, GERMANY; Blue Hawk B&IT Management, Sao Paulo, BRAZIL; Connected Digital Economy Catapult, London, UNITED KINGDOM; EDF Group, Paris, FRANCE; IBISKA Telecom, Inc., Ottawa, CANADA; InProgress sp. z.o.o., Krakow, POLAND; Integrate IT, LLC., Hood River, OR; Interos Solutions, Inc., McLean, VA; JSM Consulting Oy, Lempaala, FINLAND; Pyrrhus Software, L.L.C., Phoenix, AZ; SELEX Galileo, Inc., Arlington, VA; Universidad Politécnica de Victoria, Victoria, MEXICO; and Versatil-I–T Services-Conseils, Inc., Longueuil, CANADA, have been added as parties to this venture.

Also, AITECH Defense Systems, Inc., Chatsworth, CA; Cardiff University School of Computer Science, Cardiff, UNITED KINGDOM; Casewise Systems Ltd., Stamford, CT; Chem National Chemical Corporation, Beijing, PEOPLE'S REPUBLIC OF CHINA; Colorado Technical University, Sioux Falls, SD; Commerzbank AG, London, UNITED KINGDOM; Computaris International Limited, Warsaw, POLAND; Dovel Technologies, Inc., McLean, VA; Georgia Institute of Technology, Atlanta, GA; Marathon Oil Corporation, Houston, TX; Mizuho Information and Research Institute, Inc., Chiba, JAPAN; Qualys Inc., Redwood City, CA; Smart421 Ltd., Ipswich, UNITED KINGDOM; tang-IT Consulting GmbH, Wiesbaden, GERMANY; Transformation By Design Business Consulting Inc., Toronto, CANADA; and Treasury Board of Canada (EASD–CIOB), Ottawa, CANADA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TOG intends to file additional written notifications disclosing all changes in membership.

On April 21, 1997, TOG filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 13, 1997 (62 FR 32371).

The last notification was filed with the Department on March 21, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 30, 2014 (79 FR 31138).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–15614 Filed 7–2–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a 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 requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before September 2, 2014.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (See Addresses section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Expenditure (CE) Surveys collect data on consumer expenditures, demographic information, and related data needed by the Consumer Price Index (CPI) and other public and private data users. The continuing surveys provide a constant measurement of changes in consumer expenditure patterns for economic analysis and to obtain data for future CPI revisions. The CE Surveys have been ongoing since 1979.

The data from the CE Surveys are used (1) for CPI revisions, (2) to provide a continuous flow of data on income and expenditure patterns for use in economic analysis and policy formulation, and (3) to provide a flexible consumer survey vehicle that is available for use by other Federal Government agencies. Public and private users of price statistics, including Congress and the economic policymaking agencies of the Executive branch, rely on data collected in the CPI in their day-to-day activities. Hence, data users and policymakers widely accept the need to improve the process used for revising the CPI. If the CE Surveys were not conducted on a continuing basis, current information necessary for more timely, as well as more accurate, updating of the CPI would not be available. In addition, data would not be available to respond to the continuing demand from the public and private sectors for current information on consumer spending.

In the Quarterly Interview Survey, each consumer unit (CU) in the sample is interviewed every three months over four calendar quarters. The sample for each quarter is divided into three panels, with CUs being interviewed every three months in the same panel of every quarter. The Quarterly Interview Survey is designed to collect data on the types of expenditures that respondents can be expected to recall for a period of three months or longer. In general the

expenses reported in the Interview Survey are either relatively large, such as property, automobiles, or major appliances, or are expenses which occur on a fairly regular basis, such as rent, utility bills, or insurance premiums.

The Diary (or recordkeeping) Survey is completed at home by the respondent family for two consecutive one-week periods. The primary objective of the Diary Survey is to obtain expenditure data on small, frequently purchased items which normally are difficult to recall over longer periods of time.

II. Current Action

Office of Management and Budget clearance is being sought for the proposed revision of the Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

Every ten years the CE survey updates its sample of primary sampling units (PSUs) based on the latest decennial census in order to make sure its sample accurately reflects the latest geographic shifts in the American population. The 2015 sample design implements new geography for CE. This involves dropping PSUs, adding PSUs, and dropping and adding counties within existing PSUs.

Beginning in 2015, the first wave bounding interview of the Consumer Expenditure Quarterly Interview Survey will be phased out and a four wave survey will be implemented. All four waves will have a three month reference period and data from all waves will be used in the final, published data. The decision to eliminate the bounding interview was based on substantial research on the ineffectiveness of the bounding interview, and its negative impact on respondent burden and survey costs.

Additionally, to keep the survey current and to fulfill the requirements of the Consumer Price Index (CPI), question wording of some items was simplified, some items were deleted, and other items were added. In the Interview instrument, those change are as follows: (1) New screeners including a business expense screener that will screen out households who do not have any business expenses from the business expense questions and a detailed phone bill screener that will screen out breakout questions for TV, Internet, etc., when a bill is not available; (2) questions added on Tricare and on health care exchanges; (3) questions and screeners deleted including the alcohol screener question, a question on if anything else is included in a package trip, a question on the number of trips purchased for non CU members, and questions on federal and state/local income taxes and refunds; and (4) simplified question wording.

In the 2015 Diary CAPI instrument, questions on regular grocery expenses and expenses for food from places other than a grocery store were reworded to match Interview.

A full list of the proposed changes to the Quarterly Interview Survey and Diary Survey are available upon request.

In addition, the Consumer Expenditure program is planning several tests over the next several years in an effort to improve the CE surveys in the areas of both data quality and respondent burden.

III. Desired Focus of Comments

The Bureau of Labor Statistics 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.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: Revision, of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

OMB Number: 1220–0050.

Affected Public: Individuals or Households.

TOTAL RESPONSE BURDEN FOR THE QUARTERLY INTERVIEW AND DIARY SURVEYS

	CEQ-interview 2015	CEQ-interview (after 2015)	CED-diary	Total (2015)	Total (after 2015)
Number of responses	32,895	32,447	36,895	69,790	69,342
Total burden hours	27,708	27,332	33,599	61,307	60,931

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

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 also will become a matter of public record.

Signed at Washington, DC, this 27th day of June 2014.

Kimberley Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2014–15649 Filed 7–2–14; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Division of Federal Employees' Compensation; Proposed Renewal of the Existing Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Claim for Compensation (CA–7); Authorization for

Examination and/or Treatment (CA–16); Duty Status Report (CA–17); Attending Physician's Report (CA–20); Request for the Services of an Attendant (CA–1090); Referral to a Medical Specialist (CA–1305); OWCP Requirements for Audiological Examination (CA–1087); Referral for a Complete Audiologic and Otologic Examination (CA–1331); Outline for Audiologic Examination (CA–1332); Work Capacity Evaluation, Psychiatric/Psychological Conditions (OWCP–5a); Work Capacity Evaluation, Cardiovascular/Pulmonary Conditions (OWCP–5b); and Work Capacity Evaluation, Musculoskeletal Conditions (OWCP–5c). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before September 2, 2014.

ADDRESSES: Ms Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0701, fax (202) 693–1447, Email *ferguson.yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. Background: The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA), 5 U.S.C. 8101 et. seq. The statute provides for the payment of benefits for wage loss and/or for permanent impairment to a scheduled member, arising out of a work related injury or disease. The Act outlines the elements of pay which are to be included in an individual's pay rate, and sets forth various other criteria for determining eligibility to and the amount of benefits, including: Augmentation of basic compensation for individuals with qualifying dependents; a requirement to report any earnings during a period that compensation is claimed; a prohibition against concurrent receipt of FECA benefits and benefits from OPM or certain VA benefits; a mandate that money collected from a liable third party found responsible for the injury for which compensation has been paid is applied to benefits paid or payable. This information collection is currently approved for use through October 31, 2014.

II. Review Focus: The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions: The Department of Labor seeks extension of approval to collect this information collection in order to carry out its statutory responsibility to compensate injured employees under the provisions of the Act.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: FECA medical Reports, Claim for Compensation.

OMB Number: 1240–0046.

Agency Number: CA–7; CA–16; CA–17; CA–20; CA–1090; CA–1305; CA–1087; CA–1331; CA–1332; OWCP–5a; OWCP–5b; and OWCP–5c.

Affected Public: Individuals or households; Business or other for-profit; Federal Government.

Total Respondents: 282,353.

Form	Time to complete (min)	Number of responses	Hours burden
CA–7	13	500	120
CA–16	5	29,519	2,460
CA–17	5	182,793	15,233
CA–20	5	56,394	4,700
CA–1090	10	234	39
CA–1305	20	136	45
CA–1331/CA–1087*	5	1,062	89
CA–1332	30	30	6
OWCP–5's	15	11,651	2,913
Totals		282,353	25,605

* Responses and hours associated with Form CA–1087 are included in the estimates for the Form CA–1331. The Form CA–1087 is attached to the Form CA–1331.

Total Annual Responses: 232,353.

Average Time per Response: 5 minutes–30 minutes.

Estimated Total Burden Hours: 25,605.

Frequency: As Needed.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $ 110,118.

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: June 30, 2014.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2014–15650 Filed 7–2–14; 8:45 am]

BILLING CODE 4510–CH–P

MARINE MAMMAL COMMISSION

Solicitation for Nominations of Potential Members of the Committee of Scientific Advisors on Marine Mammals

AGENCY: Marine Mammal Commission.

ACTION: Notice.

SUMMARY: The Marine Mammal Commission was created under Title II of the Marine Mammal Protection Act of 1972, as amended. The Commission is

assisted in its duties by the Committee of Scientific Advisors on Marine Mammals. The Committee consists of nine members, appointed by the Chairman of the Commission. As a general rule, Committee Members are appointed for three-year terms, which may be extended as necessary, but vacancies do not occur on a regular basis. To assist the Commission in identifying qualified candidates for appointment to the Committee if and when vacancies occur, the Commission is soliciting nominations from the public.

DATES: Nominations for this solicitation should be received by July 30, 2014. Nominations also will be accepted at other times on an ongoing basis.

ADDRESSES: Catherine Shrestha, Administrative Officer, Marine Mammal Commission, 4340 East-West Highway, Room 700, Bethesda, Maryland 20814. Nominations (Word, PDF, in text of email) may be sent via email to *CShrestha@mmc.gov.* Nominations should include a brief statement of the nominee's qualifications and should include a copy of the nominee's curriculum vitae. Self-nominations are acceptable.

FOR FURTHER INFORMATION CONTACT: Rebecca J. Lent, Ph.D., Executive Director, Marine Mammal Commission, 4340 East-West Highway, Room 700, Bethesda, Maryland 20814; (301) 504–0087.

SUPPLEMENTARY INFORMATION: Section 203 of the Marine Mammal Protection Act directs the Commission to establish a nine-member Committee of Scientific Advisors on Marine Mammals. The Committee is to consist of scientists knowledgeable in marine ecology and marine mammal affairs. Members are appointed by the Chairman of the Commission after consultation with the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Chairman of the National Academy of Sciences. The Commission is required to consult with the Committee on all studies and recommendations that it may propose to make or has made, on research programs conducted or proposed to be conducted under the authority of the Act, and on all applications for permits for scientific research.

In selecting individuals to serve on the Committee, the Commission seeks to ensure that the Committee membership as a whole possesses a high level of expertise with respect to scientific disciplines, marine mammal species, and geographic areas of importance to the Commission's responsibilities. In particular, the Commission requires a high level of knowledge with respect to the biology and ecology of certain marine mammal species that, due to their small population levels and/or threats they face, require special attention. In addition, Committee members are selected to provide broad familiarity with marine mammal species and issues from a range of geographic regions where Commission responsibilities are especially great. A listing of the current members of the Committee is available on the Commission's Web site at *http://www.mmc.gov.*

Dated: June 30, 2014.

Rebecca J. Lent,

Executive Director.

[FR Doc. 2014–15659 Filed 7–2–14; 8:45 am]

BILLING CODE 6820–31–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14–062]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 3, 2014.

FOR FURTHER INFORMATION CONTACT: Robert H. Earp, III, Patent Attorney, Glenn Research Center at Lewis Field, Code 21–14, Cleveland, OH 44135; telephone (216) 433–3663; fax (216) 433–6790.

NASA Case No.: LEW–19040–1: Fast, Large Area, Wide Band Gap UV Photodetector for Cherenkov Light Detection;

NASA Case No.: LEW–19029–1: High Hardness, High Elasticity Intermetallic Compounds for Mechanical Components;

NASA Case No.: LEW–18970–1: Methods for Intercalating and Exfoliating Hexagonal Boron Nitride;

NASA Case No.: LEW–18605–3: Ion Optics;

NASA Case No.: LEW–19053–1: Process for Preparing Aerogels from Polyamides;

NASA Case No.: LEW–18486–2: Polyimide Aerogels with Three Dimensional Cross-Linked Structure;

NASA Case No.: LEW–19045–1: Multimode Directional Coupler;

NASA Case No.: LEW–18902–1: Analog Correlator Based on One Bit Digital Correlator;

NASA Case No.: LEW–17618–3: Polyimides Resins for Additive Manufacturing;

NASA Case No.: LEW–19013–1: Multi-Spoked Wheel Assembly;

NASA Case No.: LEW–18426–2: Dual-Mode Combustor;

NASA Case No.: LEW–18957–1: Dynamic Range Enhancement of High-Speed Electrical Signal Data Via Non-Linear Compression;

NASA Case No.: LEW–18923–1: Hydrogen Isotope Thermal Power Source;

NASA Case No.: LEW–18873–1: Process for Forming a High Temperature Single Crystal Preloader.

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–15675 Filed 7–2–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14–065]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 3, 2014.

FOR FURTHER INFORMATION CONTACT: James J. McGroary, Patent Counsel, Marshall Space Flight Center, Mail Code LS01, Huntsville, AL 35812; telephone (256) 544–0013; fax (256) 544–0258.

NASA Case No.: MFS–33007–1: Carbon Nanotube Tape Vibrating Gyroscope;

NASA Case No.: MFS–33022–1: Propellant Feed System for Swirl-Coaxial Injection;

NASA Case No.: MFS–32903–1–CIP: Fluid Harmonic Absorber;

NASA Case No.: MFS–32853–1: Vibration Damping Circuit Card Assembly;

NASA Case No.: MFS–32954–1: Method of Heat Treating Aluminum-Lithium Alloy to Improve Formability;

NASA Case No.: MFS–33061–1: Multi-Dimensional Flow Simulation Within a Fluid Network;

NASA Case No.: MFS–32986–1: Non-Explosively-Actuated Pressurization Start Valve;

NASA Case No.: MFS–33031–1: Rocket Thruster for Reducing Side Loads;

NASA Case No.: MFS–33054–1: Method of Enhancing On-Board State Estimation Using Communications Signals;

NASA Case No.: MFS–32945–1: Point Mechanic Piezoelectric Sensor System;

NASA Case No.: MFS–33060–1: Single-Axis Accelerometer.

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–15678 Filed 7–2–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 14–061]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 3, 2014.

FOR FURTHER INFORMATION CONTACT: Bryan A. Geurts, Patent Counsel, Goddard Space Flight Center, Mail Code 140.1, Greenbelt, MD 20771–0001; telephone (301) 286–7351; fax (301) 286–9502.

NASA Case No.: GSC–16336–1: Shape Memory Actuated Normally Open Permanent Isolation Valve;

NASA Case No.: GSC–16670–1: Optical Null Lens Verification Using Image-Based Wavefront Sensing;

NASA Case No.: GSC–16183–1: Composition and Apparatus Employing an Ablative Material;

NASA Case No.: GSC–16485–1: Broadband Planar Impedance Transformer;

NASA Case No.: GSC–16700–1: A Printed Circuit Board Assembly for Use in Space Missions;

NASA Case No.: GSC–16569–1: Mirrorlet Array for Integral Field Spectrometers (IFS);

NASA Case No.: GSC–16859–1: Graphene Chemical Sensor;

NASA Case No.: GSC–16555–1: Work Piece Cleaning Apparatus and Method with Pulsating Mixture of Liquid and Gas;

NASA Case No.: GSC–16887–1: Restore Propellant Transfer Assembly and Hose Box;

NASA Case No.: GSC–16789–1: Methods for Stable Growth of Synthetic Neural Systems;

NASA Case No.: GSC–16808–1: SpaceCube v. 2.0 Flight Power Card;

NASA Case No.: GSC–16196–1: Method of Modeling and Simulation of Shaped External Occulters;

NASA Case No.: GSC–16516–1: MEMS Chip with Microfluid Channel having Multi-Function Microposts;

NASA Case No.: GSC–16674–1: SpaceCube Communication Interface Box and Experiment Control Center;

NASA Case No.: GSC–16805–1: SpaceCube v. 2.0 Micro Single Board Computer.

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–15674 Filed 7–2–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 14–060]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 3, 2014.

FOR FURTHER INFORMATION CONTACT: Robert M. Padilla, Patent Counsel, Ames Research Center, Code 202A–4, Moffett Field, CA 94035–1000; telephone (650) 604–5104; fax (650) 604–2767.

NASA Case No.: ARC–16797–1: Woven thermal Protection System;

NASA Case No.: ARC–16752–1: Variable Geometry Aircraft Wing Supported by Struts and/or Trusses;

NASA Case No.: ARC–16001–1-: Real Time Radiation Monitoring Using Nanotechnology;

NASA Case No.: ARC–16969–1: Electrical Response Using Nanotubes on a Fibrous Substrate;

NASA Case No.: ARC–16478–1: System and Method for Providing a Real Time Audible Message to a Pilot;

NASA Case No.: ARC–16132–1: Modification of Surface Density of a Porous Medium;

NASA Case No.: ARC–16405–1: Nanowire-Based Piezoelectric Power Generation;

NASA Case No.: ARC–16924–1-: Thermal Protection Supplement for Reducing Interface Thermal Mismatch;

NASA Case No.: ARC–16461–1: Solar Powered CO_2 Conversion;

NASA Case No.: ARC–16916–1: Control Systems with Normalized and Covariance Adaptation by Optimal Control Modification;

NASA Case No.: ARC–16697–1: System for Performing Single Query Searches of Heterogeneous and Dispersed Databases;

NASA Case No.: ARC–16466–1: Recyclable Thermal Protection Material.

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–15673 Filed 7–2–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 14–064]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 3, 2014.

FOR FURTHER INFORMATION CONTACT: Robin W. Edwards, Patent Counsel, Langley Research Center, Mail Stop 30, Hampton, VA 23681–2199; telephone (757) 864–3230; fax (757) 864–9190.

NASA Case No.: LAR–18063–1: Nanoparticle Hybrid Composites by RF Plasma Spray Deposition;

NASA Case No.: LAR 18327–1: Stretchable Mesh for Cavity Noise Reduction;

NASA Case No.: LAR–17318–2: Preparation of Metal Nanowire Decorated Carbon Allotropes;

NASA Case No.: LAR–17841–1: High Mobility Transport Layer Structures for Rhombohedral Si/Ge/SiGe Devices;

NASA Case No.: LAR–17951–1: Physiologically Modulating Videogames or Simulations which use Motion-Sensing Input Devices;

NASA Case No.: LAR–18006–2: Process for Nondestructive Evaluation

of the Quality of a Crimped Wire Connector;

NASA Case No.: LAR–17996–1: Nanostructure Neutron Converter Layer Development;

NASA Case No.: LAR–17579–2: Wireless Chemical Sensor and Sensing Method for Use Therewith;

NASA Case No.: LAR–17813–1–CON: Methods for Using Durable Adhesively Bonded Joints for Sandwich Structures;

NASA Case No.: LAR–17747–1–CON: Wireless Temperature Sensor having no Electrical Connections and Sensing Method for Use Therewith;

NASA Case No.: LAR–18147–1: Gas Phase Alloying for Wire Fed Joining and Deposition Processes;

NASA Case No.: LAR–18318–1: In-Situ Load System for Calibrating and Validating Aerodynamic Properties of Scaled Aircraft in Ground-Based Aerospace Testing Applications;

NASA Case No.: LAR–17993–2: Locomotion of Amorphous Surface Robots;

NASA Case No.: LAR–16256–1–CON: Method and Apparatus for Performance Optimization Through Physical Perturbation of Task Elements;

NASA Case No.: LAR–18036–1: High Pressure Soft Lithography for Micro-topographical Patterning of Molded Polymers and Composites;

NASA Case No.: LAR–18185–1: Sucrose Treated Carbon Nanotube and Graphene Yarns and Sheets;

NASA Case No.: LAR–17922–1: Double Sided Si(Ge)/Sapphire/III-Nitride Hybrid Structure;

NASA Case No.: LAR–17495–1: An Optical Method for Detecting Displacements and Strains at Ultra High Temperatures during Thermo-Mechanical Testing;

NASA Case No.: LAR–18374–1: Modulated Sine Waves for Differential Absorption Measurements Using a CW Laser System;

NASA Case No.: LAR 17681–3: System for Repairing Cracks in Structures;

NASA Case No.: LAR–18270–1: Airborne Doppler Wind Lidar Post Data Processing Software DAPS–LV;

NASA Case No.: LAR–17919–2: Methods of Making Z-Shielding;

NASA Case No.: LAR–18266–1: Airborne Wind Profiling Algorithm for Doppler Wind Lidar;

NASA Case No.: LAR–18257–1: A Structural Joint with Multi-Axis Load Carrying Capacity;

NASA Case No.: LAR–17502–1–CON: Flame Holder System;

NASA Case No.: LAR–17455–3: A Nanotube Film Electrode and an Electroactive Device Fabricated with the Nanotube Film Electrode and Methods for Making Same.

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–15677 Filed 7–2–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 14–063]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration

ACTION: Notice of availability of inventions for licensing.

SUMMARY: Patent applications on the inventions listed below assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: July 3, 2014.

FOR FURTHER INFORMATION CONTACT: Mark W. Homer, Patent Counsel, NASA Management Office—JPL, 4800 Oak Grove Drive, Mail Stop 180–200, Pasadena, CA 91109; telephone (818) 354–7770.

NPO–47881–1: Pulsed Plasma Lubrication Device and Method;

DRC–012–013: System and Method for Dynamic Aeroelastic Control;

NPO–49086–1: Electride Mediated Surface Enhanced Raman Spectroscopy (SERS);

DRC–011–015B: In-situ Three-Dimensional Shape Rendering from Strain Values Obtained Through Optical Fiber Sensors.

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–15676 Filed 7–2–14; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0144]

Regulatory Guide 10.1, Compilation of Reporting Requirements for Persons Subject to NRC Regulations

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing *Regulatory Guide (RG) 10.1,* ''Compilation of Reporting Requirements for Persons Subject to NRC Regulations.'' (ML003740185). This guide is being withdrawn because it is no longer accurate or current. Regulatory Guide 10.1 provides a summary of the reporting requirements in existence at the time of issuance and becomes outdated upon the first change to any NRC reporting requirement after issuance.

DATES: The effective date of the withdrawal of Regulatory Guide 10.1 is June 26, 2014.

ADDRESSES: Please refer to Docket ID NRC–2014–0144 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0144. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The bases document for the withdrawal of RG 10.1 is available in ADAMS under Accession No. ML14035A256.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Stephen Burton, Office of Nuclear Regulatory Research, telephone: 301–415–7000; email: *Stephen.Burton@nrc.gov;* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is withdrawing RG 10.1 because it is no longer accurate or

current. Regulatory Guide 10.1 provides a summary of the reporting requirements in existence at the time of issuance and becomes outdated upon the first change to any NRC reporting requirement after issuance. The most recent version of RG 10.1, Revision 4, was issued in October 1981 (ADAMS Accession No. ML003740185). Regulatory Guide 10.1 provides a compilation of reporting requirements applicable to the various types of NRC licensees and other persons subject to NRC regulations. It is impractical to continue to maintain current and accurate information in a timely manner, and is duplicative of the information that is already provided in a timely manner in the NRC's regulations in Chapter 1 of Title 10 of the *Code of Federal Regulations* (10 CFR).

II. Additional Information

The withdrawal of RG 10.1 does not alter any prior or existing licensing commitments based on its use. The guidance provided in RG 10.1 is no longer necessary. Regulatory guides may be withdrawn when their guidance no longer provides useful information, or is superseded by technological innovations, Congressional actions, or other events.

Regulatory guides are revised for a variety of reasons and the withdrawal of an RG should be thought of as the final revision of the guide. Although a regulatory guide is withdrawn, current licensees may continue to use it, and withdrawal does not affect any existing licenses or agreements. Withdrawal of a regulatory guide means that the regulatory guide should not be used for future NRC licensing activities. Changes to existing licenses can be accomplished using other regulatory products.

Dated at Rockville, Maryland, this 24th day of June, 2014.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2014–15640 Filed 7–2–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482; NRC–2014–0054]

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; withdrawal by applicant.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has granted the request of Wolf Creek Nuclear Operating Corporation to withdraw its application dated August 13, 2013, as supplemented by letters dated January 28, February 25, March 20, March 26, and May 13, 2014, for a proposed amendment to Facility Operating License No. NPF–42. The proposed amendment would have revised the Technical Specifications to replace the existing licensee methodologies for performing core design and safety analyses; adopted Option A of Technical Specification Task Force Traveler TSTF–493–A, Revision 4, ''Clarify Application of Setpoint Methodologies for LSSS [Limiting Safety System Setting] Functions''; and adopted the alternative source term radiological analysis methodology.

ADDRESSES: Please refer to Docket ID NRC–2014–0054 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0054. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Fred Lyon, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–2296 email: *Fred.Lyon@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC has granted the request of Wolf Creek Nuclear Operating Corporation (the licensee) to withdraw its August 13, 2013, application, as supplemented by letters dated January 28, February 25, March 20, March 26, and May 13, 2014 (ADAMS Accession Nos. ML13247A076, ML14035A224, ML14063A371, ML14091A245, ML14091A261, and ML14143A006, respectively), for proposed amendment to Facility Operating License No. NPF–42 for the Wolf Creek Generating Station, located in Coffey County, Kansas.

The proposed amendment would have revised the Technical Specifications to replace the existing licensee methodologies for performing core design and safety analyses; adopted Option A of Technical Specification Task Force Traveler TSTF–493–A, Revision 4, ''Clarify Application of Setpoint Methodologies for LSSS Functions;'' and adopted the alternative source term radiological analysis methodology in accordance with 10 CFR 50.67, ''Accident source term.''

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on April 8, 2014 (79 FR 19402). However, by letter dated June 18, 2014 (ADAMS Accession No. ML14175A119), the licensee withdrew the proposed change.

Dated at Rockville, Maryland, this 25th day of June 2014.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Plant Licensing Branch IV–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–15689 Filed 7–2–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. MC2014–28; Order No. 2105]

Postal Product Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning several changes affecting Inbound Surface Parcel Post (At UPU Rates) and another product. These include a transfer from the market dominant product list to the competitive product list; a merger; and a new name for the merged product. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 28, 2014. *Reply Comments are due:* August 11, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Commission Action
IV. Ordering Paragraphs

I. Introduction

On June 25, 2014, the Postal Service filed a notice with the Commission under 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* requesting that certain changes be made to the market dominant and competitive product lists.[1] Specifically, the Postal Service proposes to: (1) Transfer Inbound Surface Parcel Post (at Universal Postal Union (UPU) rates) from the market dominant product list to the competitive product list; (2) merge the transferred product with Inbound Air Parcel Post (at UPU rates); and (3) identify the merged product as Inbound Parcel Post (at UPU rates). *Id.* at 1.

The Postal Service asserts that the transfer of Inbound Surface Parcel Post (at UPU rates) to the competitive product list is consistent with the current classification schedule and fulfills all of the criteria for competitive products under 39 U.S.C. 3642. *Id.* at 1–2. It therefore requests that the Commission transfer Inbound Surface Parcel Post (at UPU rates) from the market dominant product list to the competitive product list, merge the transferred product with Inbound Air Parcel Post (at UPU rates), and identify the merged product as Inbound Parcel Post (at UPU rates). The Postal Service states that there are no material changes to the product description and pricing but that the proposed Mail Classification Schedule (MCS) language does contain minor adjustments to ensure consistency between the Air and Surface Parcel Post descriptions. *Id.* at 2.

[1] Request of the United States Postal Service to Transfer Inbound Surface Parcel Post (at UPU rates) to the Competitive Product List, June 25, 2014 (Request).

II. Notice of Filings

Supporting materials. To support its Request, the Postal Service filed the following attachments:

- Attachment A—Resolution of the Governors of the United States Postal Service, June 18, 2014 (Resolution No. 14–03);
- Attachment B—Statement of Supporting Justification; and
- Attachment C—Draft Mail Classification Schedule (MCS) Language.

In its Statement of Supporting Justification, the Postal Service explains why the proposed changes will not violate the standards of 39 U.S.C. 3633. It notes that in FY 2013, Inbound Surface Parcel Post (at UPU rates) had a cost coverage of 153.6 percent. This cost coverage, together with the combined cost coverage of Inbound Surface Parcel Post (at UPU rates) and Inbound Air Parcel Post (at UPU rates) from FY 2013, show that the transfer will not adversely affect the Postal Service's ability to cover total institutional costs. *Id.,* Attachment B at 2.

To verify that the proposed change would not classify as competitive a product over which the Postal Service exercises sufficient market power, the Postal Service asserts that the UPU sets prices for Inbound Surface Parcel Post such that the Postal Service's market dominance is not related to the pricing of the product. *Id.,* Attachment B at 2. The Postal Service also claims Inbound Surface Parcel Post (at UPU rates) is outside the scope of the letter monopoly because the rates payable are higher than six times the current price of a one-ounce Single-Piece First-Class letter and therefore falls within an exception to the Private Express Statutes in section 601(b)(1) of title 39. *Id.*

The Postal Service states that enterprises in the private sector engaged in the delivery of the product consist of private consolidators, freight forwarders, and integrators offering international shipping arrangements providing inbound parcel delivery services under similar conditions. *Id.,* Attachment B at 3.

In describing the views of current customers who use the product, the Postal Service indicates that it does not anticipate any major concern of customers because: (1) Neither the product nor the inward land rate is changing as a result of the transfer; (2) the Inbound Surface Parcel Postal (at UPU rates) has been available for years; and (3) the classification of the product does not affect the availability of the service or terms and conditions. *Id.*

Similarly, the Postal Service does not anticipate an impact on small businesses because: (1) Neither the product nor the inward land rates is changing as a result of the transfer; (2) Inbound Surface Parcel Post (at UPU rates) has been available for years; and (3) the classification of the product does not affect the availability of the service or the terms and conditions. *Id.*

The Postal Service contends the modifications will be consistent with past practices regarding the MCS. It asserts that Inbound Air Parcel Post (at UPU rates) has been classified previously as competitive; Inbound Surface Parcel Post (at UPU rates) has been included in bilateral agreements as part of the Inbound competitive Multi-Service Agreements with Foreign Postal Operations product; the domestic Parcel Post has recently been classified as competitive; and the single classification of Inbound Parcel Post (at UPU rates) will provide consistent treatment of parcel products in the MCS. *Id.,* Attachment B at 3–4.

III. Commission Action

The Commission establishes Docket No. MC2014–28 to consider the Postal Service's proposals described in its Request. Interested persons may submit comments on whether the Request is consistent with the policies of 39 U.S.C. 3642, 3632, 3633, and 39 CFR 3020.30 *et seq.* Comments are due by July 28, 2014. Reply comments are due by August 11, 2014.

The Request and related filings are available on the Commission's Web site (*http://www.prc.gov*). The Commission encourages interested persons to review the Request for further details.

The Commission appoints Anne C. O'Connor to serve as Public Representative in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2014–28 to consider matters raised by the Request.

2. Pursuant to 39 U.S.C. 505, Anne C. O'Connor is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons are due by July 28, 2014.

4. Reply comments are due by August 11, 2014.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2014–15587 Filed 7–2–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* July 3, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 27, 2014, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 82 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2014–29, CP2014–54.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2014–15600 Filed 7–2–14; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31136]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

June 27, 2014.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of June, 2014. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 22, 2014, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE., Washington, DC 20549–8010.

Dreyfus LifeTime Portfolios Inc. [File No. 811–7878]; Dreyfus Dynamic Alternatives Fund, Inc. [File No. 811–22361]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On December 5, 2012, and April 13, 2012, respectively, applicants made liquidating distributions to their shareholders, based on net asset value. Expenses of approximately $785, and $608, respectively, incurred in connection with the liquidations were paid by The Dreyfus Corporation, applicants' Investment adviser.

Filing Date: The applications were filed on June 12, 2014.

Applicants' Address: c/o The Dreyfus Corporation, 200 Park Ave., New York, NY 10166.

Security Large Cap Value Fund [File No. 811–487]; Security Mid Cap Growth Fund [File No. 811–1316]; Security Income Fund [File No. 811–2120]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to corresponding series of Guggenheim Funds Trust, and on January 28, 2014, made distributions to their shareholders based on net asset value. Expenses of $10,626, $17,185 and $349,480, respectively, incurred in connection with the reorganizations were paid by each applicant and Security Investors, LLC, applicants' investment adviser.

Filing Date: The applications were filed on May 30, 2014.

Applicants' Address: 805 King Farm Blvd., Suite 600, Rockville, MD 20850.

Hennessy Funds Inc. [File No. 811–7493]; Hennessy Mutual Funds Inc. [File No. 811–7695]; Hennessy SPARX Funds Trust [File No. 811–21419]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. Each applicant transferred its assets to Hennessy Funds Trust, and on February 28, 2014, made distributions to its shareholders based on net asset value. Expenses of $49,000 incurred in connection with the reorganizations were paid by Hennessy Advisors, Inc., investment adviser to applicants and the acquiring fund.

Filing Date: The applications were filed on June 16, 2014.

Applicants' Address: 7250 Redwood Blvd., Suite 200, Novato, CA 94945.

First Trust Municipal Target Term Trust [File No. 811–22267]; First Trust Global Equity Dividend Fund [File No. 811–22627]; First Trust Strategic Allocation Fund [File No. 811–22629]; First Trust Global Resource Solution Fund [File No. 811–22630]; First Trust Diversified Short Duration Fund [File No. 811–22751]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants have never made a public offering of their securities and do not purpose to make public offerings or engage in business of any kind.

Filing Date: The applications were filed on May 30, 2014.

Applicants' Address: 120 East Liberty Dr., Suite 400, Wheaton, IL 60187.

Fidelity Account II of Monarch Life Insurance Company [File No. 811–5991]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on December 11, 2013, and amended on May 15, 2014.

Applicant's Address: Monarch Life Insurance Company, 330 Whitney Ave., Suite 500, Holyoke, MA 01040.

Symetra Mutual Funds Trust [File No. 811–22653]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 27, 2013, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $367,623 incurred in connection with the liquidation were paid by Symetra

Investment Management, Inc., applicant's investment adviser.

Filing Date: The application was filed on March 4, 2014.

Applicant's Address: 777 108th Avenue NE., Suite 1200, Bellevue, WA 98004–5135.

Wegener Investment Trust [File No. 811–21860]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 30, 2013, applicant made a liquidating distribution to its shareholders, based on net asset value. Anticipated expenses of $50.00 incurred in connection with the liquidation will be paid by Wegener, LLC, applicant's investment adviser.

Filing Dates: The application was filed on May 14, 2014, and amended on June 24, 2014.

Applicant's Address: 3350 Monarch Ln., Annandale, VA 22003.

Special Value Expansion Fund, LLC [File No. 811–21629]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering. Applicant currently has fewer than 100 beneficial owners (within the meaning of section 3(c)(1)) and intends to continue operating as a private fund in reliance on section 3(c)(1) of the Act. Applicant has notified its beneficial owners that certain legal protections afforded to shareholders of an investment company registered under the Act will no longer apply.

Filing Dates: The application was filed on January 6, 2014, and amended on February 21, 2014, April 7, 2014, and May 1, 2014.

Applicant's Address: 2951 28th St., Suite 1000, Santa Monica, CA 90405.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–15666 Filed 7–2–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72495; File No. SR–CBOE–2014–026]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Withdrawal of Proposed Rule Change To Amend Rule 24.19

June 27, 2014.

On March 21, 2014, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE Rule 24.19 to revise several provisions governing the trading of Multi-Class Spread Orders. The proposed rule change was published for comment in the **Federal Register** on April 10, 2014.[3] On April 10, 2014, the Exchange submitted Amendment No. 1 to the proposed rule change. On May 15, 2014 and June 3, 2014, CBOE extended the time period in which the Commission must either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change to June 13, 2014, and to June 30, 2014, respectively. The Commission has not received any comments on the proposed rule change. On June 25, 2014, CBOE withdrew the proposed rule change (SR–CBOE–2014–026).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15609 Filed 7–2–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71872 (April 4, 2014), 79 FR 19940.

[4] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72491; File No. SR–FINRA–2014–028]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating to Revisions to the Definitions of Non-Public Arbitrator and Public Arbitrator

June 27, 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 June 17, 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 substantially 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 refine and reorganize the definitions of ''non-public arbitrator'' and ''public arbitrator.'' The amendments would, among other matters, provide that persons who worked in the financial industry for any duration during their careers would always be classified as non-public arbitrators, and persons who represent investors or the financial industry as a significant part of their business would also be classified as non-public arbitrators, but could become public arbitrators after a cooling-off period. The amendments would also reorganize the definitions to make it easier for arbitrator applicants and parties, among others, to determine the correct arbitrator classification.

The text of the proposed rule change is available, at the principal office of FINRA, on FINRA's Web site at *http://www.finra.org,* 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

Background

FINRA classifies arbitrators as ''non-public'' or ''public'' based on their professional and/or personal affiliations. The Code of Arbitration Procedure for Customer Disputes (''Customer Code'') and the Code of Arbitration Procedures for Industry Disputes (''Industry Code'') define these terms. The non-public arbitrator definition (Rules 12100(p) and 13100(p)) lists financial industry affiliations that might qualify a person to serve as a non-public arbitrator in the forum. Conversely, the public arbitrator definition (Rules 12100(u) and 13100(u)) itemizes affiliations that disqualify a person from serving as a public arbitrator in the forum. In general, public arbitrators do not have a significant affiliation with the financial industry.

FINRA has amended its arbitrator definitions several times over the years to address constituent perceptions that an affiliation might affect an arbitrator's neutrality.[3] The SEC approved the latest amendments in 2013 (the ''2013 amendments'').[4] Under the 2013 amendments, FINRA disqualified persons associated with a mutual fund or hedge fund from serving as public arbitrators. The 2013 amendments also provided that specified individuals must wait for two years after ending certain disqualifying affiliations (''cooling-off period'') before they may serve as public arbitrators.

The SEC received several comment letters on the 2013 amendments. Commenters recommended that FINRA increase the proposed two-year cooling-off period, add new categories of individuals whom FINRA would disqualify from serving as public arbitrators, and add new categories of individuals to the non-public arbitrator definition.[5] In its response to the comment letters, FINRA asked the SEC to approve the proposed rule change as a significant measure to address constituent perceptions about the fairness and neutrality of the public arbitrator roster. FINRA staff agreed to conduct a comprehensive review in consultation with the National Arbitration and Mediation Committee (''NAMC''),[6] of both the non-public arbitrator and public arbitrator definitions with a view towards clarifying the definitions and reviewing the additional issues raised in the comment letters.[7]

FINRA staff met with the NAMC several times to review both arbitrator definitions. As the result of these discussions, as well as general discussions with interested groups over a period of time, FINRA is proposing to amend the non-public arbitrator and public arbitrator definitions. The intent of the proposed rule change is to address the concerns about arbitrator neutrality that were raised by the commenters on the 2013 amendments. As noted above, these concerns related to the cooling-off periods, the categories of individuals whom FINRA disqualifies from serving as public arbitrators, and the categories of individuals whom FINRA classifies as non-public arbitrators.

The proposed rule change includes several substantive changes to the definitions and an extensive reorganization of the public arbitrator definition. In light of extensive revisions, FINRA is proposing to delete the definitions in their entirety, and replace them with new definitions. The proposed amendments are described below. For ease of reading, the discussion only refers to Rule 12100 of the Customer Code. The proposed amendments to Rule 13100 of the Industry Code are identical, and FINRA's rationale is the same.

Non-Public Arbitrator Definition

The non-public arbitrator definition lists financial industry affiliations that might qualify a person to serve as a non-public arbitrator in the forum. The affiliations relate to individuals who work in the financial industry, and individuals who provide services to industry entities and their employees. Each qualifying affiliation has a corresponding disqualification in the public arbitrator definition. Currently, FINRA permits individuals who worked in the financial industry to join the public arbitrator roster after a cooling-off period so long as they meet other requirements.

FINRA is proposing to expand the scope of the non-public arbitrator definition in three ways. First, the definition would provide that individuals who worked in the financial industry for any duration during their careers would always be classified as non-public arbitrators. Second, FINRA would add new categories of financial industry personnel who might qualify to serve as non-public arbitrators. Third, FINRA would add to the definition professionals who devote a significant part of their business to representing or providing services to parties in disputes concerning investments or employment relationships.

Expansion of the non-public arbitrator definition becomes particularly significant when parties are selecting arbitrators in customer cases with three arbitrators.[8] In these cases, FINRA sends the parties three randomly generated lists of arbitrators—a list of 10 chair-qualified public arbitrators, a list of 10 public arbitrators, and a list of 10 non-public arbitrators. The parties select their panel through a process of striking and ranking the arbitrators on the lists. FINRA limits the parties to four strikes on the chair-qualified public arbitrator list and four strikes on the public arbitrator list. However, FINRA gives parties unlimited strikes on the non-public arbitrator list. By expanding the scope of the non-public arbitrator definition, parties would have a greater ability to address their own perceptions of bias through the use of their unlimited strikes on the non-public arbitrator list.

New Rule 12100(p)(1)

Under the current non-public arbitrator definition, if a person is currently, or was within the past five years, affiliated with a securities industry entity specified in the rule (*e.g.,* associated with a broker or dealer), the person may qualify to serve as a

[3] *See* Securities Exchange Act Rel. No. 49573 (Apr. 16, 2004), 69 FR 21871 (Apr. 22, 2004) (File No. SR–NASD–2003–95) and Notice to Members 04–49 (Jun. 2004); Securities Exchange Act Rel. No. 54607 (Oct. 16, 2006), 71 FR 62026 (Oct. 20, 2006) (File No. SR–NASD–2005–094) and Notice to Members 06–64 (Nov. 2006); and Securities Exchange Act Rel. No. 57492 (Mar. 13, 2008), 73 FR 15025 (Mar. 20, 2008) (File No. SR–NASD–2007–021) and Regulatory Notice 08–22 (May 2008).

[4] *See* Securities Exchange Act Rel. No. 69297 (Apr. 4, 2013), 78 FR 21449 (Apr. 10, 2013) (File No. SR–FINRA–2013–003) and Regulatory Notice 13–21 (Jun. 2013).

[5] *See* Securities Exchange Act Rel. No. 69297 (Apr. 4, 2013), 78 FR 21449 (Apr. 10, 2013) Discussion of Comment Letters. The comment letters are available on the SEC's Web site at *www.sec.gov.*

[6] The NAMC, which is composed of investor, industry, and neutral (arbitrator and mediator) representatives, provides policy guidance to FINRA Dispute Resolution staff. A majority of the NAMC members and its chair are public.

[7] *See* letter from Margo A. Hassan, Assistant Chief Counsel, FINRA Dispute Resolution, to Elizabeth M. Murphy, dated March 11, 2013. The letter is available on FINRA's Web site at *www.finra.org,* and on the SEC's Web site at *www.sec.gov.*

[8] Under Rule 12401, one arbitrator hears customer claims up to $100,000 and three arbitrators hear customer claims of more than $100,000 or unspecified claims.

non-public arbitrator at the forum.[9] Subject to two exceptions, FINRA allows these individuals to join the public arbitrator roster five years after ending all industry affiliation. The first exception to the five-year provision applies to persons who retired from, or who spent a substantial part of their career with, a specified industry entity.[10] FINRA keeps these individuals on the non-public arbitrator roster for the duration of their service to the forum. The second exception applies to persons who were affiliated for 20 years or more with a specified industry entity.[11] FINRA also keeps these arbitrators on the non-public arbitrator roster for the duration of their service.

Investor representatives raised concerns about the neutrality of FINRA's public arbitrator roster because they do not believe that former industry-affiliated persons should ever serve as public arbitrators. In response to these concerns, FINRA is proposing to adopt new Rule 12100(p)(1) to eliminate the five-year cooling-off provision for persons who work in the financial industry. Under the new rule, FINRA would classify persons who are, or were, affiliated with a specified financial industry entity at any point in their careers, for any duration, as non-public arbitrators.[12] Once FINRA classifies an arbitrator as non-public, FINRA would never reclassify the arbitrator as public. Under the proposed rule change, there would be no exceptions to this provision.

FINRA is also proposing to add two new categories of financial industry professionals to new Rule 12100(p)(1)—persons associated with, including registered through, a mutual fund or hedge fund, and persons associated with, including registered through, an investment adviser. Currently, FINRA does not permit these professionals to serve in any capacity, but if they end their affiliation, they may serve as public arbitrators after a two-year cooling-off period.[13] FINRA believes that these professionals would bring valuable knowledge and experience to the forum and that FINRA should classify them as non-public arbitrators. Under the proposed rule change, once FINRA classifies them as non-public arbitrators, these arbitrators would remain on the non-public arbitrator roster for the duration of their service to the forum.

Finally, FINRA is proposing to add clarity to new Rule 12100(p)(1) by revising the references in several ways. First, instead of referring to a person registered under the Commodity Exchange Act, or associated with a person or firm registered under the Commodity Exchange Act, or a member of a commodities exchange, FINRA would simplify the reference in Rule 12100(p)(1)(B) by referring to a person who is, or was, associated with, including registered through, under, or with (as applicable), the Commodity Exchange Act or the Commodities Futures Trading Commission. FINRA is not proposing any substantive change to the categories of persons relating to commodities. Second, instead of referring to a member of a registered futures association, FINRA proposes in Rule 12100(p)(1)(B) to specify the association by name—the National Futures Association. FINRA is not proposing any substantive change to the category of persons relating to futures. Third, FINRA is proposing to add in Rule 12100(p)(1)(B) a reference to a person who is, or was, associated with, including registered through, under, or with (as applicable), the Municipal Securities Rulemaking Board (''MSRB''). While such an individual would be covered under the current ''municipal securities broker or dealer,'' FINRA believes adding the MSRB would add clarity to the rule. Fourth, FINRA is proposing an omnibus reference in Rule 12100(p)(1)(C) to cover industry affiliated persons not otherwise specified in the rule and potential categories of industry professionals that may be created in the future.

New Rule 12100(p)(2)

Under the current non-public arbitrator definition, attorneys, accountants, and other professionals who devoted 20 percent or more of their professional work in the last two years to serving specified industry entities and/or employees, may qualify to serve as non-public arbitrators at the forum.[14] FINRA currently permits these individuals to join the public arbitrator roster two years after they stop providing services to the industry. However, they are permanently disqualified from serving as public arbitrators if they provided services to the industry for 20 years or more over the course of their careers.[15]

FINRA is proposing to adopt new Rule 12100(p)(2) to broaden the current provision in two ways. First, the new rule increases the look-back period from two years to five years. Second, it broadens application of the provision to include services to industry entities and any persons or entities associated with those industry entities. The proposed new public arbitrator definition provides that persons would be permanently disqualified from serving as public arbitrators if they provided the specified services for 15 calendar years or more over the course of their careers (in contrast to the current 20 year provision).[16] The 15 years are a total number of years—they would not have to be consecutive years. After 15 years of service, FINRA would keep these arbitrators on the non-public arbitrator roster for the duration of their service to the forum. FINRA is increasing the look-back period, and decreasing the number of years before it applies a permanent disqualification, so that only individuals who are sufficiently removed from their industry affiliation are permitted to serve on the public arbitrator roster.

Finally, FINRA is proposing to add clarity to the rule by changing the phrase ''professional work'' to ''professional time.'' FINRA staff believes that the term ''time'' is better because time would be more easily quantified by the professionals in the category.

New Rule 12100(p)(3)

Currently, FINRA permits professionals who represent or provide

[9] *See* current Rule 12100(p)(1). This provision applies to a person who is, or was within the past five years:

(A) Associated with, including registered through, a broker or dealer (including a government securities broker or dealer or a municipal securities dealer);

(B) Registered under the Commodities Exchange Act;

(C) A member of a commodities exchange or a registered futures association; or

(D) Associated with a person or firm registered under the Commodity Exchange Act.

[10] *See* current Rule 12100(p)(2).

[11] *See* current Rule 12100(u)(2).

[12] *See* new Rule 12100(p)(1). The financial industry affiliations enumerated in new Rule 12100(p)(1) relate to a person who is, or was, associated with, including registered through:

(A) a broker or a dealer (including a government securities broker or dealer or a municipal securities broker or dealer); or

(B) a member of, or an entity registered under, the Commodity Exchange Act, the Commodities Future Trading Commission, the National Futures Association, or the Municipal Securities Rulemaking Board; or

(C) an entity that is organized under or registered pursuant to the Securities Exchange Act of 1934, Investment Company Act of 1940, or the Investment Advisers Act of 1940; or

(D) a mutual fund or a hedge fund; or

(E) an investment adviser.

[13] These persons may serve as non-public arbitrators if they are qualified to serve under another provision (*e.g.,* dually registered as an investment adviser and an associated person of a FINRA member).

[14] *See* current Rule 12100(p)(3). The rule applies to the persons and entities listed in current Rule 12100(p)(1).

[15] *See* current Rule 12100(u)(2).

[16] *See* new Rule 12100(u)(2).

services to investors in securities disputes to serve as public arbitrators at the forum.[17] Industry representatives raised concerns about the neutrality of the public arbitrator roster, and they do not believe that these professionals should serve as public arbitrators. To address these concerns, FINRA is proposing to add a new qualifying affiliation to the non-public arbitrator definition.

Under new Rule 12100(p)(3), FINRA would classify as non-public arbitrators, attorneys, accountants, and other professionals who devoted 20 percent or more of their professional time, within the past five years, to serving parties in investment or financial industry employment disputes. FINRA selected the 20 percent threshold for application of the provision to keep it consistent with the threshold in new Rule 12100(p)(2).

FINRA would permit these individuals to serve as public arbitrators five years after their business mix changes. However, if the person accumulates 15 calendar years of providing the qualifying services over the course of a career, FINRA would keep that arbitrator on the non-public arbitrator roster for the duration of the arbitrator's service to the forum. The 15 years are a total number of years—they would not have to be consecutive years.[18]

New Rule 12100(p)(4)

FINRA currently classifies as non-public arbitrators, persons working in a bank or other financial institution (*e.g.,* a credit union) who execute transactions in securities or who supervise employees who execute transactions in securities.[19] This provision covers persons who are not employed by an industry entity that falls under current paragraph (p)(1). When such persons end their affiliation, they may immediately apply to serve as public arbitrators at the forum unless they have engaged in this type of work for 20 years or more over the course of their careers.[20]

FINRA is proposing to adopt new Rule 12100(p)(4) to add a five-year look-back period to this provision. The substance of the qualifying affiliation is the same. Only the look-back period is new. Under the new rule, FINRA would classify as a non-public arbitrator, any person who, within the last five calendar years, worked in a bank or other financial institution and executed transactions in securities or supervised or monitored compliance with the securities and commodities laws of employees who execute transactions in securities. FINRA would permit these persons to serve as public arbitrators five years after they ended their industry affiliation unless they provided these services for 15 years or more. As is the case with proposed new paragraphs (p)(2) and (p)(3) described above, the proposed new public arbitrator definition provides that these persons would be permanently disqualified from serving as public arbitrators if they provided the specified services for 15 calendar years or more over the course of their careers.[21] Again, the 15 years are a total number of years—they would not have to be consecutive years. After 15 years of service, FINRA would keep these arbitrators on the non-public arbitrator roster for the duration of their service to the forum.

Public Arbitrator Definition

The public arbitrator definition lists affiliations that disqualify a person from serving as a public arbitrator in the forum. It includes a disqualification that corresponds to each qualifying affiliation in the non-public arbitrator definition. Currently, the definition reflects these disqualifications by cross-references to the non-public arbitrator definition. The public arbitrator definition includes additional disqualifiers that do not have a corresponding qualifier in the non-public arbitrator definition. Over the years, FINRA added these disqualifications to the public arbitrator definition to address investors' perceptions about the neutrality of the public arbitrator roster.

FINRA is proposing substantive changes to the public arbitrator definition that: Add new disqualifications; amend an existing disqualification to simplify it; and revise the cooling-off periods. Under new Rule 12100(u), FINRA would subject individuals to a five-year cooling-off period after they end an affiliation based on their own activities, and a two-year cooling-off period after they end an affiliation based on someone else's activities (provided that another disqualification is not applicable).

FINRA is also proposing to reorganize the public arbitrator definition to make it easier for FINRA staff, arbitrators and potential arbitrators, and parties to ascertain the correct arbitrator classification. Under the proposed rule change, FINRA would remove the cross-references between the definitions, and fully describe each disqualification. FINRA would also separate the disqualifications into categories of those that are permanent versus those that are temporary, and those based on a person's own activities versus those based on the activities of others (*e.g.,* others at a person's firm). FINRA would repeat some of the disqualifying affiliations to make it clear that the affiliations are subject to both a temporary disqualification and a permanent disqualification depending on how many years a person was engaged in a stated activity.

New Rule 12100(u)(1)

FINRA is proposing to adopt new Rule 12100(u)(1) to specify the types of financial industry employment that disqualify a person from serving as a public arbitrator.[22] Substantively, the affiliations are identical to those listed in new Rule 12100(p)(1). None of the disqualifying affiliations is new—FINRA currently includes each of them in the public arbitrator definition.[23] Rather, FINRA is proposing to add clarity to new Rule 12100(u)(1) by revising the references in a manner identical to what it is proposing for new Rule 12100(p)(1).[24]

[17] These individuals are not qualified under the non-public arbitrator definition to serve as non-public arbitrators, nor are they disqualified from serving as public arbitrators under the public arbitration definition.

[18] *See* new Rule 12100(u)(3).

[19] *See* current Rule 12100(p)(4).

[20] *See* current Rule 12100(u)(2).

[21] *See* new Rule 12100(u)(4).

[22] Under new Rule 12100(u)(1), A person shall not be designated as a public arbitrator who is, or was, associated with, including registered through:

(A) a broker or a dealer (including a government securities broker or dealer or a municipal securities broker or dealer); or

(B) a member of, or an entity registered under, the Commodity Exchange Act, the Commodities Futures Trading Commission, the National Futures Association, or the Municipal Securities Rulemaking Board; or

(C) an entity that is organized under or registered pursuant to the Securities Exchange Act of 1934, Investment Company Act of 1940, or the Investment Advisers Act of 1940; or

(D) a mutual fund or a hedge fund; or

(E) an investment adviser.

[23] *See* current Rule 12100(u)(1) and Rule 12100(u)(3).

[24] First, instead of referring to a person registered under the Commodity Exchange Act, or associated with a person or firm registered under the Commodity Exchange Act, or a member of a commodities exchange, FINRA would simplify the reference in Rule 12100(u)(1)(B) by referring to a person who is, or was, associated with, including registered through, under, or with (as applicable), the Commodity Exchange Act or the Commodities Futures Trading Commission. FINRA is not proposing any substantive change to the categories of persons relating to commodities. Second, instead of referring to a member of a registered futures association, FINRA proposes in Rule 12100(u)(1)(B) to specify the association by name—the National Futures Association. FINRA is not proposing any substantive change to the category of persons

Continued

FINRA currently permits non-public arbitrators to become public arbitrators at some point after ending their affiliations (subject to specified exceptions). As explained in the above discussion on new Rule 12100(p)(1), under the proposed rule change, FINRA would classify these individuals as non-public arbitrators for the duration of their service to the forum and would never reclassify them as public arbitrators. Therefore, anyone disqualified under new Rule 12100(u)(1) would be subject to a permanent disqualification from the public arbitrator roster.

New Rules 12100(u)(2) and 12100(u)(6)

Under the current public arbitrator definition, attorneys, accountants, and other professionals who devoted 20 percent or more of their professional work in the last two years to serving securities industry employees and/or entities, may not serve as public arbitrators at the forum.[25] These individuals may join the public arbitrator roster two years after they stop providing services to the industry. However, FINRA permanently disqualifies them from the public arbitrator roster if they provided the services for 20 years or more over the course of their careers.[26]

FINRA is proposing to adopt new Rules 12100(u)(2) and 12100(u)(6) to expand the current provision. FINRA would broaden application of the disqualification to include services to financial industry entities and any persons or entities associated with those financial industry entities.[27] In new Rule 12100(u)(6), FINRA would increase the cooling-off period in the rule from two years to five years,[28] and in new Rule 12100(u)(2), FINRA would decrease the number of years for a permanent disqualification from 20 years to 15 years.[29] The 15 years are a total number of years—they would not have to be consecutive years. Although the description of the disqualification in paragraphs (u)(2) and (u)(6) is identical, FINRA believes it would add clarity to the definition to separate out when the provision results in a permanent disqualification, and when it results in a temporary disqualification. Substantively, new Rules 12100(u)(2) and 12100(u)(6) are identical to new Rule 12100(p)(2).

New Rules 12100(u)(3) and 12100(u)(7)

As explained above, FINRA currently permits professionals who represent or provide services to investors in securities disputes to serve as public arbitrators at the forum. Industry representatives raised concerns about the neutrality of the public arbitrator roster, and they do not believe that these professionals should serve as public arbitrators.

To address these concerns, FINRA is proposing to disqualify from the public arbitrator roster attorneys, accountants, expert witnesses, and other professionals who devote 20 percent or more of their professional time to serving parties in investment or financial industry employment disputes. Under new Rule 12100(u)(7), FINRA would apply a five-year cooling-off period to the rule. Under new Rule 12100(u)(3), these persons would be permanently disqualified from serving as public arbitrators if they provide the specified services for 15 calendar years or more over the course of their careers. The 15 years are a total number of years—they would not have to be consecutive years. The substance of the disqualification corresponds to the proposed qualifying affiliation in new Rule 12100(p)(3). FINRA selected the 20 percent threshold for application of the provision to keep it consistent with the thresholds in new Rules 12100(u)(2) and 12100(u)(6).

New Rules 12100(u)(4) and 12100(u)(8)

FINRA currently disqualifies personnel working in a bank or other financial institution (*e.g.,* a credit union) who execute transactions in securities, or who supervise employees who execute transactions in securities, from serving as public arbitrators.[30] This provision applies to persons who are employed by a financial industry entity that is not covered by current Rule 12100(p)(1). When these individuals end their affiliation, they may immediately apply to serve as public arbitrators at the forum unless they have engaged in this type of work for 20 years or more over the course of their careers.[31]

FINRA is proposing to adopt new Rules 12100(u)(4) and 12100(u)(8) to expand the current provision. In new Rule 12100(u)(8), FINRA would impose a five-year cooling-off period in the rule; and, in new Rule 12100(u)(4), FINRA would decrease the number of years for a permanent disqualification from 20 years to 15 years. The 15 years are a total number of years—they would not have to be consecutive years. Although the description of the disqualification in paragraphs (u)(4) and (u)(8) is identical, FINRA believes it would add clarity to the definition to separate out when the provision results in a permanent disqualification, and when it results in a temporary disqualification. Substantively, new Rules 12100(u)(4) and 12100(u)(8) are identical to new Rule 12100(p)(4).

New Rule 12100(u)(5)

FINRA currently disqualifies individuals employed by, or who are directors or officers of, an entity that directly or indirectly controls, is controlled by, or is under common control with, any partnership, corporation, or other organization that is engaged in the securities business.[32] These persons may become public arbitrators two years after ending their affiliation.[33]

FINRA is proposing to adopt new Rule 12100(u)(5) to expand application of the provision in two ways. First, FINRA would expand the disqualification from an ''organization that is engaged in the securities business'' to an ''organization that is engaged in the financial industry.'' Second, FINRA would increase the cooling-off period from two years to five years. This disqualification addresses the perception that employees, officers, and directors of entities that are associated with industry entities should not serve as public arbitrators because they may favor an industry party in an arbitration proceeding. The term ''financial industry'' would replace the term ''securities business'' to ensure that the provision covers all financial services entities that may raise concerns about neutrality. The term securities business may be interpreted too narrowly to apply only to the affiliations in current Rule 12100(p)(1).

relating to futures. Third, FINRA is proposing to add in Rule 12100(u)(1)(B) a reference to a person who is, or was, associated with, including registered through, under, or with (as applicable), the MSRB. While such an individual would be covered under the current ''municipal securities broker or dealer,'' FINRA believes adding the MSRB would add clarity to the rule. Fourth, FINRA is proposing an omnibus reference in Rule 12100(u)(1)(C) to cover industry affiliated persons not otherwise specified in the rule and potential categories of industry professionals that may be created in the future.

[25] *See* current Rule 12100(u)(1), which incorporates, among other things, current Rule 12100(p)(3).

[26] *See* current Rule 12100(u)(2).

[27] *See* current Rule 12100(p)(3) for content to be expanded by new Rules 12100(u)(2) and 12100(u)(6).

[28] *See* current Rule 12100(u)(1), referencing current Rule 12100(p)(3), which includes a two year look-back period.

[29] *See* current Rule 12100(u)(2) which references a 20 year time period.

[30] *See* current Rule 12100(u)(1) which references current Rule 12100(p)(4).

[31] *See* current Rule 12100(u)(2).

[32] *See* current Rules 12100(u)(6) and 12100(u)(7).

[33] *See* current Rule 12100(u).

New Rule 12100(u)(9)

Currently, professionals may not serve as public arbitrators if their firm: Derived 10 percent or more of its annual revenue in the past two years from providing services to the financial industry;[34] or derived $50,000 or more in annual revenue in the past two years from providing services to the securities industry relating to customer disputes concerning an investment account or transaction.[35] For example, a real estate attorney working at a law firm with a securities practice devoted to serving the industry is disqualified from serving as a public arbitrator if the threshold percentage or dollar figure is met. He or she may, however, become a public arbitrator two years after leaving the firm or two years after the firm no longer derives annual revenue from the financial industry or securities industry exceeding those thresholds.

FINRA is proposing to adopt new Rule 12100(u)(9) to combine the two disqualifications into one, and to simplify the disqualification relating to the $50,000 threshold. New Rule 12100(u)(9) would provide that professionals may not serve as public arbitrators if their firm derived $50,000 or more, or at least 10 percent of its annual revenue, in any single calendar year during the course of the past two calendar years, from: The entities listed in paragraph (u)(1) and/or to any persons or entities associated with any of the entities listed in paragraph (u)(1); or from a bank or other financial institution where persons effect transactions in securities including government or municipal securities, commodities, futures, or options. The cooling-off period of two years would be the same. FINRA is proposing to remove the requirement that the $50,000 in revenue relate to customer disputes concerning an investment account or transaction to make it easier for potential and existing arbitrators to determine if the disqualification would apply.

New Rule 12100(u)(10)

FINRA is proposing to adopt new Rule 12100(u)(10) to disqualify from the public arbitrator roster, professionals whose firm derived $50,000 or more, or at least 10 percent of its annual revenue, in any single calendar year during the course of the past two calendar years, from individual and/or institutional investors relating to securities matters. FINRA would apply a two-year cooling-off period to this provision. For example, a trust and estates attorney working at a law firm with a securities practice devoted to serving investors would be disqualified from serving as a public arbitrator if the threshold percentage or dollar figure is met.

New Rule 12100(u)(10) is not based on an existing disqualification—it is entirely new. The purpose of this provision is to address an industry perception that a professional whose firm derives significant revenue from representing investors in securities matters in not neutral, and should not be permitted to serve as a public arbitrator. The revenue thresholds and cooling-off period are consistent with proposed new Rule 12100(u)(9).

New Rule 12100(u)(11)

FINRA currently disqualifies individuals from serving as public arbitrators if their spouse or immediate family member is employed by, or is a director or officer of, an entity that directly or indirectly controls, is controlled by, or is under common control with, any partnership, corporation, or other organization that is engaged in the securities business.[36] FINRA applies a two-year cooling-off period to these disqualifications.[37] In addition, if an individual's spouse or immediate family member is employed in a securities industry entity or provides services to such an entity and/or the entity's employees, the person may not serve as a public arbitrator.[38] While the current public arbitrator definition does not include a cooling-off period for this disqualification, it has been FINRA's practice to make these individuals wait for five years after their spouse or immediate family member ends the disqualifying affiliation before they may become public arbitrators.

FINRA is proposing to simplify these disqualifications and add clarity to them by combining them into one disqualification with a two-year cooling-off period. New Rule 12100(u)(11) would provide that a person shall not be designated as a public arbitrator if his or her immediate family member is an individual whom FINRA would disqualify from serving on the public arbitrator roster. If the person's immediate family member ends the disqualifying affiliation, or the person ends the relationship with the individual so that the individual is no longer the person's immediate family member, the person may, after two calendar years have passed from the end of the affiliation or relationship, be designated as a public arbitrator. FINRA believes it is appropriate to have a two-year cooling-off period for all disqualifications based on the activities of others.

Immediate Family

In the current public arbitrator definition, the term spouse appears in the disqualification text, not in the description of immediate family member. The term immediate family member includes a person's parent, stepparent, child, stepchild, or household member. It also includes an individual that the person supports financially,[39] and an individual who is claimed as a dependent for federal tax purposes. FINRA is proposing to update the term to reflect current societal relationships. Under proposed new Rule 12100(u)(11), FINRA would add as immediate family members a person's spouse, partner in a civil union, and domestic partner.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[40] 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 would benefit users of FINRA's arbitration forum by addressing concerns raised about the fairness and neutrality of FINRA's public arbitrator roster. FINRA expects all arbitrators to be fair and neutral, and believes that they are. However, FINRA believes that it must address perceptions about the allegiances or inclinations of arbitrators that may erode confidence in the forum.

FINRA believes that classifying any individual who worked in the financial industry for any duration as a non-public arbitrator would improve investors' views about the neutrality of the public arbitrator roster. FINRA also believes that classifying professionals who represent or provide services to parties in disputes concerning investment accounts or transactions as non-public arbitrators would enable all parties in customer cases with three arbitrators to address their perceptions about the neutrality of public arbitrator roster through the use of strikes during the panel selection process. Moreover, FINRA believes that including cooling-

[34] *See* current Rule 12100(u)(4).

[35] *See* current Rule 12100(u)(5).

[36] *See* current Rules 12100(u)(6) and 12100(u)(7).

[37] *See* current Rule 12100(u).

[38] *See* current Rule 12100(u)(8).

[39] Financial support is defined as providing an individual with more than 50 percent of his or her annual income.

[40] 15 U.S.C. 78o-3(b)(6).

off periods in the proposed public arbitrator definition would help ensure that potential arbitrators have sufficient separation from their financial industry affiliations before FINRA permits them to serve as public arbitrators.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

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–2014–028 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–FINRA–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 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–2014–028 and should be submitted on or before July 24, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15607 Filed 7–2–14; 8:45 am]

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[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72489; File No. SR–ISEGemini–2014–18]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish New Rule 720A

June 27, 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 June 24, 2014, ISE Gemini, LLC (the ''Exchange'' or ''ISE Gemini'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE Gemini proposes to establish new procedures to account for erroneous trades occurring from disruptions and/or malfunctions of Exchange systems. The changes described in this proposal would establish new ISE Gemini Rule 720A. The text of the proposed rule change is available on the Exchange's Web site *www.ise.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 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 adopt Rule 720A to provide for new procedures to account for erroneous trades occurring from disruptions and/or malfunctions of Exchange systems. Specifically, proposed new Rule 720A would provide that any transaction that arises out of a ''verifiable systems disruption or malfunction'' in the use or operation of an Exchange automated quotation, dissemination, execution, or communication system may either be nullified or adjusted by Market Control.[3] Under the rule, Market Control may act, on its own motion, to review erroneous transactions. This filing is based on the rules of NYSE Arca, Inc. (''NYSE Arca'').[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Market Control consists of designated personnel in the Exchange's market control center. *See* ISE Gemini Rule 720(a)(3)(ii).

[4] *See* NYSE Arca Rule 6.89. The proposed rule change is also based in part on NASDAQ OMX PHLX, LLC (''Phlx'') Rule 1092(c)(ii)(A), and in addition is substantially similar to Chicago Board Options Exchange, Inc. (''CBOE'') Rule 6.25(a)(3).

The Exchange believes that it is appropriate to provide the flexibility and authority provided for in proposed Rule 720A so as not to limit the Exchange's ability to plan for and respond to unforeseen systems problems or malfunctions. The proposed rule change would provide the Exchange with the same authority to nullify or adjust trades in the event of a ''verifiable disruption or malfunction'' in the use of operation of its systems as other exchanges have.[5] For this reason, the Exchange believes that, in the interest of maintaining a fair and orderly market and for the protection of investors, authority to nullify or adjust trades in these circumstances, consistent with the authority on other exchanges, is warranted.

According to the proposal, in the event of any verifiable disruption or malfunction in the use or operation of an Exchange automated quotation, dissemination, execution, or communication system, in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist, Market Control, on his or her own motion, may review such transactions and declare such transactions arising out of the use or operation of such facilities during such period null and void or modify the terms of the transactions, in accordance with the guidelines contained in Rule 720(b)(2)(i)(A) and (B). Pursuant to the proposal, Market Control, absent extraordinary circumstances, must initiate action under this authority within sixty (60) minutes of the occurrence of the erroneous transaction that was a result of the verifiable disruption or malfunction. Each Member involved in the transaction shall be notified as soon as practicable, and any Member aggrieved by the action may appeal such action in accordance with the provisions of subsection (b) of Rule 720A.

If Market Control determines that a transaction(s) is erroneous pursuant to Rule 720A(a) as described above, any Member aggrieved by the action may appeal such action in accordance with the provisions provided in Rule 720(b). The Exchange plans to utilize a Review Panel (''Panel'') to review decisions made by Market Control under this Rule.

Once a Member has properly notified the Exchange that it wishes to appeal the decision of Market Control, a four person Panel will review and make a determination as to the appeal. The Panel as described in proposed Rule 720A(b)(1)(i) will be comprised of representatives from four (4) Members. Two (2) of the representatives must be directly engaged in market making activity and two (2) of the representatives must be employed by an Electronic Access Member (''EAM'').[6] The Exchange feels that by having a four person panel will help to ensure that determinations regarding erroneous transactions resulting from system malfunctions or extraordinary market conditions are made by a diverse representative group in a manner that will help to ensure fairness and impartiality. To qualify as a representative of an Electronic Access Member on a Review Panel, a person must (i) be employed by a Member whose revenues from options market making activity do not exceed ten percent (10%) of its total revenues; or (ii) have as his or her primary responsibility the handling of Public Customer orders or supervisory responsibility over persons with such responsibility, and not have any responsibilities with respect to market making activities.[7]

The Exchange shall designate at least five (5) market maker representatives and at least five (5) EAM representatives to be called upon to serve on the Panel as needed. In no case shall a Panel include a person related to a party to the trade in question. To the extent reasonably possible, the Exchange shall call upon the designated representatives to participate in a Panel on an equally frequent basis.

The Exchange notes that the options markets are currently in the process of identifying how to harmonize their respective obvious and catastrophic error rules, including a rule specifying the circumstances in which an options exchange may nullify or adjust trades because of a systems problem or malfunction. Because it is uncertain when this harmonized rule will be filed with and approved by the Commission, the Exchange believes it is critical to its current ability to maintain a fair and orderly market and to protect investors to propose an amendment to its current rules. The proposed rule would be superseded by a future proposed harmonized rule.

2. Statutory Basis

The Exchange believes that the proposed rule change will allow the Exchange, in extraordinary market conditions, to maintain a fair and orderly market. The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder and, in particular, the requirements of section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[8] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and national market system and promote a fair and orderly market because it would provide authority for the Exchange to nullify or adjust trades that may have resulted from a verifiable systems disruption or malfunction. The Exchange believes that it is appropriate to provide the flexibility and authority provided for in proposed Rule 720A so as not to limit the Exchange's ability to plan for and respond to unforeseen systems problems or malfunctions that may result in harm to the public. Allowing for the nullification or modification of transactions that result from verifiable disruptions and/or malfunctions of Exchanges systems will offer market participants on ISE Gemini a level of relief presently not available. The Exchange further notes that when acting under its own motion to nullify or adjust trades pursuant to proposed Rule 720A, the Exchange must consider whether taking such action would be in the interest of maintaining a fair and orderly market and for the protection of investors. The Exchange notes that the proposed rule change is based on NYSE Arca rules and is substantially similar to rules of other markets.[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed rule change is pro-competitive because

[5] *Id.*

[6] The composition of the Review Panel is similar to that of the ISE Gemini Obvious and Catastrophic Errors Panel, as defined in ISE Gemini Rule 720(d).

[7] The qualification requirements of the Review Panel are identical to those of the ISE Gemini Obvious and Catastrophic Errors Panel, as provided in Supplementary Material .02 to ISE Gemini Rule 720.

[8] 15 U.S.C. 78(f)(b)(5).

[9] *See supra* note 4.

it will align the Exchange's rules with the rules of other markets, including CBOE, NYSE Arca, and Phlx. By adopting proposed Rule 720A, the Exchange will be in a position to treat transactions that are a result of a verifiable systems issue or malfunction in a manner similar to other exchanges.

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 foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] 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 business days prior to the date of filing the proposed rule change as required by Rule 19b–4(f)(6).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings 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–ISEGemini–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–ISEGemini–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 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–ISEGemini–2014–18 and should be submitted on or before July 24, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15605 Filed 7–2–14; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72493; File No. SR–NASDAQ–2014–063]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of the Shares of the Arrow DWA Balanced ETF, Arrow DWA Tactical ETF and Arrow DWA Tactical Yield ETF of Arrow Investments Trust

June 27, 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 June 23, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in in Items I and II below, which Items have been prepared by Nasdaq. On June 26, 2014, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to list and trade the shares of the Arrow DWA Balanced ETF, Arrow DWA Tactical ETF and Arrow DWA Tactical Yield ETF (each a ''Fund'' and, collectively, the ''Funds'') of Arrow Investments Trust (the ''Trust'') under Nasdaq Rule 5735 (''Managed Fund Shares'').[4] The shares

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange clarifies that the Arrow Investments Trust will issue and sell shares of the Arrow DWA Balanced ETF, Arrow DWA Tactical ETF and Arrow DWA Tactical Yield ETF only in aggregations of 100,000 shares.

[4] The Commission approved Nasdaq Rule 5735 in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). The Funds would not be the first actively-managed fund listed on the Exchange; *see* Securities Exchange Act Release No. 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR–NASDAQ–2012–004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund). Additionally, the Commission has previously approved the listing and trading of a number of actively managed WisdomTree funds on NYSE Arca, Inc. pursuant to Rule 8.600 of that exchange. *See, e.g.,* Securities Exchange Act Release No. 64643 (June 10, 2011), 76 FR 35062 (June 15, 2011) (SR–NYSE Arca–2011–21) (order approving listing and trading of WisdomTree Global Real Return Fund). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

of the Fund [sic] are collectively referred to herein as the ''Shares.''

The text of the proposed rule change is available at *nasdaq.cchwallstreet.com,* 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, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq 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 list and trade the Shares of the Funds under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares [5] on the Exchange. The Funds will each be an actively managed exchange-traded fund (''ETF''). The Shares will be offered by the Trust, which was organized as a Delaware statutory trust on August 2, 2011. The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission.[6] Each Fund is a series of the Trust.

Description of the Shares and the Funds

Arrow Investment Advisors, LLC is the investment adviser (''Adviser'') to the Funds. Northern Lights Distributors, LLC (the ''Distributor'') is the principal underwriter and distributor of each Fund's Shares.[7] Gemini Fund Services, LLC (''Administrator'') will act as the administrator and transfer agent to the Funds. Brown Brothers Harriman & Co. (''Custodian'') will act as the custodian and transfer agent to the Funds.

Paragraph (g) of Rule 5735 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.[8] In addition, paragraph (g) 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, non-public information regarding the open-end fund's portfolio. Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i); however, paragraph (g) 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 a broker-dealer. The Adviser is affiliated with a broker-dealer, although it is not the Funds' distributor. The Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Adviser becomes newly affiliated with a broker-dealer or registers as 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 and/or such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Arrow DWA Balanced ETF

The Fund's primary investment objective is to seek to achieve an appropriate balance between long-term capital appreciation and capital preservation.

In pursuing its investment objective, the Fund will invest in other ETFs [9] that each invest primarily in domestic and foreign (including emerging markets) (i) equity securities of any market capitalization, (ii) fixed income securities of any credit quality, or (iii) alternative assets. In addition, the Fund will invest in commodity futures through a wholly-owned and controlled Cayman subsidiary (the ''Balanced Subsidiary''). The Fund defines ''equity securities'' to be exchange-traded common and preferred stocks; and defines ''fixed income securities'' to be bonds, notes or debentures; and defines ''alternative assets'' to be investments that are historically uncorrelated to either equity or fixed income investments, which are commodity futures, exchange-traded master limited partnerships (''MLPs'') and real estate-related securities, which include foreign and domestic exchange-traded real estate investment trusts (''REITs'') or exchange-traded real estate operating companies (''REOCs''). The Fund's fixed income securities may be rated below investment grade (rated BB+ or lower by Standard & Poor's Ratings Services (''S&P'') or comparably rated by another nationally recognized statistical rating organization (''NRSRO''), also known as ''high yield'' or ''junk'' bonds, and in unrated debt securities determined by the Adviser to be of comparable quality.

The Fund is a ''fund of funds,'' which means that it primarily invests in ETFs; however, the Adviser may elect to invest directly in the types of securities

[5] 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) (the ''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 Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, 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.

[6] *See* Post-Effective Amendment No. 7 to Registration Statement on Form N–1A for the Trust (File Nos. 333–178164 and 811–22638). The descriptions of the Funds and the Shares contained herein are based, in part, on information in the Registration Statement.

[7] The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act (the ''Exemptive Order''). *See* Investment Company Act Release No. 30127 (July 3, 2012) (File No. 812–13937), as supplemented December 6, 2012.

[8] 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.

[9] The ETFs in which the Fund may invest include Index Fund Shares and Portfolio Depositary Receipts (as described in Nasdaq Rule 5705(a) and (b)) and Managed Fund Shares (as described in Nasdaq Rule 5735).

described above. The Adviser may elect to make these direct investments when it is cost effective for the Fund to do so (such as when the Fund reaches a size sufficient to effectively purchase the underlying securities held by the ETFs in which it invests, allowing the Fund to avoid the costs associated with indirect investments). The Adviser uses technical analysis to allocate the Fund's portfolio among the asset classes described above.

Technical analysis is the method of evaluating securities by analyzing statistics generated by market activity, such as past prices and trading volume, in an effort to determine probable future prices.

Under normal market conditions,[10] the Fund will invest:

- From 25% to 65% in ETFs that invest in equity securities;
- from 25% to 65% in ETFs that invest in fixed income securities; and
- from 10% to 40% in ETFs that invest in alternative assets.

The Fund will have the ability to invest up to 25% of its total assets in the Balanced Subsidiary. The Balanced Subsidiary will invest primarily in commodity futures, as well as fixed income securities and cash equivalents, which are intended to serve as margin or collateral for the Balanced Subsidiary's investments in commodity futures.

The Fund will invest in ETFs within specific asset classes when the technical models used by the Adviser indicate a high probability that the applicable asset classes and ETFs are likely to outperform the applicable universe. The Fund will sell interests or reduce investment exposure among an asset class or ETF when the technical models used by the Adviser indicate that such asset class or ETF is likely to underperform the applicable universe. The Fund may be more heavily invested in fixed-income ETFs, cash positions and similar securities when the technical models indicate these assets should significantly outperform the equity and/or alternative asset classes.

In general, the Fund's investments in equity securities are intended to achieve the capital appreciation component of its investment objective and the Fund's investments in fixed income securities are intended to achieve the capital preservation component of its investment objective. Under normal market conditions, the Adviser expects that the Fund will invest a combined minimum of 35% in fixed-income securities and in alternative assets. The Fund's investments in alternative assets are intended to enable the portfolio to be less reliant on fixed-income investments for reducing volatility and equities for increasing returns. The Adviser may engage in frequent buying and selling of portfolio securities to achieve the Fund's investment objective. The Fund will not invest in options or swaps.

The Fund seeks to achieve its investment objective by implementing a proprietary technical asset allocation (''TAA'') model. The Adviser will overweight asset classes, rotation strategies and underlying ETFs exhibiting positive relative strength and underweight asset classes, rotation strategies and underlying ETFs exhibiting negative relative strength. In essence, TAA works by reallocating at different times in response to the changing patterns of returns available in the markets.

This methodology does not attempt to predict the future; it simply reacts to pattern changes in the marketplace at any given time. This methodology allows the Fund to be adaptive to current market conditions.

The tactical model relies on a number of technical indicators when making allocation decisions for the Fund. The Adviser utilizes relative strength as the primary technical indicator to tactically allocate assets both within and across asset classes and rotation strategies. The relative strength indicator is important because it adapts to the changing market conditions. Relative strength measures the likelihood that an ETF or a group of ETFs will outperform the appropriate base index. When the indicator is moving up, it shows that the ETF or group of ETFs is performing better than the base index. When the indicator is moving down, it shows that the ETF or group of ETFs is performing worse than the base index (*i.e.,* not rising as fast or falling faster).

For example, in the sector rotation strategy, the Adviser creates a sector-based index to compare all available sector ETFs for investment in the Fund. The performance of each ETF is compared to the base index and ranked. The Adviser generally purchases the ETFs that demonstrate the highest-ranked relative strength and sells any positions that are not included in that list.

The Adviser has discretion to add to or delete from the universe of eligible ETFs for each strategy based on holdings, expense ratio, volume, liquidity, new product availability and other factors that can positively contribute to achieving the Fund's investment objectives.

Arrow DWA Tactical ETF

The Fund's primary investment objective is to seek to achieve long-term capital appreciation with capital preservation as a secondary objective.

In pursuing its investment objective, the Fund will invest in other ETFs[11] that each invest primarily in domestic and foreign (including emerging markets) (i) equity securities of any market capitalization, (ii) fixed-income securities of any credit quality, or (iii) alternative assets. In addition, the Fund will invest in commodity futures through a wholly-owned and controlled Cayman subsidiary (the ''Tactical Subsidiary''). The Fund defines equity securities to be exchange-traded common and preferred stocks; and defines fixed-income securities to be bonds, notes or debentures; and defines alternative assets to be investments that are historically uncorrelated to either equity or fixed income investments, which are commodity futures, MLPs and real estate-related securities, which include foreign and domestic REITs or REOCs. The Fund's fixed income securities may be rated below investment grade (rated BB+ or lower by S&P or comparably rated by another NRSRO, also known as ''high yield'' or ''junk'' bonds, and in unrated debt securities determined by the Adviser to be of comparable quality.

The Fund is a ''fund of funds,'' which means that it primarily invests in ETFs; however, the Adviser may elect to invest directly in the types of securities described above. The Adviser may elect to make these direct investments when it is cost effective for the Fund to do so (such as when the Fund reaches a size sufficient to effectively purchase the underlying securities held by the ETFs in which it invests, allowing the Fund to avoid the costs associated with indirect investments). The Adviser uses technical analysis to allocate the Fund's assets among the asset classes described above.

[10] The term ''under normal market conditions'' as used herein includes, but is not limited to, the absence of adverse market, economic, political or other conditions, including extreme volatility or trading halts in the securities 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. In periods of extreme market disturbance, the Fund may take temporary defensive positions, by overweighting its portfolio in cash/cash-like instruments; however, to the extent possible, the Adviser would continue to seek to achieve the Fund's investment objective.

[11] The ETFs in which the Fund may invest include Index Fund Shares and Portfolio Depositary Receipts (as described in Nasdaq Rule 5705(a) and (b)) and Managed Fund Shares (as described in Nasdaq Rule 5735).

Technical analysis is the method of evaluating securities by analyzing statistics generated by market activity, such as past prices and trading volume, in an effort to determine probable future prices.

Under normal market conditions, the Fund will invest:

- From 0% to 100% of its assets in ETFs that invest in equity securities;
- From 0% to 100% of its assets in ETFs that invest in fixed-income securities; and
- From 0% up to 90% of its assets in ETFs that invest in alternative assets.

The Fund will have the ability to invest up to 25% of its total assets in the Tactical Subsidiary. The Tactical Subsidiary will invest primarily in commodity futures, as well as fixed-income securities and cash equivalents, which are intended to serve as margin or collateral for the Tactical Subsidiary's investments in commodity futures.

The Fund will invest in ETFs within specific asset classes when the technical models used by the Adviser indicate a high probability that the applicable asset classes and ETFs are likely to outperform the applicable universe. The Fund will sell interests or reduce investment exposure among an asset class or ETF when the technical models used by the Adviser indicate that such asset class or ETF is likely to underperform the applicable universe. The Fund may invest more heavily in fixed-income ETFs, cash positions and similar securities when the technical models indicate these assets should significantly outperform the equity and/or alternative asset classes.

In general, the Fund's investments in equity securities are intended to achieve the capital appreciation component of the Fund's investment objectives. At times, the Fund may invest in fixed-income securities in order to achieve the capital preservation component of the Fund's investment objectives. The Fund's investments in alternative assets are intended to enable the portfolio to be less reliant on fixed-income investments for reducing volatility and equities for increasing returns. The Adviser may engage in frequent buying and selling of portfolio securities to achieve the Fund's investment objectives. The Fund will not invest in options or swaps.

The Fund seeks to achieve its investment objectives by implementing a proprietary TAA model. The Adviser will overweight asset classes, rotation strategies and underlying ETFs exhibiting positive relative strength and underweight asset classes, rotation strategies and underlying ETFs exhibiting negative relative strength.

The tactical model relies on a number of technical indicators when making allocation decisions for the Fund. The Adviser utilizes relative strength as the primary technical indicator to tactically allocate assets both within and across asset classes and rotation strategies. The relative strength indicator is important because it adapts to the changing market conditions. Relative strength measures the likelihood that an ETF or a group of ETFs will outperform the appropriate base index. When the indicator is moving up, it shows that the ETF or group of ETFs is performing better than the base index. When the indicator is moving down, it shows that the ETF or group of ETFs is performing worse than the base index (*i.e.,* not rising as fast or falling faster).

For example, in the sector rotation strategy, the Adviser creates a sector-based index to compare all available sector ETFs for investment in the Fund. The performance of each ETF is compared to the base index and ranked. The Adviser generally purchases the ETFs that demonstrate the highest-ranked relative strength and sells any positions that are not included in that list.

The Adviser has discretion to add to or subtract from the universe of eligible ETFs for each strategy based on holdings, expense ratio, volume, liquidity, new product availability and other factors that can positively contribute to achieving the Fund's investment objectives.

The Subsidiaries

Each of the Balanced Fund and Tactical Fund have the ability to invest up to 25% of its total assets in the Balanced Subsidiary and the Tactical Subsidiary, respectively (each a ''Subsidiary''; together, the ''Subsidiaries''). Each Subsidiary will invest primarily in commodity futures, as well as fixed-income securities and cash equivalents, which are intended to serve as margin or collateral for each Subsidiary's investments in commodity futures. Each Subsidiary may have both long and short positions in commodities futures. However, for a given commodity, each Subsidiary will have a net long exposure. Each Subsidiary will also be advised by the Adviser.[12] Each Subsidiary will initially consider investing in the commodities futures contracts set forth in the following table. The table also provides each instrument's trading hours, exchange and ticker symbol. The table is subject to change.

Commodity	Bloomberg exchange code [13]	Exchange name [14]	Trading hours (eastern time)	Contract ticker (generic Bloomberg ticker)
Cattle, Live/Choice Average	CME	Chicago Mercantile Exchange	18:00–17:00	LC.
Cocoa	NYB	ICE Futures Exchange	04:00–14:00	CC.
Cotton/1 1/16"	NYB	ICE Futures Exchange	21:00–14:30	CT.
Feeder Cattle	CME	Chicago Mercantile Exchange	18:00–17:00	FC.
Coffee 'C'/Colombian	NYB	ICE Futures Exchange	03:30–14:00	KC.
Soybeans/No. 2 Yellow	CBT	Chicago Board of Trade	20:00–14:15	S.
Soybean Meal/48% Protein	CBT	Chicago Board of Trade	20:00–14:15	SM.

[12] Neither Subsidiary will be registered under the 1940 Act nor will be directly subject to its investor protections, except as noted in the Registration Statement. However, each Subsidiary will be wholly-owned and controlled by the applicable Fund and will be advised by the Adviser. Therefore, each Fund's ownership and control of their respective Subsidiary will prevent the applicable Subsidiary from taking action contrary to the interests of the Fund or its shareholders. The Board of Trustees of the Trust (the ''Board'') will have oversight responsibility for the investment activities of each Fund, including its expected investment in the applicable Subsidiary, and the Fund's role as the sole shareholder of the applicable Subsidiary. The Adviser will receive no additional compensation for managing the assets of each Subsidiary. Each Subsidiary will also enter into separate contracts for the provision of custody, transfer agency, and accounting agent services with the same or with affiliates of the same service providers that provide those services to the Funds.

[13] The exchange codes listed are Bloomberg shorthand codes for the corresponding exchanges. The New York Board of Trade is currently owned by the ICE Futures Exchange; Bloomberg continues to use NYB as its shorthand code for certain contracts formerly traded on the New York Board of Trade.

[14] All of the exchanges are ISG members except for the London Metal Exchange (''LME''). The LME falls under the jurisdiction of the United Kingdom Financial Conduct Authority (''FCA''). The FCA is responsible for ensuring the financial stability of the exchange members' businesses, whereas the LME is largely responsible for the oversight of day-to-day exchange activity, including conducting the arbitration proceedings under the LME arbitration regulations.

Commodity	Bloomberg exchange code [13]	Exchange name [14]	Trading hours (eastern time)	Contract ticker (generic Bloomberg ticker)
Soybean Oil/Crude	CBT	Chicago Board of Trade	20:00–14:15	BO.
Corn/No. 2 Yellow	CBT	Chicago Board of Trade	20:00–14:15	C.
Wheat/No. 2 Hard Winter	KCB	Kansas City Board of Trade	20:00–14:15	KW.
Wheat/No. 2 Soft Red	CBT	Chicago Board of Trade	20:00–14:15	W.
Sugar #11/World Raw	NYB	ICE Futures Exchange	02:30–14:00	SB.
Hogs, Lean/Average Iowa/S Minn	CME	Chicago Mercantile Exchange	18:00–17:00	LH.
Crude Oil, WTI/Global Spot	NYM	New York Mercantile Exchange	18:00–17:15	CL.
Crude Oil, Brent/Global Spot	ICE	ICE Futures Exchange	20:00–18:00	CO.
NY Harb ULSD	NYM	New York Mercantile Exchange	18:00–17:15	HO.
Gas-Oil-Petroleum	ICE	ICE Futures Exchange	20:00–18:00	QS.
Natural Gas, Henry Hub	NYM	New York Mercantile Exchange	18:00–17:15	NG.
Gasoline, Blendstock (RBOB)	NYM	New York Mercantile Exchange	18:00–17:15	XB.
Gold	CMX	COMEX	18:00–17:15	GC.
Silver	CMX	COMEX	18:00–17:15	SI.
Platinum	NYM	New York Mercantile Exchange	18:00–17:15	PL.
Copper High Grade/Scrap No. 2 Wire	CMX	COMEX	18:00–17:15	HG.
Aluminum, LME Primary 3 Month Rolling Forward.	LME	London Metal Exchange	15:00–14:45	LA.
Lead, LME Primary 3 Month Rolling Forward.	LME	London Metal Exchange	15:00–14:45	LL.
Nickel, LME Primary 3 Month Rolling Forward.	LME	London Metal Exchange	15:00–14:45	LN.
Tin, LME Primary 3 Month Rolling Forward.	LME	London Metal Exchange	15:00–14:45	LT.
Zinc, LME Primary 3 Month Rolling Forward.	LME	London Metal Exchange	15:00–14:45	LX.

As U.S. and London exchanges list additional contracts, as currently listed contracts on those exchanges gain sufficient liquidity or as other exchanges list sufficiently liquid contracts, the Adviser will include those contracts in the list of possible investments of the Subsidiaries. The list of commodities futures and commodities markets considered for investment can and will change over time.

By investing in commodities futures indirectly through the applicable Subsidiary, each of the Balanced Fund and the Tactical Fund will obtain exposure to the commodities markets within the federal tax requirements that apply to the Fund. Investment in each Subsidiary is expected to provide the applicable Fund with exposure to the commodities markets within the limitations of the federal tax requirements of Subchapter M of the Code.

Because each of the Balanced Fund and the Tactical Fund may invest up to 25% of its assets in its respective Subsidiary, such Fund may be considered to be investing indirectly in some of those investments through its Subsidiary. For that reason, references to each of the Balanced Fund and Tactical Fund may also include its Subsidiary. When viewed on a consolidated basis, each Subsidiary will be subject to the same investment restrictions and limitations, and follow the same compliance policies and procedures, as the applicable Fund.

Commodities Regulation

The Commodity Futures Trading Commission (''CFTC'') has recently adopted substantial amendments to CFTC Rule 4.5 relating to the permissible exemptions and conditions for reliance on exemptions from registration as a commodity pool operator. As a result of the instruments that will be indirectly held by each of the Balanced Fund and the Tactical Fund, the Adviser has registered as a commodity pool operator [15] and is also a member of the National Futures Association (''NFA''). Each of the Balanced Fund, Tactical Fund and the Subsidiaries are subject to regulation by the CFTC and NFA and additional disclosure, reporting and recordkeeping rules imposed upon commodity pools.

Arrow DWA Tactical Yield ETF

The Fund's primary investment objective is to seek high current income with an appropriate balance between long-term capital appreciation and capital preservation.

In pursuing its investment objective, the Fund will invest in other ETFs that each invest in domestic and foreign (including emerging markets) (i) equity securities of any market capitalization or (ii) fixed-income securities of any credit quality. The Fund also invests indirectly in these asset classes through various exchange-traded products (''ETPs''),[16] exchange-traded closed-end funds and directly through individual securities. In order to mitigate the settlement risk of the foreign denominated securities in which it invests due to currency fluctuations, the Fund may also invest in Spot Forex futures with up to 25% of the Fund's assets. The Fund will not invest in options or swaps.

The Fund defines equity securities to be exchange-traded common and preferred stocks and REITs, and defines fixed-income securities to be bonds, notes and debentures.

The Fund will maintain two income strategies that focus on (i) securities that generate ''high beta yield,'' consisting of securities correlated to equities based on a proprietary methodology, and (ii) securities that generate ''low beta yield'', consisting of securities less correlated to equities based on a proprietary methodology, respectively. Beta is a measure of the price volatility, or risk, of a security or a portfolio in comparison to the market as a whole. A security's correlation to equities is a measure of the performance similarity of the security to the S&P 500 index. The high beta strategy is a composite of securities that are selected based on

[15] As defined in Section 1a(11) of the Commodity Exchange Act.

[16] The ETPs in which the Fund may invest include exchange-traded currency trusts (as described in Nasdaq Rule 5711(e)) and exchange-traded notes (''ETNs'') (as described in Nasdaq Rule 5730).

their credit and equity risk premiums characteristics. The low beta yield strategy is a composite of securities that are selected based on their inflation, interest and credit risk characteristics. The Fund uses a proprietary selection methodology designed to identify securities that demonstrate strong relative strength characteristics within each strategy. The Fund will then utilize a quantitative methodology that relies on economic and fundamental factors to tactically underweight and overweight the income strategies.

The Fund will, under normal market conditions, invest as follows:

- From 20% to 80% in the Low Beta (LB). The LB will be comprised of equity and fixed income securities, including exchanged traded products that invest in international and domestic securities; and
- From 20% to 80% in the High Beta (HB). The HB will be in equity and fixed income securities, including exchanged traded products that invest in international and domestic securities.

The Fund expects to be a ''fund of funds,'' which means that it primarily invests in ETFs and also in ETPs and closed-end funds; however, the Adviser may elect to invest directly in the asset classes described above. The Adviser may elect to make these direct investments when it is cost effective for the Fund to do so (such as when the Fund reaches a size sufficient to effectively purchase the underlying securities held by the ETFs, ETPs or closed-end Funds in which it invests, allowing the Fund to avoid the costs associated with indirect investments).

All Funds

Each Fund will not invest 25% or more of the value of its total assets in securities of issuers in any one industry.[17] Each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). 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 securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[18]

In certain situations or market conditions, a Fund may temporarily depart from its normal investment policies and strategies provided that the alternative is consistent with the Fund's investment objective and is in the best interest of the Fund. For example, a Fund may hold a higher than normal proportion of its assets in cash in times of extreme market stress. The Funds may borrow money from a bank as permitted by the 1940 Act or other governing statute, by applicable rules thereunder, or by Commission or other regulatory agency with authority over the Funds, but only for temporary or emergency purposes. The use of temporary investments is not a part of a principal investment strategy of the Funds.

The Funds will be classified as ''non-diversified'' investment companies under the 1940 Act.[19] The Funds intend to qualify for and to elect treatment as a separate regulated investment company under Subchapter M of the Internal Revenue Code.[20]

Each Fund's investments and each Subsidiary's investments will be consistent with its respective investment objective and although certain derivative investments will have a leveraging effect on the Funds and Subsidiaries, the Funds and Subsidiaries will not seek leveraged returns (*e.g.,* 2X or –3X).

Purchasing and Redeeming Creation Units

The Trust will issue and sell Shares of the Funds only in aggregations of 100,000 Shares (''Creation Units'') on a continuous basis through the Distributor, without a sales load (but subject to transaction fees), at their net asset value (''NAV'') next determined after receipt of an order, on any business day, in proper form. The NAV of a Fund will be determined once each business day, normally as of the close of trading of the New York Stock Exchange (''NYSE''), generally, 4:00 p.m. Eastern time.

Only authorized participants may purchase or redeem any Creation Units. An ''Authorized Participant'' is either a broker-dealer or other participant in the Continuous Net Settlement System (''Clearing Process'') of the National Securities Clearing Corporation (''NSCC'') or a participant in the Depository Trust Company (''DTC'') with access to the DTC system (''DTC Participant'') that has executed an agreement (''Participant Agreement'') with the Distributor that governs transactions in each Fund's Creation Units.

The consideration for a Creation Unit generally consists of the in-kind deposit of designated securities (''Deposit Securities'') and an amount of cash in U.S. dollars (''Cash Component''). Together, the Deposit Securities and the Cash Component constitute the ''Portfolio Deposit.'' The consideration received in connection with the redemption of a Creation Unit generally consists of an in-kind basket of designated securities (''Redemption Securities'') and the Cash Component. Together, the Redemption Securities and the Cash Component constitute the ''Redemption Basket.''

The Cash Component compensates for any differences between the net asset value per Creation Unit and the Deposit Securities or Redemption Securities. Thus, the Cash Component is equal to the difference between (x) the net asset value per Creation Unit of each Fund and (y) the market value of the Deposit Securities or Redemption Securities. If (x) is more than(y), the Authorized Participant will receive the Cash Component from the applicable Fund. If (x) is less than (y), the Authorized Participant will pay the Cash Component to the applicable Fund.

On each Business Day, prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern Time), the Adviser through the Custodian makes available through NSCC the name and amount of each Deposit Security in the current Portfolio Deposit (based on information at the end of the previous Business Day) for each Fund and the (estimated) Cash Component, effective through and including the previous Business Day, per Creation Unit. The Deposit Securities announced are

[17] *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).

[18] 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 1933 Act).

[19] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act (15 U.S.C. 80a–5).

[20] 26 U.S.C. 851.

applicable, subject to any adjustments as described below, to purchases of Creation Units until the next announcement of Deposit Securities.

If the Redemption Securities on a Business Day are different from the Deposit Securities, prior to the opening of business on the Exchange, the Adviser through the Custodian makes available through NSCC the name and amount of each Redemption Security in the current Redemption Basket (based on information at the end of the previous Business Day) for a Fund and the (estimated) Cash Component, effective through and including the previous Business Day, per Creation Unit.

The Trust will reserve the right to permit or require the substitution of an amount of cash (*i.e.,* a ''cash-in-lieu'') amount to be added to the Cash Component to replace any Deposit Security or Redemption Security that may not be available in sufficient quantity for delivery or which might not be eligible for trading by an Authorized Participant or the investor for which it is acting or other relevant reason. To the extent the Trust effects the purchase or redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

All orders to create Creation Unit aggregations must be received by the Distributor no later than the earlier of (i) 4:00 p.m. Eastern Time or (ii) the closing time of the bond markets and/or the regular trading session on the Exchange, in each case, on the date such order is placed in order for creations of Creation Unit aggregations 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.

In order to redeem Creation Units of a Fund, an Authorized Participant must submit an order to redeem for one or more Creation Units. All such orders must be received by the Distributor in proper form no later than the earlier of (i) 4:00 p.m. Eastern Time or (ii) the closing time of the bond markets and/or the regular trading session on the Exchange, in order to receive that day's closing NAV per Share.

Net Asset Value

The Administrator calculates each Fund's NAV at the close of regular trading (normally 4:00 p.m., Eastern Time) every day that the NYSE is open. NAV is calculated by deducting all of a Fund's liabilities from the total value of its assets and dividing the result by the number of Shares outstanding, rounding to the nearest cent. All valuations are subject to review by the Trust's Board or its delegate.

In determining NAV, expenses are accrued and applied daily and securities and other assets for which market quotations are readily available are valued at market value. The NAV for a Fund will be calculated and disseminated daily. The value of a Fund's portfolio securities is based on market value when market quotations are readily available.

Exchange-traded securities, such as common and preferred stocks, ETFs, ETPs, ETNs, closed-end funds, REITs, MLPs, REOCs and similar instruments, generally are valued by using market quotations, but may be valued on the basis of prices furnished by a pricing service when the Adviser believes such prices accurately reflect the fair market value of such securities. Securities that are traded on any stock exchange or on Nasdaq are generally valued by the pricing service at the last quoted sale price. Lacking a last sale price, an equity security is generally valued by the pricing service at its last bid price. When market quotations are not readily available, when the Adviser determines that the market quotation or the price provided by the pricing service does not accurately reflect the current market value, or when restricted or illiquid securities are being valued, such securities are valued as determined in good faith by the Adviser. If a security's market price is not readily available, the security will be valued at fair value as determined by the Trust's Fair Value Committee in accordance with the Trust's valuation policies and procedures approved by the Board. The values of assets denominated in foreign currencies are converted into U.S. dollars based on the mean of the current bid and asked prices by major banking institutions and currency dealers.

Bonds, notes, debentures or similar instruments are valued by a pricing service when the Fund's Adviser believes such prices are accurate and reflect the fair market value of such securities. If the Adviser decides that a price provided by the pricing service does not accurately reflect the fair market value of the securities, when prices are not readily available from a pricing service, or when restricted or illiquid securities are being valued, securities are valued at fair value as determined in good faith by the Fund's Adviser, subject to review by the Board of Trustees. Short-term investments in fixed income securities with maturities of less than 60 days when acquired, or which subsequently are within 60 days of maturity, are valued by using the amortized cost method of valuation.

Futures contracts listed for trading on a futures exchange or board of trade for which market quotations are readily available are valued at the last quoted sales price or, in the absence of a sale, at the mean of the last bid and ask prices.

The Subsidiaries will be valued at their NAV at the close of regular trading (normally 4:00 p.m., Eastern time) every day that the NYSE is open. NAV is calculated by deducting all of a Subsidiary's liabilities from the total value of its assets and dividing the result by the number of shares of the Subsidiary outstanding, rounding to the nearest cent. The total value of the assets of each Subsidiary is determined using the same valuation policy as the Funds.

Even when market quotations are available, they may be stale or unreliable because the validity of market quotations appears to be questionable; the number of quotations is such as to indicate that there is a thin market in the security; a significant event occurs after the close of a market but before a Fund's NAV calculation that may affect a security's value; or the Adviser is aware of any other data that calls into question the reliability of market quotations such as issuer-specific events, which may include a merger or insolvency, events which affect a geographical area or an industry segment, such as political events or natural disasters, or market events, such as a significant movement in the U.S. market. Where market quotations are not readily available, including where the Adviser determines that the closing price of the security is unreliable, the Adviser will value the security at fair value in good faith using procedures approved by the Board. Fair value pricing involves subjective judgments and it is possible that a fair value determination for a security is materially different than the value that could be realized upon the sale of the security.

Because foreign markets may be open on different days than the days during which a shareholder may purchase Shares, the value of a Fund's investments may change on days when shareholders are not able to purchase Shares.

Availability of Information

The Funds' Web site (*www.arrowshares.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Funds that may be downloaded. The Web site will include each Fund's ticker, Cusip and exchange information along with additional quantitative information updated on a daily basis, including, for

each Fund: (1) daily trading volume, the prior business day's reported NAV and closing price, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price'') [21] 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 Regular Market Session [22] on the Exchange, the Funds will disclose on their Web site the identities and quantities of the portfolio of securities and other assets (the ''Disclosed Portfolio'' as defined in Nasdaq Rule 5735(c)(2)) held by each Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[23] The Disclosed Portfolio will include, as applicable, the names, quantity, percentage weighting and market value of securities and other assets held by each Fund and each Subsidiary and the characteristics of such assets. The Web site and information will be publicly available at no charge.

In addition, for the Funds, an estimated value, defined in Rule 5735(c)(3) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of each Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service [24] will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. Information regarding the ETFs, other ETPs, futures, equity securities, fixed income securities and other investments held by the Funds and Subsidiaries will be available from on-line information services such as Bloomberg.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of each Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Intraday, executable price quotations on the securities and other assets held by the Funds and Subsidiaries, will be available from major broker-dealer firms or on the exchange on which they are traded, as applicable. Intraday price information will also be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other investors: (a) pricing information for exchange-traded securities such as common and preferred stocks, ETFs, ETPs, ETNs, closed-end funds, futures contracts, REITs, MLPs, and REOCs will be publicly available from the Web sites of the exchanges on which they trade, on public financial Web sites, and through subscription services such as Bloomberg and Thompson Reuters; and (b) pricing information regarding debt securities (including high yield fixed-income securities, bonds, notes and debentures will be available through subscription services such as Markit, Bloomberg and Thompson Reuters.

Investors will also be able to obtain the Funds' Statement of Additional Information (''SAI''), the Funds' annual and semi-annual shareholder reports (''Shareholder Reports''), and their Form N–CSR and Form N–SAR, filed twice a year. The Fund's SAI and Shareholder Reports will be available free upon request from the Funds, 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 volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. 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 will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans for the Shares and any underlying exchange-traded products.

Additional information regarding the Funds and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes will be included in the Registration Statement. All terms relating to a Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Initial and Continued Listing

The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Funds must be in compliance with Rule 10A–3 [25] under the Act. A minimum of 100,000 Shares of 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 NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

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. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading 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 other assets constituting the Disclosed Portfolio of the Funds; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Funds may be halted.

[21] The Bid/Ask Price of each Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Funds and their service providers.

[22] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. Eastern Time; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. Eastern Time; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. Eastern Time).

[23] Under accounting procedures to be 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''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. 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.

[24] Currently, the NASDAQ OMX Global Index Data Service (''GIDS'') is the NASDAQ OMX global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade NASDAQ OMX indexes, listed ETFs, or third-party partner indexes and ETFs.

[25] *See* 17 CFR 240.10A–3.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and also 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.[26] 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 surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. 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 information it can obtain relating to the Shares and other exchange-traded securities and instruments held by the Fund with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG'')[27] and FINRA may obtain trading information regarding trading in the Shares and exchange-traded securities and instruments held by the Fund from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes all U.S. national securities and certain futures exchanges, or are parties to a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by each Fund reported to FINRA's TRACE. At all times, 90% of each Fund's exchange-traded assets will be securities that trade in markets that are members of the ISG, which includes all U.S. national securities and certain futures exchanges, or are parties to a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how and by whom information regarding the Intraday Indicative Value and Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members 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 Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Distributor's Web site.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Act[28] in general and Section 6(b)(5) of the Act[29] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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 Nasdaq Rule 5735. 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. At all times, 90% of each Fund's exchange-traded assets will be securities that trade in markets that are members of the ISG, which includes all U.S. national securities and certain futures exchanges, or are parties to a comprehensive surveillance sharing agreement. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In pursuing its investment objective, the Balanced Fund and the Tactical Fund seek to achieve their respective investment objectives by investing in ETFs that each invest primarily in domestic and foreign (including emerging markets) (i) equity securities of any market capitalization, (ii) fixed income securities of any credit quality, or (iii) alternative assets. In addition, each of the Balanced Fund and the Tactical Fund invests in commodity futures through its respective Subsidiary. In pursuing its investment objective, the Tactical Yield Fund invests in ETFs that each invest primarily in domestic and foreign

[26] 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.

[27] For a list of the current members of ISG, *see www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[28] 15 U.S.C. 78f.

[29] 15 U.S.C. 78f(b)(5).

(including emerging markets) (i) equity securities of any market capitalization, and (ii) fixed income securities of any credit quality.

The Funds will not invest 25% or more of the value of its total assets in securities of issuers in any one industry.[30] The Funds may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment).

Each of the Balanced Fund and Tactical Fund has the ability to invest up to 25% of its total assets in the Balanced Subsidiary and the Tactical Subsidiary, respectively. Each Subsidiary will invest primarily in commodity futures, as well as fixed income securities and cash equivalents, which are intended to serve as margin or collateral for the subsidiary's investments in commodity futures. Each Subsidiary may have both long and short positions in commodities futures. However, for a given commodity, each Subsidiary will have a net long exposure.

The Adviser is not a broker-dealer, but the Adviser is affiliated with a broker-dealer and has implemented a ''fire wall'' with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Funds' portfolio. In addition, as required by paragraph (g) of Nasdaq Rule 5735, Adviser personnel who make decisions on each Fund's portfolio composition will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the each Fund's portfolio. The Funds' investments will be consistent with the Funds' investment objectives and, although certain derivative investments will have a leveraging effect on the Funds and Subsidiaries, the Funds and Subsidiaries will not seek leveraged returns (*e.g.,* 2X or –3X).

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 will be calculated daily and that the NAV and the Disclosed Portfolio 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.

The Intraday Indicative Value, available on the NASDAQ OMX Information LLC proprietary index data service will be widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Regular Market Session. The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of each Fund on a daily basis and will provide a close estimate of that value throughout the trading 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 for the Shares will be available via Nasdaq proprietary quote and trade services. Intraday, executable price quotations of the securities and other assets held by the Funds will be available from major broker-dealer firms or on the exchange on which they are traded, if applicable. Intraday price information is available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

Trading in Shares of the Funds will be halted under the conditions specified in Nasdaq Rule 4120(a)(11) 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 Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Funds may be halted. In addition, as noted above, investors will have ready access to information regarding the Funds' holdings, the Intraday Indicative Value, 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.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded fund that 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

Written comments were neither solicited nor received.

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 up to 90 days (i) as the Commission may designate 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–NASDAQ–2014–063 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–2014–063. 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

[30] *See supra* note 17.

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 will also 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–2014–063 and should be submitted on or before July 24, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15610 Filed 7–2–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72488; File No. SR–NSCC–2014–08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Broaden the Scope of the Licensing and Appointments Service and To Amend NSCC's Fee Structure

June 27, 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 June 17, 2014, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes as described in Items I, II and III below, which Items have been prepared primarily by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(2)[4] and (4)[5] thereunder. The proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule changes consist of amendments to the Rules & Procedures (''Rules'') of NSCC to broaden the scope of the Licensing and Appointments (''L&A'') service of the Insurance & Retirement Processing Services (''I&RS'') of NSCC and to amend Addendum A of NSCC's Rules in connection therewith, as more fully described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Proposed Rule Changes

In 2001, NSCC established the L&A service[6] as part of the I&RS suite of services. L&A allows users of the service to transmit data and information between themselves with respect to state licensing[7] and appointment[8] matters, which in general relate to insurance agents (''Producers''), and to settle payments between themselves in connection therewith.

In light of recently implemented regulations pertaining to annuity product training for Producers under various state insurance laws,[9] NSCC proposes to broaden L&A's scope to specify that Licensing and Appointment authorizations and activities includes, but is not limited to, insurance-related training of a licensee or appointee. The proposed rule change will also specify that, in addition to the exchange of Licensing and Appointment information between users of L&A, users may also supply and access Licensing and Appointment information directly to and directly from NSCC, as the case may be. For example, with the proposed rule change, users of the L&A service will have access to a new feature, the Producer Management Portal, which is a repository of Producer related information (including, but not limited to Producer training completions) stored by NSCC for direct access by those L&A users that subscribe to the new feature.

In connection with the addition of the new Producer Management Portal feature of L&A, the proposed rule change will also amend Addendum A to include the Producer Management Portal fees as follows:

- For insurance carrier providers of Producer training completions:

Band	Number of active producers managed	Monthly fee
1	0–999	$0.
2	1,000–9,999	1,000.
3	10,000–49,999	3,000.
4	50,000–99,999	4,000.

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] 17 CFR 240.19b–4(f)(4).

[6] Securities Exchange Act Release No. 44635 (August 1, 2001), 66 FR 41287 (August 7, 2001) (SR–NSCC–2001–10).

[7] A license is an authorization from a state insurance department permitting the licensee to sell insurance under the guidelines established by the insurance laws of that state (''Licensing'').

[8] An appointment is an authorization from an insurance carrier permitting the appointee to sell the products of that particular carrier in a particular state (''Appointment'').

[9] In 2010, the National Association of Insurance Commissioners adopted the *2010 Suitability in Annuity Transactions Model Regulation* to set standards and procedures for suitable annuity recommendations of Producers, including among other standards, that Producers have adequate insurance carrier-product specific training prior to soliciting an annuity product for such insurance carrier, as well as a one time, minimum four credit hour, general annuity training course offered by an approved education provider and approved by the applicable insurance department in accordance with applicable insurance education training laws or regulations. See, *http://www.naic.org/store/free/MDL-275.pdf.*

Band	Number of active producers managed	Monthly fee
5	100,000–249,999	5,000.
6	250,000 +	$5,000, plus $0.018 per active Producer managed.

• For inquiries:

$1.25 per inquiry into the portal

$6,000 per month for batch service (periodic file transmissions)

2. Statutory Basis

NSCC believes that the proposed rule changes are consistent with the requirements of the Act, and the rules and regulations thereunder applicable to NSCC. In particular, the proposed rule changes are consistent with (i) Section 17A(b)(3)(F) [10] of the Act because they enhance NSCC members' ability to access and retrieve Licensing and Appointment information in a standardized and automated form, fostering cooperation and coordination with persons engaged in the clearance and settlement of insurance transactions, and (ii) Section 17A(b)(3)(D) [11] of the Act because they establish fees in connection with use of an added feature to an existing NSCC service, providing for the equitable allocation of reasonable dues, fees and other charges among NSCC members. The proposed rule changes relate solely to an information service of NSCC, and therefore, implementation of the rule changes will not affect the safeguarding of securities or funds in NSCC's custody or control or for which NSCC is responsible.

B. Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule changes will have any impact, or impose any burden on competition.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule changes have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule changes have become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 [13] thereunder. At any time within 60 days of the filing of the proposed rule changes, the Commission summarily may temporarily suspend such rule changes 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 changes are 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–NSCC–2014–08 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–NSCC–2014–08. 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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 NSCC and on NSCC's Web site at (*http://www.dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2014–08 and should be submitted on or before July 24, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15604 Filed 7–2–14; 8:45 am]

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[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78q–1(b)(3)(D).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72492; File No. SR–MIAX–2014–30]

Self-Regulatory Organizations: Notice of Filing of a Proposed Rule Change by Miami International Securities Exchange LLC To List and Trade Options on Shares of the iShare ETFs

June 27, 2014.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 17, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to list and trade on the Exchange options on shares of the iShares MSCI Brazil Capped ETF (''EWZ''), iShares MSCI Chile Capped ETF (''ECH''), iShares MSCI Peru Capped ETF (''EPU''), and iShares MSCI Spain Capped ETF (''EWP'').

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing*, at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list for trading on the Exchange options on the shares of the iShares MSCI Brazil Capped ETF, iShares MSCI Chile Capped ETF, iShares MSCI Peru Capped ETF, and iShares MSCI Spain Capped ETF (collectively the ''iShare ETFs''). MIAX Rule 402 establishes the Exchange's initial listing standards for equity options (the ''Listing Standards''). The Listing Standards permit the Exchange to list options on the shares of open-end investment companies, such as the iShare ETFs, without having to file for approval with the Commission.[3] The Exchange submits that each of the iShare ETFs substantially meet all of the initial listing requirements. In particular, all of the requirements set forth in Rule 402(i) for each of the iShare ETFs are met except for the requirement concerning the existence of a comprehensive surveillance sharing agreement (''CSSA''). However, as explained below, the Exchange submits that sufficient mechanisms exist in order to provide adequate surveillance and regulatory information with respect to the portfolio securities of each of the iShare ETFs.

iShares MSCI Brazil Capped ETF (''EWZ'')

EWZ is registered pursuant to the Investment Company Act of 1940 as a management investment company designed to hold a portfolio of securities which track the MSCI Brazil 25/50 Index (''Brazil Index'').[4] The Brazil Index consists of stocks traded primarily on BM&FBOVESPA. EWZ employs a ''representative sampling'' methodology to track the Brazil Index by investing in a representative sample of Brazil Index securities having a similar investment profile as the Brazil Index.[5] BlackRock Fund Advisors (''BFA'' or the ''Adviser'') expects EWZ to closely track the Brazil Index so that, over time, a tracking error of 5%, or less, is exhibited. Securities selected by EWZ have aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the Brazil Index. EWZ will not concentrate its investments (*i.e.,* hold 25% or more of its total assets in the stocks of a particular industry or group of industries), except, to the extent practicable, to reflect the concentration in the Brazil Index. EWZ will invest at least eighty percent (80%) of its assets in the securities comprising the Brazil Index and/or related American Depositary Receipts (''ADRs''). EWZ may also invest its other assets in futures contracts, options on futures contracts, other types of options and swaps related to the Brazil Index, as well as cash and cash equivalents. The Exchange believes that these requirements and policies prevent the EWZ from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in EWZ could become a surrogate for trading in unregistered securities.

Shares of the EWZ (''EWZ Shares'') are issued and redeemed, on a continuous basis, at net asset value (''NAV'') in aggregation size of 50,000 shares, or multiples thereof (a ''Creation Unit''). Following issuance, EWZ Shares are traded on an exchange like other equity securities. EWZ Shares trade in the secondary markets in amounts less than a Creation Unit and the price per EWZ Share may differ from its NAV which is calculated once daily as of the regularly scheduled close of business of NYSE Arca.[6]

State Street Bank and Trust Company, the administrator, custodian, and transfer agent for EWZ. Detailed information on EWZ can be found at *www.ishares.com*.

The Exchange has reviewed EWZ and determined that the EWZ Shares satisfy the initial listing standards, except for the requirement set forth in MIAX Rule 402(i)(5)(ii)(A) which requires EWZ to meet the following condition:

- Any non-U.S. component securities of an index or portfolio of securities on which the Exchange-Traded Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio.

The Exchange currently does not have in place a surveillance agreement with BOVESPA.

The Exchange submits that the Commission, in the past, has been willing to allow a national securities exchange to rely on a memorandum of understanding entered into between regulators in the event that the exchanges themselves cannot enter into a CSSA. The Exchange notes that BM&FBOVESPA is under the regulatory oversight of the Comissao de Valores Mobiliarios (''CMV''), which has the responsibility for both Brazilian exchanges and over-the-counter markets. The Exchange further notes that the Commission executed a memorandum of understanding with the CMV dated as of July 24, 2012 (''Brazil-US MOU''), which provides a framework for mutual assistance in investigatory and regulatory issues. Based on the relationship between the SEC and CMV and the terms of the Brazil-US MOU, the Exchange submits that both the Commission and the CMV could acquire information from and provide information to the other similar to that which would be required in a

[3] MIAX Rule 402(i) provides the Listing Standards for shares or other securities (''Exchange-Traded Fund Shares'') that are traded on a national securities exchange and are defined as an ''NMS stock'' under Rule 600 of Regulation NMS.

[4] Morgan Stanley Capital International Inc. (''MSCI'') created and maintains the Brazil 25/50 Index.

[5] As of March 20, 2014, EWZ was comprised of 78 securities. ITAU UNIBANCO HOLDING SA PREF had the greatest individual weight at 8.51%. The aggregate percentage weighting of the top 5 and 10 securities in the Fund were 33.30% and 49.78%, respectively.

[6] The regularly scheduled close of trading on NYSE Arca is normally 4:00 p.m. Eastern Time (''ET'') and 4:15 p.m. for ETFs.

CSSA between exchanges. Moreover, the Commission could make a request for information under the Brazil-US MOU on behalf of an SRO that needed the information for regulatory purposes. Thus, should MIAX need information on Brazilian trading in the Brazil Index component securities to investigate incidents involving trading of EWZ options, the SEC could request such information from the CMV under the Brazil-US MOU. While this arrangement certainly would be enhanced by the existence of direct exchange to exchange surveillance sharing agreements, it is nonetheless consistent with other instances where the Commission has explored alternatives when the relevant foreign exchange was unwilling or unable to enter into a CSSA.[7]

The practice of relying on surveillance agreements or MOUs between regulators when a foreign exchange was unable, or unwilling, to provide an information sharing agreement was affirmed by the Commission in the Commission's New Product Release (''New Product Release'').[8] The Commission noted in the New Product Release that if securing a CSSA is not possible, an exchange should contact the Commission prior to listing a new derivative securities product. The Commission also noted that the Commission may determine instead that it is appropriate to rely on a memorandum of understanding between the Commission and the foreign regulator.

The Exchange has recently contacted BM&FBOVESPA with a request to enter into a CSSA. Until the Exchange is able to secure a CSSA with BM&FBOVESPA, the Exchange requests that the Commission allow the listing and trading of options on EWZ without a CSSA, upon reliance of the Brazil-US MOU entered into between the Commission and the CMV. The Exchange believes this request is reasonable and notes that the Commission has provided similar relief in the past. For example, the Commission approved the Philadelphia Stock Exchange, Inc. (''PHLX'') to rely on an MOU between the Commission and the CMV instead of a direct CSSA with BM&FBOVESPA in order to list and trade options on Telebras Portoflio Certicate American Depository Receipts.[9] Additionally, the Commission approved, on a pilot basis, proposals of competing exchanges to list and trade options on the iShares MSCI Emerging Markets Fund [10] and the iShares MSCI Mexico Indext Fund [sic].[11]

The Commission's approval of this request to list and trade options on the EWZ would otherwise render EWZ compliant with all of the applicable Listing Standards.

The Exchange shall continue to use its best efforts to obtain a CSSA with BM&FBOVESPA, which shall reflect the following: (1) Express language addressing market trading activity, clearing activity, and customer identity; (2) BM&FBOVESPA's reasonable ability to obtain access to and produce requested information; and (3) based on the CSSA and other information provided by the BM&FBOVESPA, the absence of existing rules, law or practices that would impede the Exchange from obtaining foreign information relating to market activity, clearing activity, or customer identity, or in the event such rules, laws, or practices exist, they would not materially impede the production of customer or other information.

iShares MSCI Chile Capped ETF (''ECH'')

ECH is registered pursuant to the Investment Company Act of 1940 as a management investment company designed to hold a portfolio of securities which track the MSCI Chile Investable Market Index (IMI) 25/50 (''Chile Index'').[12] The Chile Index consists of stocks traded primarily on the Santiago Stock Exchange (''SSE''). ECH employs a ''representative sampling'' methodology to track the Chile Index by investing in a representative sample of Chile Index securities having a similar investment profile as the Chile Index.[13] BFA, ECH's Adviser expects ECH to closely track the Chile Index so that, over time, a tracking error of 5%, or less, is exhibited. Securities selected by ECH have aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the Chile Index. ECH will not concentrate its investments (*i.e.,* hold 25% or more of its total assets in the stocks of a particular industry or group of industries), except, to the extent practicable, to reflect the concentration in the Chile Index. ECH will invest at least ninety percent (90%) of its assets in the securities comprising the Chile Index and/or related ADRs. ECH may also invest its other assets in futures contracts, options on futures contracts, other types of options and swaps related to the Chile Index, as well as cash and cash equivalents. The Exchange believes that these requirements and policies prevent the ECH from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in ECH could become a surrogate for trading in unregistered securities.

Shares of the ECH (''ECH Shares'') are issued and redeemed, on a continuous basis, at NAV in aggregation size of 50,000 shares, or multiples thereof (a ''Creation Unit''). Following issuance, ECH Shares are traded on an exchange like other equity securities. ECH Shares trade in the secondary markets in amounts less than a Creation Unit and the price per ECH Share may differ from its NAV which is calculated once daily as of the regularly scheduled close of business of NYSE Arca.[14]

State Street Bank and Trust Company, the administrator, custodian, and transfer agent for ECH. Detailed information on ECH can be found at *www.ishares.com.*

The Exchange has reviewed ECH and determined that the ECH Shares satisfy the initial listing standards, except for the requirement set forth in MIAX Rule 402(i)(5)(ii)(A) which requires ECH to meet the following condition:

- Any non-U.S. component securities of an index or portfolio of securities on which the Exchange-Traded Fund Shares are based that are not subject to

[7] *See, e.g.,* Securities Exchange Act Release No. 36415 (October 25, 1995), 60 FR 55620 (November 1, 1995) (SR–CBOE–95–45) (Order Approving Proposed Rule Change Relating to the Listing and Trading of Options on the CBOE Mexico 30 Index).

[8] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952, 70959 at fn. 101 (December 22, 1998).

[9] *See* Securities Exchange Act Release No. 40298 (August 3, 1998), 63 FR 43435 (August 13, 1998) (SR-Phlx-1998–33).

[10] *See* Securities Exchange Act Release Nos. 53824 (May 17, 2006), 71 FR 30003 (May 24, 2006) (SR-Amex-2006–43); 54081 (June 30, 2006), 71 FR 38911 (July 10, 2006) (SR-Amex-2006–60); 54553 (September 29, 2006), 71 FR 59561 (October 10, 2006) (SR-Amex-2006–91); 55040 (January 3, 2007), 72 FR 1348 (January 11, 2007) (SR-Amex-2007–01); and 55955 (June 25, 2007), 72 FR 36079 (July 2, 2007) (SR-Amex-2007–57); 56324 (August 27, 2007), 72 FR 50426 (August 31, 2007) (SR–ISE–2007–72).

[11] *See* Securities Exchange Act Release Nos. 72213 (May 21, 2014), [sic] FR 30699 (May 28, 2014) (SR–MIAX–2014–19); 56778 (November 9, 2007), 72 FR 65113 (November 19, 2007) (SR–Amex–2007–100); 57013 (December 20, 2007), 72 FR 73923 (December 28, 2007) (SR–CBOE–2007–140); 57014 (December 20, 2007), 72 FR 73934 (December 28, 2007) (SR–ISE–2007–111).

[12] Morgan Stanley Capital International Inc. (''MSCI'') created and maintains the MSCI Chile Investable Market Index (IMI) 25/50.

[13] As of March 21, 2014, ECH was comprised of 41 securities. S.A.C.I. FALABELLA had the greatest individual weight at 9.25%. The aggregate percentage weighting of the top 5 and 10 securities in the Fund were 39.92% and 62.57%, respectively.

[14] *See supra* note 6.

comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio. The Exchange currently does not have in place a surveillance agreement with SSE.

The Exchange submits that the Commission, in the past, has been willing to allow a national securities exchange to rely on a memorandum of understanding entered into between regulators in the event that the exchanges themselves cannot enter into a CSSA. The Exchange notes that SSE is under the regulatory oversight of the Superintendencia de Valores y Seguros de Chile (''SVS''), which has the responsibility for Chilean securities markets. The Exchange further notes that the Commission executed a memorandum of understanding with the SVS dated as of June 3, 1993 (''Chile-US MOU''), which provides a framework for mutual assistance in investigatory and regulatory issues. Based on the relationship between the SEC and SVS and the terms of the Chile-US MOU, the Exchange submits that both the Commission and the SVS could acquire information from and provide information to the other similar to that which would be required in a CSSA between exchanges. Moreover, the Commission could make a request for information under the Chile-US MOU on behalf of an SRO that needed the information for regulatory purposes. Thus, should MIAX need information on Chilean trading in the Chile Index component securities to investigate incidents involving trading of ECH options, the SEC could request such information from the SVS under the Chile-US MOU. While this arrangement certainly would be enhanced by the existence of direct exchange to exchange surveillance sharing agreements, it is nonetheless consistent with other instances where the Commission has explored alternatives when the relevant foreign exchange was unwilling or unable to enter into a CSSA.[15]

The practice of relying on surveillance agreements or MOUs between regulators when a foreign exchange was unable, or unwilling, to provide an information sharing agreement was affirmed by the Commission in the Commission's New Product Release.[16] The Commission noted in the New Product Release that if securing a CSSA is not possible, an exchange should contact the Commission prior to listing a new derivative securities product. The Commission also noted that the Commission may determine instead that it is appropriate to rely on a memorandum of understanding between the Commission and the foreign regulator.

The Exchange has recently contacted SSE with a request to enter into a CSSA. Until the Exchange is able to secure a CSSA with SSE, the Exchange requests that the Commission allow the listing and trading of options on ECH without a CSSA, upon reliance of the MOU entered into between the Commission and the SVS. The Exchange believes this request is reasonable and notes that the Commission has provided similar relief in the past. For example, the Commission approved, on a pilot basis, proposals of competing exchanges to list and trade options on the iShares MSCI Emerging Markets Fund[17] and the iShares MSCI Mexico Index Fund.[18]

The Commission's approval of this request to list and trade options on the ECH would otherwise render ECH compliant with all of the applicable Listing Standards.

The Exchange shall continue to use its best efforts to obtain a CSSA with SSE, which shall reflect the following: (1) Express language addressing market trading activity, clearing activity, and customer identity; (2) SSE's reasonable ability to obtain access to and produce requested information; and (3) based on the CSSA and other information provided by SSE, the absence of existing rules, law or practices that would impede the Exchange from obtaining foreign information relating to market activity, clearing activity, or customer identity, or in the event such rules, laws, or practices exist, they would not materially impede the production of customer or other information.

iShares MSCI Peru Capped ETF (''EPU'')

EPU is registered pursuant to the Investment Company Act of 1940 as a management investment company designed to hold a portfolio of securities which track the MSCI All Peru Capped Index (''Peru Index'').[19] The Peru Index consists of stocks traded primarily on Bolsa de Valores de Lima (''BVL''). EPU employs a ''representative sampling'' methodology to track the Peru Index by investing in a representative sample of Peru Index securities having a similar investment profile as the Peru Index.[20] BFA expects EPU to closely track the Peru Index so that, over time, a tracking error of 5%, or less, is exhibited. Securities selected by EPU have aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the Peru Index. EPU will not concentrate its investments (*i.e.,* hold 25% or more of its total assets in the stocks of a particular industry or group of industries), except, to the extent practicable, to reflect the concentration in the Peru Index. EPU will invest at least eighty percent (80%) of its assets in the securities comprising the Peru Index and/or related ADRs. EPU may also invest its other assets in futures contracts, options on futures contracts, other types of options and swaps related to the Peru Index, as well as cash and cash equivalents. The Exchange believes that these requirements and policies prevent the EPU from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in EPU could become a surrogate for trading in unregistered securities.

Shares of the EPU (''EPU Shares'') are issued and redeemed, on a continuous basis, at NAV in aggregation size of 50,000 shares, or multiples thereof (a ''Creation Unit''). Following issuance, EPU Shares are traded on an exchange like other equity securities. EPU Shares trade in the secondary markets in amounts less than a Creation Unit and the price per EPU Share may differ from its NAV which is calculated once daily as of the regularly scheduled close of business of NYSE Arca.[21]

State Street Bank and Trust Company, the administrator, custodian, and transfer agent for EPU. Detailed information on EPU can be found at *www.ishares.com.*

The Exchange has reviewed EPU and determined that the EPU Shares satisfy the initial listing standards, except for the requirement set forth in MIAX Rule 402(i)(5)(ii)(A) which requires EPU to meet the following condition:

- Any non-U.S. component securities of an index or portfolio of securities on which the Exchange-Traded Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio.

The Exchange currently does not have in place a surveillance agreement with BVL.

[15] *See supra* note 7.

[16] *See supra* note 8.

[17] *See supra* note 10.

[18] *See supra* note 11.

[19] Morgan Stanley Capital International Inc. (''MSCI'') created and maintains the All Peru Capped Index.

[20] As of March 20, 2014, EPU was comprised of 25 securities. CREDICORP LTD had the greatest individual weight at 26.72%. The aggregate percentage weighting of the top 5 and 10 securities in the Fund were 55.60% and 73.11%, respectively.

[21] *See supra* note 6.

The Exchange submits that the Commission, in the past, has been willing to allow a national securities exchange to rely on a memorandum of understanding entered into between regulators in the event that the exchanges themselves cannot enter into a CSSA. The Exchange notes that BVL is under the regulatory oversight of the Superintendencia del Mercado de Valores (''SMV''), which has the responsibility for Peruvian stock exchanges. The Exchange further notes that both the Commission and SMV are signatories to the International Organization of Securities Commissions (''IOSCO'') Multilateral Memorandum of Understanding (''MMOU''), which provides a framework for mutual assistance in investigatory and regulatory issues. Based on the relationship between the SEC and SMV and the terms of the MMOU, the Exchange submits that both the Commission and the SMV could acquire information from and provide information to the other similar to that which would be required in a CSSA between exchanges. Moreover, the Commission could make a request for information under the MMOU on behalf of an SRO that needed the information for regulatory purposes. Thus, should MIAX need information on Peruvian trading in the Peru Index component securities to investigate incidents involving trading of EPU options, the SEC could request such information from the SMV under the MMOU. While this arrangement certainly would be enhanced by the existence of direct exchange to exchange surveillance sharing agreements, it is nonetheless consistent with other instances where the Commission has explored alternatives when the relevant foreign exchange was unwilling or unable to enter into a CSSA.[22]

The practice of relying on surveillance agreements or MOUs between regulators when a foreign exchange was unable, or unwilling, to provide an information sharing agreement was affirmed by the Commission in the New Product Release.[23] The Commission noted in the New Product Release that if securing a CSSA is not possible, an exchange should contact the Commission prior to listing a new derivative securities product. The Commission also noted that the Commission may determine instead that it is appropriate to rely on a memorandum of understanding between the Commission and the foreign regulator.

The Exchange has recently contacted BVL with a request to enter into a CSSA. Until the Exchange is able to secure a CSSA with BVL, the Exchange requests that the Commission allow the listing and trading of options on EPU without a CSSA, upon reliance of the MMOU entered into between the Commission and the SMV. The Exchange believes this request is reasonable and notes that the Commission has provided similar relief in the past. Additionally, the Commission approved, on a pilot basis, proposals of competing exchanges to list and trade options on the iShares MSCI Emerging Markets Fund [24] and the iShares MSCI Mexico Index Fund.[25]

The Commission's approval of this request to list and trade options on the EPU would otherwise render EPU compliant with all of the applicable Listing Standards.

The Exchange shall continue to use its best efforts to obtain a CSSA with BVL, which shall reflect the following: (1) Express language addressing market trading activity, clearing activity, and customer identity; (2) BVL's reasonable ability to obtain access to and produce requested information; and (3) based on the CSSA and other information provided by the BVL, the absence of existing rules, law or practices that would impede the Exchange from obtaining foreign information relating to market activity, clearing activity, or customer identity, or in the event such rules, laws, or practices exist, they would not materially impede the production of customer or other information.

iShares MSCI Spain Capped ETF (''EWP'')

EWP is registered pursuant to the Investment Company Act of 1940 as a management investment company designed to hold a portfolio of securities which track the MSCI Spain 25/50 Index (''Spain Index'').[26] The Spain Index consists of stocks traded primarily on Bolsa de Madrid (''BME''). EWP employs a ''representative sampling'' methodology to track the Spain Index by investing in a representative sample of Spain Index securities having a similar investment profile as the Spain Index.[27] BFA expects EWP to closely track the Spain Index so that, over time, a tracking error of 5%, or less, is exhibited. Securities selected by EWP have aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the Spain Index. EWP will not concentrate its investments (*i.e.,* hold 25% or more of its total assets in the stocks of a particular industry or group of industries), except, to the extent practicable, to reflect the concentration in the Spain Index. EWP will invest at least eighty percent (80%) of its assets in the securities comprising the Spain Index and/or related ADRs. EWP may also invest its other assets in futures contracts, options on futures contracts, other types of options and swaps related to the Spain Index, as well as cash and cash equivalents. The Exchange believes that these requirements and policies prevent the EWP from being excessively weighted in any single security or small group of securities and significantly reduce concerns that trading in EWP could become a surrogate for trading in unregistered securities.

Shares of the EWP (''EWP Shares'') are issued and redeemed, on a continuous basis, at NAV in aggregation size of 75,000 shares, or multiples thereof (a ''Creation Unit''). Following issuance, EWP Shares are traded on an exchange like other equity securities. EWP Shares trade in the secondary markets in amounts less than a Creation Unit and the price per EWP Share may differ from its NAV which is calculated once daily as of the regularly scheduled close of business of NYSE Arca.[28]

State Street Bank and Trust Company, the administrator, custodian, and transfer agent for EWP. Detailed information on EWP can be found at *ww.ishares.com.*

The Exchange has reviewed EWP and determined that the EWP Shares satisfy the initial listing standards, except for the requirement set forth in MIAX Rule 402(i)(5)(ii)(A) which requires EWP to meet the following condition:

- Any non-U.S. component securities of an index or portfolio of securities on which the Exchange-Traded Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio.

[22] *See supra,* note 7.

[23] *See supra,* note 8.

[24] *See supra* note 10.

[25] *See supra* note 11.

[26] Morgan Stanley Capital International Inc. (''MSCI'') created and maintains the Spain 25/50 Index.

[27] As of March 28, 2014, EWP was comprised of 24 securities. BANCO SANTANDER SA had the greatest individual weight at 22.37%. The aggregate percentage weighting of the top 5 and 10 securities in the Fund were 56.88% and 74.52%, respectively.

[28] *See supra* note 6.

The Exchange currently does not have in place a surveillance agreement with BME.

The Exchange submits that the Commission, in the past, has been willing to allow a national securities exchange to rely on a memorandum of understanding entered into between regulators in the event that the exchanges themselves cannot enter into a CSSA. The Exchange notes that BME is under the regulatory oversight of the Comision Nacional del Mercado de Valores (''CNMV''), which has the responsibility for Spanish stock exchanges. The Exchange further notes that the Commission executed a memorandum of understanding with the CNMV dated as of July 22, 2013 (''Spain-US MOU''), which provides a framework for mutual assistance in investigatory and regulatory issues. Based on the relationship between the SEC and CNMV and the terms of the Spain-US MOU, the Exchange submits that both the Commission and the CNMV could acquire information from and provide information to the other similar to that which would be required in a CSSA between exchanges. Moreover, the Commission could make a request for information under the Spain-US MOU on behalf of an SRO that needed the information for regulatory purposes. Thus, should MIAX need information on Spanish trading in the Spain Index component securities to investigate incidents involving trading of EWP options, the SEC could request such information from the CNMV under the Spain-US MOU. While this arrangement certainly would be enhanced by the existence of direct exchange to exchange surveillance sharing agreements, it is nonetheless consistent with other instances where the Commission has explored alternatives when the relevant foreign exchange was unwilling or unable to enter into a CSSA.[29]

The practice of relying on surveillance agreements or MOUs between regulators when a foreign exchange was unable, or unwilling, to provide an information sharing agreement was affirmed by the Commission in the New Product Release.[30] The Commission noted in the New Product Release that if securing a CSSA is not possible, an exchange should contact the Commission prior to listing a new derivative securities product. The Commission also noted that the Commission may determine instead that it is appropriate to rely on a memorandum of understanding between the Commission and the foreign regulator.

The Exchange has recently contacted BME with a request to enter into a CSSA. Until the Exchange is able to secure a CSSA with BME, the Exchange requests that the Commission allow the listing and trading of options on EWP without a CSSA, upon reliance of the Spain-US MOU entered into between the Commission and the CNMV. The Exchange believes this request is reasonable and notes that the Commission has provided similar relief in the past. Additionally, the Commission approved, on a pilot basis, proposals of competing exchanges to list and trade options on the iShares MSCI Emerging Markets Fund[31] and the iShares MSCI Mexico Index Fund.[32]

The Commission's approval of this request to list and trade options on the EWP would otherwise render EWP compliant with all of the applicable Listing Standards.

The Exchange shall continue to use its best efforts to obtain a CSSA with BME, which shall reflect the following: (1) Express language addressing market trading activity, clearing activity, and customer identity; (2) BME's reasonable ability to obtain access to and produce requested information; and (3) based on the CSSA and other information provided by the BME, the absence of existing rules, law or practices that would impede the Exchange from obtaining foreign information relating to market activity, clearing activity, or customer identity, or in the event such rules, laws, or practices exist, they would not materially impede the production of customer or other information.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act[33] in general, and furthers the objectives of Section 6(b)(5) of the Act[34] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the Exchange believes listing and trading of options on the iShare ETFs will benefit investors by providing them with valuable risk management tools.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes this proposed rule change will benefit investors by providing additional methods to trade options on the iShares ETFs, and by providing them with valuable risk management tools. Specifically, the Exchange believes that market participants on MIAX would benefit from the introduction and availability of options on the iShares ETFs in a manner that is similar to other exchanges and will provide investors with yet another venue on which to trade these products. The Exchange notes that the rule change is being proposed as a competitive response to other competing options exchanges that already list and trade options on the iShare ETFs and believes this proposed rule change is necessary to permit fair competition among the options exchanges. For all the reasons stated above, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

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

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 Exchange consents, the Commission shall: (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:

[29] *See supra,* note 7.

[30] *See supra,* note 8.

[31] *See supra* note 10.

[32] *See supra* note 11.

[33] 15 U.S.C. 78f(b).

[34] 15 U.S.C. 78f(b)(5).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2014–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2014–30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2014–30 and should be submitted on or before July 24, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15608 Filed 7–2–14; 8:45 am]

BILLING CODE 8011–01–P

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72490; File No. SR–ISE–2014–34]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish New Rule 720A

June 27, 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 June 24, 2014, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to establish new procedures to account for erroneous trades occurring from disruptions and/or malfunctions of Exchange systems. The changes described in this proposal would establish new ISE Rule 720A. The text of the proposed rule change is available on the Exchange's Web site *www.ise.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 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt Rule 720A to provide for new procedures to account for erroneous trades occurring from disruptions and/or malfunctions of Exchange systems. Specifically, proposed new Rule 720A would provide that any transaction that arises out of a ''verifiable systems disruption or malfunction'' in the use or operation of an Exchange automated quotation, dissemination, execution, or communication system may either be nullified or adjusted by Market Control.[3] Under the rule, Market Control may act, on its own motion, to review erroneous transactions. This filing is based on the rules of NYSE Arca, Inc. (''NYSE Arca'').[4]

The Exchange believes that it is appropriate to provide the flexibility and authority provided for in proposed Rule 720A so as not to limit the Exchange's ability to plan for and respond to unforeseen systems problems or malfunctions. The proposed rule change would provide the Exchange with the same authority to nullify or adjust trades in the event of a ''verifiable disruption or malfunction'' in the use of operation of its systems as other exchanges have.[5] For this reason, the Exchange believes that, in the interest of maintaining a fair and orderly market and for the protection of investors, authority to nullify or adjust trades in these circumstances, consistent with the authority on other exchanges, is warranted.

According to the proposal, in the event of any verifiable disruption or malfunction in the use or operation of an Exchange automated quotation, dissemination, execution, or communication system, in which the nullification or modification of transactions may be necessary for the maintenance of a fair and orderly market or the protection of investors and the public interest exist, Market Control, on his or her own motion, may review such transactions and declare such transactions arising out of the use or operation of such facilities during such period null and void or modify the

[3] Market Control consists of designated personnel in the Exchange's market control center. *See* ISE Rule 720(a)(3)(ii).

[4] *See* NYSE Arca Rule 6.89. The proposed rule change is also based in part on NASDAQ OMX PHLX, LLC (''Phlx'') Rule 1092(c)(ii)(A), and in addition is substantially similar to Chicago Board Options Exchange, Inc. (''CBOE'') Rule 6.25(a)(3).

[5] *Id.*

terms of the transactions, in accordance with the guidelines contained in Rule 720(b)(2)(i)(A) and (B). Pursuant to the proposal, Market Control, absent extraordinary circumstances, must initiate action under this authority within sixty (60) minutes of the occurrence of the erroneous transaction that was a result of the verifiable disruption or malfunction. Each Member involved in the transaction shall be notified as soon as practicable, and any Member aggrieved by the action may appeal such action in accordance with the provisions of subsection (b) of Rule 720A.

If Market Control determines that a transaction(s) is erroneous pursuant to Rule 720A(a) as described above, any Member aggrieved by the action may appeal such action in accordance with the provisions provided in Rule 720(b). The Exchange plans to utilize a Review Panel (''Panel'') to review decisions made by Market Control under this Rule.

Once a Member has properly notified the Exchange that it wishes to appeal the decision of Market Control, a four person Panel will review and make a determination as to the appeal. The Panel as described in proposed Rule 720A(b)(1)(i) will be comprised of representatives from four (4) Members. Two (2) of the representatives must be directly engaged in market making activity and two (2) of the representatives must be employed by an Electronic Access Member (''EAM'').[6] The Exchange feels that by having a four person panel will help to ensure that determinations regarding erroneous transactions resulting from system malfunctions or extraordinary market conditions are made by a diverse representative group in a manner that will help to ensure fairness and impartiality. To qualify as a representative of an Electronic Access Member on a Review Panel, a person must (i) be employed by a Member whose revenues from options market making activity do not exceed ten percent (10%) of its total revenues; or (ii) have as his or her primary responsibility the handling of Public Customer orders or supervisory responsibility over persons with such responsibility, and not have any responsibilities with respect to market making activities.[7]

The Exchange shall designate at least five (5) market maker representatives and at least five (5) EAM representatives to be called upon to serve on the Panel as needed. In no case shall a Panel include a person related to a party to the trade in question. To the extent reasonably possible, the Exchange shall call upon the designated representatives to participate in a Panel on an equally frequent basis.

The Exchange notes that the options markets are currently in the process of identifying how to harmonize their respective obvious and catastrophic error rules, including a rule specifying the circumstances in which an options exchange may nullify or adjust trades because of a systems problem or malfunction. Because it is uncertain when this harmonized rule will be filed with and approved by the Commission, the Exchange believes it is critical to its current ability to maintain a fair and orderly market and to protect investors to propose an amendment to its current rules. The proposed rule would be superseded by a future proposed harmonized rule.

2. Statutory Basis

The Exchange believes that the proposed rule change will allow the Exchange, in extraordinary market conditions, to maintain a fair and orderly market. The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder and, in particular, the requirements of section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[8] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and national market system and promote a fair and orderly market because it would provide authority for the Exchange to nullify or adjust trades that may have resulted from a verifiable systems disruption or malfunction. The Exchange believes that it is appropriate to provide the flexibility and authority provided for in proposed Rule 720A so as not to limit the Exchange's ability to plan for and respond to unforeseen systems problems or malfunctions that may result in harm to the public. Allowing for the nullification or modification of transactions that result from verifiable disruptions and/or malfunctions of Exchanges systems will offer market participants on ISE a level of relief presently not available. The Exchange further notes that when acting under its own motion to nullify or adjust trades pursuant to proposed Rule 720A, the Exchange must consider whether taking such action would be in the interest of maintaining a fair and orderly market and for the protection of investors. The Exchange notes that the proposed rule change is based on NYSE Arca rules and is substantially similar to rules of other markets.[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed rule change is pro-competitive because it will align the Exchange's rules with the rules of other markets, including CBOE, NYSE Arca, and Phlx. By adopting proposed Rule 720A, the Exchange will be in a position to treat transactions that are a result of a verifiable systems issue or malfunction in a manner similar to other exchanges.

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 foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11] The Exchange provided the Commission with written

[6] The composition of the Review Panel is similar to that of the ISE Obvious and Catastrophic Errors Panel, as defined in ISE Rule 720(d).

[7] The qualification requirements of the Review Panel are identical to those of the ISE Obvious and Catastrophic Errors Panel, as provided in Supplementary Material .02 to ISE Rule 720.

[8] 15 U.S.C. 78(f)(b)(5).

[9] *See supra* note 3.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

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 the proposed rule change as required by Rule 19b–4(f)(6).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings 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–ISE–2014–34 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–ISE–2014–34.* 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–ISE–2014–34 and should be submitted on or before July 24, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15606 Filed 7–2–14; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act (PRA) of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

(SSA), Social Security Administration, 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.*

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 September 2, 2014. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Medical Report on Adult with Allegation of Human Immunodeficiency Virus Infection; Medical Report on Child with Allegation of Human Immunodeficiency Virus Infection—20 CFR 416.933–20 CFR 416.934 —0960–0500.* Section 1631(e)(i) of the Social Security Act (Act) authorizes the Commissioner of SSA to gather information necessary to make an immediate determination about an applicant's claim for Supplemental Security Income (SSI) payments; this procedure is the Presumptive Disability (PD). SSA uses Forms SSA–4814–F5 and SSA–4815–F6 to collect information necessary to determine if an individual with human immunodeficiency virus infection, who is applying for SSI disability payments, meets the requirements for PD. The respondents are the medical sources of the applicants for SSI disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of responses	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–4814–F5	46,200	1	10	7,700
SSA–4815–F6	12,900	1	10	2,150
Totals	59,100			9,850

[12] 17 CFR 200.30–3(a)(12).

2. *SSI Notice of Interim Assistance Reimbursement (IAR)—0960–0546.* Section 1631(g) of the Act authorizes SSA to reimburse an IAR agency from an individual's retroactive SSI payment for assistance the IAR agency gave the individual for meeting basic needs while an SSI claim was pending or when SSI payments were suspended or terminated. The State or local agency needs an IAR agreement with SSA to participate in the IAR program. The individual receiving the IAR payment signs an authorization form with an IAR agency to allow SSA to repay the IAR agency for funds paid in advance prior to SSA's determination on the individual's claim. The authorization represents the individual's intent to file for SSI, if they did not file an application prior to SSA receiving the authorization. Agencies who wish to enter into an IAR agreement with SSA need to meet the following requirements:

(a) Reporting Requirements—Each IAR agency agrees to:

(1) Notify SSA of receipt of an authorization for initial claims or cases they are appealing, and submit a copy of that authorization either through a manual or electronic process;

(2) inform SSA of the amount of reimbursement;

(3) submit a written request for dispute resolution on a determination;

(4) notify SSA of interim assistance paid (using the SSA–8125 or the SSA–L8125–F6);

(5) inform SSA of any deceased claimants who participate in the IAR program; and,

(6) review and sign an agreement with SSA.

(b) Recordkeeping Requirements—The IAR agencies agree to retain all notices, agreements, authorizations, and accounting forms for the period defined in the IAR agreement for the purposes of SSA verifying transactions covered under the agreement.

(c) Third Party Disclosure Requirements—Each participating IAR agency agrees to send written notices from the IAR agency to the recipient regarding payment amounts and appeal rights.

(d) Periodic Review of Agency Accounting Process—The IAR agency makes the IAR accounting records of paid cases available for SSA review and verification. SSA conducts reviews either onsite or through the mail of the authorization forms, notices to the claimant, and accounting forms. Upon completion of the review, SSA provides a written report of findings to the IAR agency director. The respondents are State IAR officers.

Type of Request: Revision of an OMB-approved information collection.

REPORTING REQUIREMENTS

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
a) State notification of receipt of authorization (Electronic Process).	11 States	Once per SSI claimant.	97,330	1	1,622
b) State submission of copy of authorization (Manual Process).	27 States	Once per SSI claimant.	68,405	3	3,420
c) State submission of amount of IA paid to recipients (using eIAR).	38 States	Once per SSI claimant.	101,352	8	13,514
d) State request for determination—dispute resolution.	Average is about 2 states per year.	As needed	2	30	1
e) State computation of reimbursement due form SSA using paper form SSA-L8125–F6.	38 States	Once per SSI claimant.	1,524	30	762
f) State notification to SSA of deceased claimant.	20 States	As needed when SSI claimant dies while claim is pending.	40	15	10
g) State reviewing/signing of IAR agreement.	38 States	Once during life of the IAR agreement.	38	12 hours	456
h) Maintenance of authorization forms	38 States	One form per SSI claimant.	165,735 (includes both denied and approved SSI claims).	3	8,287
i) Maintenance of accounting forms and notices.	38 States	One set per SSI claimant.	101,352	3	5,068

THIRD PARTY DISCLOSURE REQUIREMENTS

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
j) Written notice from State to recipient regarding amount of payment.	38 States	Once per SSI claimant.	101,352	7	11,824

PERIODIC REVIEW OF AGENCY ACCOUNTING PROCESS

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
k) Retrieve and consolidate authorization and accounting forms.	12 States	One set of forms per SSI claimant for review by SSA once every 2 to 3 years.	12	3	36
l) Participate in periodic review	12 States	For review by SSA once every 2 to 3 years.	12	16	192
m) Correct administrative and accounting discrepancies.	6 States	To correct errors discovered by SSA in periodic review.	6	4	24

TOTAL ADMINISTRATIVE BURDEN

	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
Total	38 States	varies	639,161	varies	45,217

3. *Medical Source Statement of Ability To Do Work Related Activities (Physical and Mental)—20 CFR 404.1512–404.1514, 404.912–404.914, 404.1517, 416.917, 404.1519–404.1520, 416.919–416.920, 404.946, 416.946, 404–1546–0960–0662.* In some instances when a claimant appeals a denied disability claim, SSA may ask the claimant to have a consultative examination, at the agency's expense, if the claimant's medical sources cannot or will not give the agency sufficient evidence to determine whether the claimant is disabled. The medical providers who perform these consultative examinations provide a statement about the claimant's state of disability. Specifically, these medical source statements determine the work-related capabilities of these claimants. SSA collects the medical data on the HA–1151 and HA–1152 to assess the work-related physical and mental capabilities of claimants who appeal SSA's previous determination on their issue of disability. The respondents are medical sources who provide reports based either on existing medical evidence or on consultative examinations.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Total estimated annual burden (hours)
HA–1151	5,000	30	15	37,500
HA–1152	5,000	30	15	37,500
Totals:	10,000			75,000

4. *Application for Access to SSA Systems—20 CFR 401.45–0960–0791.* SSA uses Form SSA–120, Application for Access to SSA Systems, to allow limited access to SSA's information resources for SSA employees and non-Federal employees (contractors). SSA requires supervisory approval, and local or component Security Officer review prior to granting this access. The respondents are SSA employees and non-Federal Employees (contractors) who require access to SSA systems to perform their jobs.

Note: Because SSA employees are Federal workers exempt from the requirements of the PRA, the burden below is only for SSA contractors.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden of response (minutes)	Estimated total annual burden (hours)
SSA–120 (paper version)	2,148	1	2	73
SSA–120 (Internet version)	1,105	1	3	37
Totals	3,289			110

Dated: June 30, 2014.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2014–15621 Filed 7–2–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. DOT–OST–2014–0113]

Notice of Order Soliciting Community Proposals

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Order Soliciting Community Proposals (Order 2014–6–17).

SUMMARY: The Department of Transportation is soliciting proposals from communities or consortia of communities interested in receiving grants under the Small Community Air Service Development Program. The full text of the Department's order, including Appendices, is included in this Notice. As noted in the order, an application for a grant under this program must include a Grant Proposal of no more than 20 pages (one-sided only), a completed Application for Federal Domestic Assistance (SF424), a Summary Information Schedule, and any letters from the applicant community showing support.

DATES: Applications must be submitted no later than July 31, 2014.

ADDRESSES: Communities must submit applications electronically through *http://www.grants.gov*.

FOR FURTHER INFORMATION CONTACT: Brooke Chapman, Associate Director, Small Community Air Service Development Program, Office of Aviation Analysis, 1200 New Jersey Avenue SE., W86–307, Washington, DC 20590, (202) 366 0577.

SUPPLEMENTARY INFORMATION: By this order, the Department of Transportation (the Department or DOT) invites proposals from communities and/or consortia of communities interested in obtaining a federal grant under the Small Community Air Service Development Program (''Small Community Program'' or ''SCASDP'') to address air service and airfare issues in their communities. *Applications of no more than 20 one-sided pages each (excluding the completed Application for Federal Domestic Assistance (SF424), Summary Information schedule, and any letters from the community or an air carrier showing support for the application),* including all required information, must be submitted to *www.grants.gov* no later than 5 p.m. EDT on July 31, 2014. You are strongly encouraged to submit applications in advance of the deadline. Please be aware that you must complete the registration process before submitting an application, and that this process usually takes two to four weeks to complete. If interested parties experience difficulties at any point during the registration or application process, please call the grants.gov Customer Support Hotline at 1–800–518–4726, Monday–Friday, from 7 a.m. to 9 p.m. EDT. The Department will not accept late-filed applications. Additional information on applying through grants.gov is in Appendix A, including a notice regarding late submissions related to technical difficulties.

This order is organized into the following sections:

I. Background
II. Selection Criteria and Guidance on Application of Selection Criteria
III. Evaluation and Selection Process
IV. How to Apply
V. Air Service Development Zone
VI. Grant Administration
VII. Questions and Clarifications
Appendix A—Additional Information on Applying Through *www.grants.gov*
Appendix B—Summary Information
Appendix C—Application Checklist
Appendix D—Confidential Commercial Information

I. Background

The Small Community Program was established by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Pub. L. 106–181) and reauthorized by the Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108–176) and subsequently the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95) (FAA 2012). The program is designed to provide financial assistance to small communities in order to help them enhance their air service. The Department provides this assistance in the form of monetary grants that are disbursed on a reimbursable basis. Authorization for this program is codified at 49 U.S.C. 41743.

The Small Community Program is authorized to receive appropriations under 49 U.S.C. 41743(e)(2), as amended. Appropriations are provided for this program for award selection in FY 2014 pursuant to FAA 2012 and the FY 2014 Appropriations Act (Pub. L. 113–76). The Department has up to $7 million available for FY 2014 grant awards to carry out this program. There is no limit on the amount of individual awards, and the amounts awarded will vary depending upon the features and merits of the selected proposals. In past years, the Department's individual grant sizes have ranged from $20,000 to nearly $1.6 million.

A. Eligible Applicants

Eligible applicants are small communities that meet the following statutory criteria under 49 U.S.C. 41743:

1. As of calendar year 1997, the airport serving the community was not larger than a small hub airport,[1] and it has insufficient air carrier service or unreasonably high air fares; and

2. The airport serving the community presents characteristics, such as geographic diversity or unique circumstances that demonstrate the need for, and feasibility of, grant assistance from the Small Community Program.

No more than four communities or consortia of communities, or a combination thereof, from the same state may be selected to participate in the program in any fiscal year. No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which the funds are appropriated.

Consortium applications: Both individual communities and consortia of communities are eligible for SCASDP funds. An application from a consortium of communities must be one that seeks to facilitate the efforts of the communities working together toward one joint grant project, with one joint objective, including the establishment of one entity to ensure that the joint objective is accomplished.

Multiple Applications: A community may file only one application for a grant, either individually or as part of a consortium.

Communities without existing air service: Communities that do not currently have commercial air service are eligible for SCASDP funds.

Essential Air Service communities: Small communities that meet the basic SCASDP criteria and currently receive subsidized air service under the Essential Air Service (''EAS'') program are eligible to apply for SCASDP funds. However, *grant awards to EAS-subsidized communities are limited to marketing or promotion projects that support existing or newly subsidized EAS.* Grant funds will *not* be authorized

[1] *See, http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP, for the FAA's 1997 list of Primary and Nonprimary Commercial Service Airports.*

for EAS-subsidized communities to support any *new* competing air service. Furthermore, no funds will be authorized to support additional flights by EAS carriers or changes to those carriers' existing schedules. These restrictions are necessary to avoid conflicts with the mandate of the EAS program.

B. Eligible Projects

The Department is authorized to award grants under 49 U.S.C. 41743 to communities that seek to provide assistance to:

- An air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;
- an underserved airport to obtain service to and from the underserved airport; and/or
- an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

Applicants should also keep in mind the following statutory restrictions on eligible projects:

- An applicant may not receive an additional grant to support the same project from a previous grant (*see* Same Project Limitation, below); and
- An applicant may not receive an additional grant, prior to the completion of its previous grant (*see* Concurrent Grant Limitation, below).

Same Project Limitation: Under 49 U.S.C. 41743(c), a community may not receive an additional grant to support the same project for which it received a previous grant (Same Project Limitation).[2] In assessing whether a previous grantee's current application represents a new project, the Department will compare the goals and objectives of the previous grant, including the key components of the means by which those goals and objectives were to be achieved, to the current application. For example, if a community received an earlier grant to support a revenue guarantee for service to a particular destination or direction, a new application by that community for another revenue guarantee for service to the same destination or in the same direction is ineligible, even if the revenue guarantee were structured differently or the type of carrier were different. However, a new application by such a previous grantee for service to a new destination or direction using a revenue guarantee, or for general marketing of the airport and the various services it offers, is eligible. We recognize that not all revenue guarantees, marketing agreements, studies, etc. are of the same nature, and that if a subsequent application incorporates different goals or significantly different components, it may be sufficiently different to constitute a new project under 49 U.S.C. 41743(c).

Concurrent Grant Limitation: A community or consortium may have only one SCASDP grant at any time. If a community or consortium applies for a subsequent SCASDP grant when its current grant has not yet expired, that community/consortium must notify the Department of its intent to terminate the current SCASDP grant, and, if the community/consortium is selected for a new grant, such termination must take place prior to entering into the new grant. In addition, for consortium member applicants, permission must be granted from both the grant sponsor and the Department to withdraw from the current SCASDP grant before that consortium member will be deemed eligible to receive a subsequent SCASDP grant.

Airport Capital Improvements Ineligible: Airport capital improvement projects, including, but not limited to, runway expansions and enhancements, the construction of additional aircraft gates, and other airport terminal expansions and reconfigurations are ineligible for funding under the Small Community Program. Airports seeking funding for airport capital improvement projects may want to consult with their local FAA Regional Office to discuss potential eligibility for grants under the Airport Improvement Program.

II. Selection Criteria and Guidance on Application of Selection Criteria

SCASDP grants will be awarded based on the selection criteria as outlined below. There are two categories of selection criteria: Priority Selection Criteria and Secondary Selection Criteria. Applications that meet one or more of the Priority Selection Criteria will be viewed more favorably than those that do not meet any Priority Selection Criteria.

A. Priority Selection Criteria

The statute directs the Department to give priority consideration to those communities or consortia where the following criteria are met:

1. *Air fares are higher than the national average air fares for all communities*—The Department will compare the local community's air fares to the national average air fares for all similar markets. Communities with market air fares significantly higher than the national average air fares in similar markets will receive priority consideration. The Department calculates these fares using data from the Bureau of Transportation Statistics (BTS) Airline Origin and Destination Survey data. The Department evaluates all fares in all relevant markets that serve a SCASDP community and compares the SCASDP community fares to all fares in similar markets across the country. Each SCASDP applicant's air fares are computed as a percentage above or below the national averages. The report compares a community's air fares to the average for all other similar markets in the country that have similar density (passenger volume) and similar distance characteristics (market groupings). All calculations are based on 12-month ended periods to control for seasonal variation of fares.

2. *The community or consortium will provide a portion of the cost of the activity from local sources other than airport revenue sources*—The Department will consider whether a community or consortium proposes local funding for the proposed project. Applications providing proportionately higher levels of cash contributions from sources other than airport revenues will be viewed more favorably. Applications that provide multiple levels of contributions (state, local, airport, cash and in-kind contributions) will also be viewed more favorably. *See* Additional Guidance—Cost Sharing and Local Contributions, in Subsection C below, for more information on the application of this selection criterion.

3. *The community or consortium has established or will establish a public-private partnership to facilitate air carrier service to the public*—The Department will consider a community or consortium's commitment to facilitate air carrier service in the form of a public-private partnership. Applications that describe in detail how the partnership will *actively* participate in the implementation of the proposed project will be viewed more favorably.

4. *The assistance will provide material benefits to a broad segment of the traveling public, including businesses, educational institutions, and other enterprises, whose access to the national air transportation system is limited*—The Department will consider

[2] This limitation applies for all projects contained in a previous grant agreement's scope; thus, even if the community did not actively implement a project listed in the scope of an earlier grant agreement, it may not receive funding for that project in a subsequent round of SCASDP funding.

whether the proposed project would provide, to a broad segment of the community's traveling public, important benefits relevant to the community. Examples include service that would offer new or additional access to a connecting hub airport, service that would provide convenient travel times for both business and leisure travelers that would help obviate the need to drive long distances, and service that would offer lower fares.

5. *The assistance will be used in a timely manner*—The Department will consider whether a proposed project provides a well-defined strategic plan and reasonable timetable for use of the grant funds. In the Department's experience, a reasonable timetable for use of grant funds includes a year to complete studies, two years for marketing and promotion of the airport, community, carrier, or destination, and three years for projects that target a revenue guarantee, subsidy, or other financial incentives. Applicants should describe how their projects can be accomplished within this timetable, including whether the airport and proposed air service provider have the requisite authorities and certifications necessary to carry out the proposed projects. In addition, because of this emphasis placed on timely use of funds, applicants proposing new service should describe the airport and whether it can support the proposed service, including whether the airport holds, or intends to apply for, an airport operating certificate issued under 14 CFR part 139. Air service providers proposed for the new service must have met or be able to meet in a reasonably short period of time, all Department requirements for air service certification, including safety and economic authorities.

6. *Multiple communities cooperate to submit a regional or multistate application to consolidate air service into one regional airport*—The Department will consider whether a proposed project involves a consortium effort to consolidate air service into one regional airport. This statutory priority criterion was added pursuant to Section 429 of FAA 2012.

B. Secondary Selection Criteria

1. *Innovation*—The Department will consider whether an application proposes new and creative solutions to air transportation issues facing the community, including:

- the extent to which the applicant's proposed solution(s) to solving the problem(s) is new or innovative, including whether the proposed project utilizes or encourages intermodal or regional solutions to connect passengers to the community's air service (or, if the community cannot implement or sustain its own air services, to connect to a neighboring community's air service (e.g., cost-effective inter/intra city passenger bus service, or marketing of intermodal surface transportation options also available to air travelers; and
- whether the proposed project, if successfully implemented, could serve as a working model for other communities.

2. *Participation*—The Department will consider whether an application has broad community participation, including:

- whether the proposed project has broad community support; and
- the community's demonstrated commitment to and participation in the proposed project.

3. *Location*—The Department will consider the location and characteristics of a community:

- the geographic location of each applicant, including the community's proximity to larger centers of air service and low-fare service alternatives;
- the population and business activity, as well as the relative size of each community; and
- whether the community's proximity to an existing or prior grant recipient could adversely affect either its proposal or the project undertaken by the other recipient.

4. *Other Factors*—The Department will also consider:

- whether the proposed project clearly addresses the applicant's stated problems;
- the community's existing level of air service and whether that service has been increasing or decreasing;
- whether the applicant has a plan to provide any necessary continued financial support for the proposed project after the requested grant award expires;
- the grant amount requested compared with total funds available for all communities;
- the proposed federal grant amount requested compared with the local share offered;
- any letters of intent from airline planning departments or intermodal surface transportation providers on behalf of applications that are specifically intended to enlist new or expanded air service or surface transportation service in support of the air service in the community;
- whether the applicant has plans to continue with the proposed project if it is not self-sustaining after the grant award expires; and
- equitable and geographic distribution of available funds.

C. Additional Guidance

Market Analysis: Applicants requesting funds for a revenue guarantee/subsidy/financial incentive are encouraged to conduct and reference in their applications an in-depth analysis of their target markets. Target markets can be destination specific (e.g., service to LAX), a geographic region (e.g., northwest mountain region) or directional (e.g., hub in the southeastern United States or a point north, south, east, or west of the applicant community).

Complementary Marketing Commitment: Applicants requesting funds for a revenue guarantee/subsidy/financial incentive are encouraged to designate in their applications a portion of the project funds (federal, local or in-kind) for the development and implementation of a marketing plan in support of the service sought.

Subsidies for a carrier to compete against an incumbent: The Department is reluctant to subsidize one carrier but not others in a competitive market. For this reason, a community that proposes to use the grant funds for service in a city-pair market that is already served by another air carrier must explain in detail why the existing service is insufficient or unsatisfactory, or provide other compelling information to support such a proposal.

Cost Sharing and Local Contributions: Applications must clearly identify the level of federal funding sought for the proposed project. Applications must also identify the community's cash contributions to the proposed project, in-kind contributions from the airport, and in-kind contributions from the community. Non-federal funds will be applied proportionately to the entire scope of the project. Communities cannot use non-federal funds selectively to fund certain components of a project (see Section VI-Grant Administration-Payments for more information). Cash contributions from airport revenues must be identified separately from cash contributions from other community sources, and cash contributions from the state and/or local government should be separately identified and described.

Types of contributions. Contributions should represent a *new* financial commitment or *new* financial resources devoted to attracting new or improved service, or addressing specific high-fare or other service issues, such as improving patronage of existing service at the airport. For communities that propose to contribute to the grant

project, that contribution can be in the following forms:

Cash from non-airport revenues. A cash contribution can include funds from the state, the county or local government, and/or from local businesses, or other private organizations in the community. Contributions that are comprised of intangible non-cash items, such as the value of donated advertising, are considered in-kind contributions (see further discussion below).

Cash from airport revenues. This includes contributions from funds generated by airport operations. Airport revenues may not be used for revenue guarantees to airlines, per 49 U.S.C. 47107 and 47133. Applications that include local contributions based on airport revenues do not receive priority consideration for selection.

In-kind contributions from the airport. This can include such items as waivers of landing fees, ground handling fees, terminal rents, fuel fees, and/or vehicle parking fees.

In-kind contributions from the community. This can include such items as donated advertising from media outlets, catering services for inaugural events, or in-kind trading, such as advertising in exchange for free air travel. Travel banks and travel commitments/pledges are considered to be in-kind contributions.

Cash vs. *in-kind contributions.* Communities that include local contributions made in cash will be viewed more favorably.

III. Evaluation and Selection Process

The Department will first review each application to determine whether it has satisfied the following eligibility requirements:

1. The applicant is an eligible applicant;
2. The application is for an eligible project (including compliance with the Same Project Limitation); and
3. The application is complete (including submission of a completed SF424 and all of the information listed in Contents of Application, in Section IV below).

To the extent that the Department determines that an application does not satisfy these eligibility requirements, the Department will deem that application ineligible and not consider it further.

The Department will then review all eligible applications based on the selection criteria outlined above in Section II. The Department will not assign specific numerical scores to projects based on the selection criteria. Rather, ratings of ''highly recommended,'' ''recommended,'' ''acceptable,'' or ''not recommended'' will be assigned to applications. Applications that align well with one or more of the Priority Selection Criteria will be viewed more favorably than those that do not align with any Priority Selection Criteria. The Department will consider the Secondary Selection Criteria when comparing and selecting among similarly-rated projects. The Department reserves the right to award funds for a part of the project included in an application, if a part of the project is eligible and aligns well with the selection criteria specified in this Order. In addition, as part of its review of the Secondary Selection Criterion ''Other Factors,'' the Department will consider the geographical distribution of the applications to ensure consistency with the statutory requirement limiting awards to no more than four communities or consortia of communities, or a combination thereof, from the same state. The final selections will be limited to no more than 40 communities or consortia of communities, or a combination thereof.

Grant awards will be made as promptly as possible so that selected communities can complete the grant agreement process and implement their plans. Given the competitive nature of the grant process, the Department will not meet with applicants regarding their applications. All non-confidential portions of each application, all correspondence and ex-parte communications, and all orders will be posted in the above-captioned docket on *www.regulations.gov.*

The Department will announce its grant selections in a Selection Order that will be posted in the above-captioned docket, served on all applicants and all parties served with this Solicitation Order, and posted on the Department's SCASDP Web site at *http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP.*

IV. How To Apply

Required Steps:

- Determine eligibility;
- Register with *www.grants.gov* (*see* Registration with *www.grants.gov, below*);
- Submit an Application for Federal Domestic Assistance (SF424);
- Submit a completed ''Summary Information'' schedule. This is your application cover sheet (*see* Appendix B);
- Submit a detailed application of *up to one-sided 20 pages (excluding the completed SF424, Summary Information schedule, and any letters from the community or an air carrier showing support for the application)* that meet al. required criteria (*see* Appendix C);
- Attach any letters from the community or an air carrier showing support for the application to the proposal, which should be addressed to Brooke Chapman, Associate Director, Small Community Air Service Development Program; and
- Provide separate submission of confidential material, if requested. (*see* Appendix D)

An application will not be complete and will be deemed ineligible for a grant award until and unless all required materials, including SF424, have been submitted through *www.grants.gov* and time-stamped by 5 p.m. EDT on July 31, 2014 (the ''Application Deadline'').

An application consisting of more than 20 pages will be accepted by the Department, but the content in the additional pages past page 20 will not be evaluated or considered by the Department. The Department would prefer that applicants use one-inch margins and a font size not less than 12 point type.

Late Application Notice: Applicants who are unable to successfully submit their application package through grants.gov prior to the Application Deadline due to technical difficulties outside their control must submit an email to *SCASDPgrants@dot.gov* with the information described in Appendix A.

Registration with www.grants.gov: Communities must be registered with *www.grants.gov* in order to submit an application for funds available under this program. For consortium applications, only the Legal Sponsor must be registered with *www.grants.gov* in order to submit its application for funds available under this program. *See* Appendix A for additional information on applying through *www.grants.gov.*

Contents of Application: There is no set format that must be used for applications. Each application should, to the maximum extent possible, address the selection criteria set forth in Section II, above, including a clear description of the air service needs/deficiencies and present plans/strategies that directly address those needs/deficiencies. At a minimum, however, each application must include the following information:

A description of the community's air service needs or deficiencies, including information about: (1) Major origin/destination markets that are not now served or are not served adequately; (2) fare levels that the community deems relevant to consideration of its application, including market analyses

or studies demonstrating an understanding of local air service needs; and (3) any air service development efforts over the past three years and the results of those efforts (including marketing and promotional efforts).

- *A strategic plan for meeting those needs under the Small Community Program,* including the community's specific project goal(s) and detailed plan for attaining such goal(s). If the application is selected, DOT will work with the grantee to incorporate the relevant elements of the application's strategic plan into the grant agreement's project scope. Applicants should note that, once a grant agreement is signed, the agreement cannot be amended in a way that would alter the project scope. Applicants also are advised to obtain firm assurances from air carriers proposing to offer new air services if a grant is awarded. Strategic plans should:
  - for applications involving new or improved service, explain how the service will become self-sufficient;
  - fully and clearly outline the goals and objectives of the project; and
  - fully and clearly summarize the actual, specific steps (in bullet form, with a proposed timeline) that the community intends to take to bring about these goals and objectives.
- *A detailed description of the funding necessary for implementation of the proposed project* (including federal and non-federal contributions).
- *An explanation of how the proposed project differs from any previous projects for which the community received SCASDP funds* (*see* Same Project Limitation, above).
- *Designation of a legal sponsor responsible for administering the proposed project.* The legal sponsor of the proposed project *must* be a government entity, such as a state, county, or municipality. The legal sponsor must be legally, financially, and otherwise able to execute the grant agreement and administer the grant, including having the authority to sign the grant agreement and to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required under the grant agreement with the Department and to ensure compliance by the grant recipient with the grant agreement and grant assurances. If the applicant is a public-private partnership, a public government member of the organization must be identified as the community's sponsor to receive project cost reimbursements. A community may designate only one government entity as the legal sponsor, even if it is applying as a consortium that consists of two or more local government entities. Private organizations may not be designated as the legal sponsor of a grant under the Small Community Program. The community has the responsibility to ensure that the legal sponsor and grant recipient of any funding has the legal authority under state and local laws to carry out all aspects of the grant, and the Department may require an opinion of the legal sponsor's attorney as to its legal authority to act as a sponsor and to carry out its responsibilities under the grant agreement. The applicant should also provide the name of the signatory party for the legal sponsor.

V. Air Service Development Zone Designation

The statute authorizing the Small Community Program also provides that the Department will designate one of the grant recipients in the program as an Air Service Development Zone (ASDZ). A current grant recipient remains active as the ASDZ designee. As a result, the Department is not currently soliciting applications for selection as an ASDZ designee.

VI. Grant Administration

Grant Agreements: Communities awarded grants are required to execute a grant agreement with the Department *before* they begin to expend funds under the grant award. Applicants should not assume they have received a grant, nor should they obligate or expend local funds prior to receiving and fully executing a grant agreement with the Department. Expenditures made prior to the execution of a grant agreement, including costs associated with preparation of the grant application, will *not* be reimbursed. Moreover, there are numerous assurances that grant recipients must sign and honor when federal funds are awarded. All communities receiving a grant will be required to accept and meet the obligations created by these assurances when they execute their grant agreements. Copies of assurances are available online at *http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP,* (click on ''SCASDP Grant Assurances'').

Payments: The Small Community Program is a reimbursable program; therefore, communities are required to make expenditures for project implementation under the program prior to seeking reimbursement from the Department. Project implementation costs are reimbursable from grant funds only for services or property delivered during the grant term. Reimbursement rates are calculated as a percentage of the total federal funds requested divided by the federal funds plus the local cash contribution (which is not refundable). The percentage is determined by: (SCASDP Grant Amount) ÷ (SCASDP Grant Amount + Local Cash Contribution + State Cash Contribution, if applicable). Payments/expenditures in forms other than cash (e.g., in-kind) are not reimbursable. For example, if a community requests $500,000 in federal funding and provides $100,000 in local contributions, the reimbursement rate would be 83.33 percent: ((500,000)/(500,000 + 100,000)) = 83.33.

Grantee Reports: Each grantee must submit quarterly reports on the progress made during the previous quarter in implementing its grant project. In addition, each community will be required to submit a final report on its project to the Department, and 10 percent of the grant funds will not be reimbursed to the community until such a final report is received. Additional information on award administration for selected communities will be provided in the grant agreement.

VII: Questions and Clarifications

For further information concerning the technical requirements set out in this Order, please contact Brooke Chapman at *Brooke.Chapman@dot.gov* or (202) 366–0577. A TDD is available for individuals who are deaf or hard of hearing at (202) 366–3993. The Department may post answers to questions and other important clarifications in the above-captioned docket on *www.regulations.gov* and on the program Web site at *http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP.* This Order is issued under authority delegated in 49 CFR 1.25a(b).

Accordingly,

1. Applications for funding under the Small Community Air Service Development Program should be submitted via *www.grants.gov* as an attachment to the SF424 by 5:00 p.m. EDT, July 31, 2014; and

2. This Order will be published in the **Federal Register**, posted on *www.grants.gov* and *www.regulations.gov,* and served on the United States Conference of Mayors, the National League of Cities, the National Governors Association, the National Association of State Aviation Officials, County Executives of America, the American Association of Airport Executives, and the Airports Council International-North America.

Issued in Washington, DC on June 30, 2014.

Brandon Belford,

Deputy Assistant Secretary for, Aviation and International Affairs.

An electronic version of this document is available online at www.regulations.gov

Appendix A

Additional Information on Applying Through *www.grants.gov*

Applications must be submitted electronically through *http://www.grants.gov/web/grants/applicants/apply-for-grants.html. To apply for funding through www.grants.gov, applicants must be properly registered.* The Grants.gov/Apply feature includes a simple, unified application process that makes it possible for applicants to apply for grants online. There are five ''Get Registered'' steps for an organization to complete at Grants.gov. Complete instructions on how to register and apply can be found at *http://www.grants.gov/applicants/organization_registration.jsp.* If applicants experience difficulties at any point during registration or application process, please call the *www.grants.gov* Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7 a.m. to 9 p.m. EDT.

Registering with *www.grants.gov* is a one-time process; however, processing delays may occur and it can take up to several weeks for first-time registrants to receive confirmation and a user password. It is highly recommended that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application by the deadlines specified. Applications must be submitted and time-stamped not later than 5 p.m. EDT on July 31, 2014 (the Application Deadline), and, as set forth below, failure to complete the registration process before the Application Deadline is not a valid reason to permit late submissions. In order to apply for SCASDP funding through *http://www.grants.gov/web/grants/applicants/apply-for-grants.html,* all applicants are required to complete the following:

1. *DUNS Requirement.* The Office of Management and Budget requires that all businesses and nonprofit applicants for federal funds include a Dun and Bradstreet Data Universal Numbering System (DUNS) number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for federal assistance applicants, recipients, and sub-recipients. The DUNS number will be used throughout the grant life cycle. The DUNS number must be included in the data entry field labeled ''Organizational DUNS'' on the SF–424 form. Instructions for obtaining DUNS number can be found at the following Web site: *http://www.grants.gov/web/grants/applicants/organization-registration/step-1-obtain-duns-number.html.*

2. *System for Award Management.* In addition to having a DUNS number, applicants applying electronically through Grants.gov must register with the federal System for Award Management (SAM). Step-by-step instructions for registering with SAM can be found here: *http://www.grants.gov/web/grants/applicants/organization-registration/step-2-register-with-sam.html.* All applicants must register with SAM in order to apply online. Failure to register with the SAM will result in your application being rejected by Grants.gov during the submissions process.

3. *Username and Password.* Acquire an Authorized Organization Representative (AOR) and a *www.grants.gov* username and password. Complete your AOR profile on *www.grants.gov* and create your username and password. You will need to use your organization's DUNS Number to complete this step. For more information about creating a profile on Grants.gov visit: *http://www.grants.gov/web/grants/applicants/organization-registration/step-3-username-password.html.*

4. After creating a profile on Grants.gov, the E-Biz Point of Contact (E-Biz POC)—a representative from your organization who is the contact listed for SAM—will receive an email to grant the AOR permission to submit applications on behalf of their organization. The E-Biz POC will then log in to Grants.gov and approve an applicant as the AOR, thereby giving him or her permission to submit applications. To learn more about AOR Authorization visit: *http://www.grants.gov/web/grants/applicants/organization-registration/step-4-aor-authorization.html.* To track an AOR status visit: *http://www.grants.gov/web/grants/applicants/organization-registration/step-5-track-aor-status.html.*

Applicants are, therefore, encouraged to register early. The registration process can take up to four weeks to be completed. Thus, registration should be done in sufficient time to ensure it does not impact your ability to meet required submission deadlines. You will be able to submit your application online any time after you have approved as an AOR.

5. *Electronic Signature.* Applications submitted through Grants.gov constitute a submission as electronically signed applications. The registration and account creation with Grants.gov with E-Biz POC approval establishes an Authorized Organization Representative (AOR). When you submit the application through Grants.gov, the name of your AOR on file will be inserted into the signature line of the application. Applicants must register the individual who is able to make legally binding commitments for the applicant organization as the Authorized Organization Representative (AOR);

6. Search for the Funding Opportunity on *www.grants.gov.* Please use the following identifying information when searching for the SCASDP funding opportunity on *www.grants.gov.* The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 20.930, titled Payments for Small Community Air Service Development.

7. Submit an application addressing all of the requirements outlined in this funding availability announcement. Within 24–48 hours after submitting your electronic application, you should receive an email validation message from *www.grants.gov.* The validation message will tell you whether the application has been received and validated or rejected, with an explanation. You are urged to submit your application at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

8. *Timely Receipt Requirements and Proof of Timely Submission.* Proof of timely submission is automatically recorded by Grants.gov. An electronic timestamp is generated within the system when the application is successfully received by Grants.gov. The applicant will receive an acknowledgement of receipt and a tracking number from Grants.gov with successful transmission of the application. Applicants should print this receipt and save it, as a proof of timely submission.

9. Grants.gov allows applicants to download the application package, instructions and forms that are incorporated in the instructions, and work offline. In addition to forms that are part of the application instructions, there will be a series of electronic forms that are provided utilizing Adobe Reader.

a. *Adobe Reader.* Adobe Reader is available for free to download from on the Download Software page: *http://www.grants.gov/help/download_software.jsp.* Adobe Reader allows applicants to read the electronic files in a form format so that they will look like any other Standard form. The Adobe Reader forms have content sensitive help. This engages the content sensitive help for each field you will need to complete on the form. The Adobe Reader forms can be downloaded and saved on your hard drive, network drive(s), or CDs.

b. **Note:** For the Adobe Reader, Grants.gov is compatible with versions 8.1.1 and later versions. Always refer to the Download Software page for compatible versions for the operating system you are using. Please do not use lower versions of the Adobe Reader.

c. *Mandatory Fields in Adobe Forms.* In the Adobe Reader forms, you will note fields that will appear with a background color on the data fields to be completed. These fields are mandatory fields and they must be completed to successfully submit your application.

Note: When uploading attachments please use generally accepted formats such as .pdf, .doc, and .xls. While you may imbed picture files such as .jpg, .gif, .bmp, in your files, please do not save and submit the attachment in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

Experiencing Unforeseen *www.grants.gov* Technical Issues

Late Application Notice: Applicants who are unable to successfully submit their application package through grants.gov prior to the Application Deadline due to technical difficulties outside their control must submit an email to *SCASDPgrants@dot.gov* with the following information:

- The nature of the technical difficulties experienced in attempting to submit an application;
- A screenshot of the error;
- The Legal Sponsor's name; and
- The Grants.Gov tracking number (e.g. GRANT12345678).

DOT will consider late applications on a case-by-case basis and reserves the right to reject late applications that do not meet the conditions outlined in the Order Soliciting Small Community Grant Proposals. Late applications from applicants that do not provide DOT an email with the items specified above will not be considered.

If you experience unforeseen *www.grants.gov* technical issues beyond your control that prevent you from submitting your application by the Application Deadline, you must contact us at [*SCASDPgrants@dot.gov* or] *Vince.Corsaro@dot.gov* or (202) 366–1842 by 5:00 p.m. EDT the day following the deadline and request approval to submit your application after the deadline has passed. At that time, DOT staff will require you to provide your DUNS number and your *www.grants.gov* Help Desk tracking number(s). After DOT staff review all of the information submitted and contact the *www.grants.gov* Help Desk to validate the technical issues you reported, DOT staff will contact you to either approve or deny your request to submit a late application through *www.grants.gov.* If the technical issues you reported cannot be validated, your application will be rejected as untimely.

To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline date; (2) failure to follow *www.grants.gov* instructions on how to register and apply as posted on its Web site; (3) failure to follow all of the instructions in the funding availability notice; and (4) technical issues experienced with the applicant's computer or information technology (IT) environment.

BILLING CODE 4910–9X–P

APPENDIX B

APPLICATION UNDER
SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM

DOCKET DOT-OST-2014-0133

SUMMARY INFORMATION[3]

All applicants must submit this Summary Information schedule, as the application coversheet, a completed standard form SF424 and the full application proposal on www.grants.gov.

For your preparation convenience, this Summary Information schedule is located at http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP

A. PROVIDE THE LEGAL SPONSOR AND ITS DUN AND BRADSTREET (D&B) DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER, INCLUDING +4, EMPLOYEE IDENTIFICATION NUMBER (EIN) OR TAX ID.

Legal Sponsor Name:

Name of Signatory Party for Legal Sponsor:

DUNS Number:

EIN/Tax ID:

B. LIST THE NAME OF THE COMMUNITY OR CONSORTIUM OF COMMUNITIES APPLYING:

1._____

2._____

3._____

4._____

[3] Note that the Summary Information does not count against the 20-page limit of the SCASDP application.

C. Provide the full airport name and 3-Letter IATA Airport Code for the applicant(s) airport(s) (Only provide codes for the airport(s) that are actually seeking service).

1.	**2.**
3.	**4.**

Does the airport seeking service hold an airport operating certificate issued by the Federal Aviation Administration under 14 CFR Part 139? (If "No", Please explain whether the airport intends to apply for a certificate or whether an application under Part 139 is pending.)

☐ **Yes** ☐ **No (explain)**

_____

_____

D. List the 2-digit congressional district code applicable to the sponsoring organization, and if a consortium, to each participating community.

1.	**2.**
3.	**4.**

E. Applicant Information: (Check All That Apply)

☐ **Not a Consortium** ☐ **Interstate Consortium** ☐ **Intrastate Consortium**

☐ **Community currently receives subsidized Essential Air Service**

☐ **Community (or Consortium member) previously received a Small Community Air Service Development Program Grant**

If previous recipient: Provide year of grant(s):_____; and, the text of the grant agreement section(s) setting forth the scope of the grant project:

_____

_____

_____

_____

_____

F. PUBLIC/PRIVATE PARTNERSHIPS: (LIST ORGANIZATION NAMES)

PUBLIC	PRIVATE
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

G. PROJECT PROPOSAL:

1. GRANT GOALS: (CHECK ALL THAT APPLY)

☐ **Launch New Carrier** ☐ **Secure Additional Service** ☐ **Upgrade Aircraft**
☐ **First Service** ☐ **New Route** ☐ **Service Restoration**
☐ **Regional Service** ☐ **Surface Transportation** ☐ **Professional Services**[4]
☐ **Other** (explain below)

_____

_____

2. FINANCIAL TOOLS TO BE USED: (CHECK ALL THAT APPLY)

☐ **Marketing (including Advertising):** promotion of the air service to the public

☐ **Start-up Cost Offset:** offsetting expenses to assist an air service provider in setting up a new station and starting new service (for example, ticket counter reconfiguration)

☐ **Revenue Guarantee:** an agreement with an air service provider setting forth a minimum guaranteed profit margin, a portion of which is eligible for reimbursement by the community

☐ **Recruitment of Air Carrier:** air service development activities to recruit new air service, including expenses for airport marketers to meet with air service providers to make the case for new air service

[4] "Professional Services" involve a community contracting with a firm to produce a product such as a marketing plan, study, air carrier proposal, etc.

☐ **Fee Waivers:** waiver of airport fees, such as landing fees, to encourage new air service; counted as in-kind contributions only

☐ **Ground Handling Fee:** reimbursement of expenses for passenger, cabin, and ramp (below wing) services provided by third party ground handlers

☐ **Travel Bank:** travel pledges, or deposited monetary funds, from participating parties for the purchase of air travel on an air carrier, with defined procedures for the subsequent use of the pledges or the deposited funds; counted as in-kind contributions only

☐ **Other** (explain below)

_____

_____

H. Existing Landing Aids at Local Airport:

☐ Full ILS ☐ Outer/Middle Marker ☐ Published Instrument Approach

☐ Localizer ☐ Other (specify)

I. Project Cost: Do not enter text in shaded area

Line	Description		Sub Total	Total Amount
1	Federal amount requested			
2	State cash financial contribution			
	Local cash financial contribution			
	3a	Airport cash funds		
	3b	Non-airport cash funds		
3	Total local cash funds (***3a*** + ***3b***)			
4	TOTAL CASH FUNDING (***1***+***2***+***3***)			
	In-Kind contribution			
	5a	Airport In-Kind contribution**		
	5b	Other In-Kind contribution**		
5	TOTAL IN-KIND CONTRIBUTION (***5a*** + ***5b***)			
6	TOTAL PROJECT COST (***4***+***5***)			

J. IN-KIND CONTRIBUTIONS**

For funds in lines 5a (Airport In-Kind contribution) and 5b (Other In-Kind contribution), please describe the source(s) of fund(s) and the value ($) of each.

K. IS THIS APPLICATION SUBJECT TO REVIEW BY AN AFFECTED STATE UNDER EXECUTIVE ORDER 12372 PROCESS?

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on (date) _____.

☐ b. Program is subject to E.O. 12372, but has not been selected by the State for review.

☐ c. Program is not covered by E.O. 12372.

L. IS THE LEAD APPLICANT OR ANY CO-APPLICANTS DELINQUENT ON ANY FEDERAL DEBT? (IF "YES", PROVIDE EXPLANATION)

☐ No ☐ Yes (explain)

_____

_____

APPENDIX C

APPLICATION CHECKLIST

INCLUDED?	ITEM
	For Immediate Action
	Determine Eligibility
	New Grants.gov users must register with www.grants.gov. Existing Grants.gov users *must verify existing www.grants.gov account has not expired and the Authorized Organization Representative (AOR) is current.*
	For Submission by 5:00 PM EDT on July 31, 2014
	Communities with active SCASDP grants: notify DOT/X50 of intent to terminate existing grant in order to be eligible for selection in FY2014
	Complete Application for Federal Domestic Assistance (SF424) via www.grants.gov
	Summary Information schedule complete and used as cover sheet (see **Appendix B**)
	Application of up to 20 one-sided pages (excluding any letters from the community or an air carrier showing support for the application), to include:
	• A description of the community's air service needs or deficiencies.
	• A strategic plan for meeting those needs under the Small Community Program.
	• A detailed description of the funding necessary for implementation of the community's project.
	• An explanation of how the proposed project differs from any previous projects for which the community received SCASDP funds (if applicable).
	• Designation of a legal sponsor responsible for administering the program.
	• A motion for confidential treatment (if applicable) – see Appendix D below.

BILLING CODE 4910–9X–C

Appendix D

Confidential Commercial Information

Applicants will be able to provide certain confidential business information relevant to their proposals on a confidential basis. Under the Department's Freedom of Information Act regulations (49 C.F.R. § 7.17), such information is limited to commercial or financial information that, if disclosed, would either likely cause substantial harm to the competitive position of a business or enterprise or make it more difficult for the Federal Government to obtain similar information in the future.

Applicants seeking confidential treatment of a portion of their applications must segregate the confidential material in a sealed envelope marked ''Confidential Submission of X (the applicant) in Docket DOT–OST–2014–0113'' and include with that material a request in the form of a motion seeking confidential treatment of the material under 14 C.F.R. § 302.12 (''Rule 12'') of the Department's regulations. The applicant should submit an original and two copies of its motion and an original and two copies of the confidential material in the sealed envelope.

The confidential material should *not* be included with the original of the applicant's proposal that is submitted via *www.grants.gov.* The applicant's original submission, however, should indicate clearly where the confidential material would have been inserted. If an applicant invokes Rule 12, the confidential portion of its filing will be treated as confidential pending a final determination. All confidential material must be received by 5:00 p.m. EDT, July 31, 2014, and delivered to the U.S. Department of Transportation, Office of Aviation Analysis, 8th Floor, Room W86–307, 1200 New Jersey Ave. SE., Washington, DC 20590.

[FR Doc. 2014–15696 Filed 7–2–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Release From Federal Grant Assurance Obligations for Taylor Airport, Taylor, Arizona

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Request to Release Airport Land.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application for a release of approximately .3885 acre of airport property at Taylor Airport, Taylor, Arizona, from all conditions contained in the Grant Agreement Assurances since the land is not needed for airport purposes. The property will be sold for its fair market value and the proceeds deposited in the airport account. The reuse of the land will not conflict or interfere with the airport or its operation, thereby protecting the interests of civil aviation.

DATES: Comments must be received on or before August 4, 2014.

FOR FURTHER INFORMATION CONTACT: Comments on the request may be mailed or delivered to the FAA at the following address: Tony Garcia, Airports Compliance Program Manager, Federal Aviation Administration, Airports Division, **Federal Register** Comment, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to Mr. Gus Lundberg, Town Manager, Town of Taylor, P.O. Box 158, Taylor, AZ 85939, Telephone (928) 536–7366.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements.

The following is a brief overview of the request:

The Town of Taylor, Arizona requested a release from the conditions and restrictions contained in the Grant Agreement Assurances to allow the sale of a small amount of airport land, measuring approximately .3885 acre. The property is located on the west side of the airport in the vicinity of Foothills Boulevard. In 2006, the Town acquired a parcel of land to expand the west side of the airport. About the same time, an adjoining parcel was purchased by a local citizen who proceeded to develop the acquired property. The Town subsequently discovered that development by the private property owner mistakenly encroached into airport property because the boundary line between the airport and adjacent private property had not been properly surveyed. Since the amount of land affected by the encroachment was deemed minimal, the Town concluded that a sale of the .3885 acre would be a practical solution to the encroachment error since the land is not needed for airport development. The sale price will be based on appraised market value of the property and the sale proceeds will be deposited in the airport account and used for airport purposes. The airport will be properly compensated, thereby serving the interests of civil aviation.

Issued in Hawthorne, California, on June 25, 2014.

Steven Oetzell,

Acting Manager, Safety and Standards, Airports Division, Western-Pacific Region.

[FR Doc. 2014–15694 Filed 7–2–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

U.S. Merchant Marine Academy Board of Visitors Notice of Meeting

AGENCY: Maritime Administration, DOT.

ACTION: Meeting Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in Sunshine Act of 1976 (5 U.S.C. 552b, as amended) and 41 CFR 102–3.150, the U.S. Department of Transportation, Maritime Administration (MARAD) announces that the following U.S. Merchant Marine Academy (''Academy'') Board of Visitors meeting will take place:

1. *Date:* July 16, 2014.
2. *Time:* 10:00 to 11:00 a.m.
3. *Requirements for Access:* Members of the public wishing to attend the meeting will need to show photo identification in order to gain access to the meeting location. All participants are subject to security screening.
4. *Location:* The Capital Visitors Center, Room SVC 203, Washington, DC.
5. *Purpose of the Meeting:* The purpose of this meeting is for the Board of Visitors to receive the recommendations of the U.S. Merchant Marine Academy Advisory Board on Academy operations and to update the Board of Visitors on Academy issues.
6. *Public Access to the Meeting:* Pursuant to the Federal Advisory Committee Act (5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

FOR FURTHER INFORMATION CONTACT: The Board of Visitor's Designated Federal Officer or Point of Contact: Brian Blower and 202–266–2765 or *brian.blower@dot.gov*.

SUPPLEMENTARY INFORMATION: Any member of the public is permitted to file a written statement with the Academy Board of Visitors. Written statements should be sent to the Designated Federal Officer at: Brian Blower, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 or faxed to 202–366–3890. Written

statements must be received no later than five working days prior to the next meeting in order to provide time for member consideration. By rule, no member of the public attending open meetings will be allowed to present questions from the floor or speak to any issue under consideration by the Board of Visitors.

Authority: 46 U.S.C. 51312; 5 U.S.C. app. 552b; 41 CFR parts 102–3.140 through 102–3.165.

By Order of the Maritime Administrator.

Dated: June 30, 2014.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. 2014–15691 Filed 7–2–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0051]

Pipeline Safety: Liquefied Natural Gas Facility User Fee Rate Increase

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of agency action.

SUMMARY: This notice is to advise all liquefied natural gas facility (LNG) operators subject to PHMSA user fee billing of a change in the LNG user fee rates to align these rates with the actual allocation of PHMSA resources to LNG program costs. Specifically, the LNG user fee rates will increase to 5 percent of the total gas program costs. This percentage represents the approximate ratio between the allocation of resources to LNG facilities and the total allocation of resources to all gas facilities. To reduce the financial impact on LNG operators, PHMSA will implement this increase incrementally over a three-year period.

DATES: Written comments should be received on or before September 2, 2014.

Comments: PHMSA invites interested persons to comment on the user fee assessment process described in this notice. Although the policies and practices described in this notice are final for purposes of fiscal year 2014 assessments, any comments received will be considered in determining whether the fiscal year 2015 and later policies and practices should be continued or modified. Interested persons should submit comments to the docket in writing, identifying the title and docket number of this notice.

Comments should reference Docket No. PHMSA–2014–0051. Comments may be submitted in the following ways:

- *E-Gov Web site: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590.

Hand Delivery: DOT Docket Management System, Room W12–140, on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: Comments will be posted without changes or edits to *http://www.regulations.gov* including any personal information provided. Please see the Privacy Act Statement heading below for additional information.

Privacy Act Statement

Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19476).

FOR FURTHER INFORMATION CONTACT: Roger Little by telephone at 202–366–4569, by fax at 202–366–4566, by email at *Roger.Little@dot.gov*, or by mail at U.S. Department of Transportation, PHMSA, 1200 New Jersey Avenue SE., PHP–2, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986 (Pub. L. 99–272, Sec. 7005) codified at Section 60301 of Title 49, United States Code, authorizes the assessment and collection of user fees to fund the pipeline safety activities conducted under Chapter 601 of Title 49. PHMSA assesses each operator of interstate and intrastate gas transmission pipelines (as defined in 49 CFR Part 192) and hazardous liquid pipelines carrying crude oil, refined petroleum products, highly volatile liquids, biofuel, and carbon dioxide (as defined in 49 CFR Part 195) a share of the total Federal pipeline safety program costs in proportion to the number of miles of pipeline for each operator. In accordance with COBRA, PHMSA also assesses user fees on LNG facilities (as defined in 49 CFR Part 193).

Fee Schedules

COBRA requires that the Secretary of Transportation establish a schedule of fees for pipeline usage, bearing a reasonable relationship to miles of pipeline, volume-miles, revenues, or an appropriate combination thereof. In particular, the Secretary must take into account the allocation of Departmental resources in establishing the schedule. Following consultations with the pipeline industry's major trade associations, including the American Petroleum Institute, the American Gas Association, the Interstate Natural Gas Association of America, and the Association of Oil Pipe Lines on the appropriate basis for determining fees, the Research and Special Programs Administration (RSPA), PHMSA's predecessor agency, determined that pipeline mileage provides the most reasonable basis for determining fees to be paid by operators of gas transmission lines and hazardous liquid pipeline facilities.[1]

On July 16, 1986, RSPA published in the **Federal Register** a notice for pipeline safety user fees to describe the agency's implementation of the requirements set forth in the COBRA Act (51 FR 25782) (the User Fee Notice). The User Fee Notice adopted pipeline mileage as the fee basis for natural gas transmission and hazardous liquid pipelines. Pipeline mileage data for each operator are available from the annual reports which operators are required to file with PHMSA. Each report provides the miles of pipeline each operator has at the end of the calendar year for which the report is filed.

With respect to the LNG facility portion of the gas program costs, a fee basis other than mileage was needed. For these facilities, RSPA determined that storage capacity was the most readily measurable indicator of usage. The storage capacity of each LNG facility that is subject to the user fee provisions of the Act was initially based on those published in a periodic report by the Liquefied Natural Gas Committee of the American Gas Association. With storage capacity as the basis, a five step

[1] Pipeline user fee assessments under COBRA were upheld by the U.S. Supreme Court in *Skinner* v. *Mid-America Pipeline Co.,* 490 U.S. 212 (1989).

fee schedule was developed for LNG facilities which provided a means of relating the fees to usage and resource allocation, taking into account the wide spread (approximately 900:1) in facility storage capacities. Since 2010, LNG facility operators have been required to submit an LNG annual report to PHMSA. PHMSA now uses data from these annual reports for the LNG facility user fee assessments.

The ratio of costs apportioned to gas and liquid activities varies by year, typically ranging between 40/60 and 60/40 gas/liquid. For each budget year user fee collection, PHMSA estimates the proportion of its resources for that billing year between natural gas and hazardous liquid pipeline initiatives and resource requirements costs. The percentages reflect the allocation of our efforts and resources for the billing year. For example, in recent years we considered anticipated program costs for new initiatives that were required by Congressional and other mandates. In 2011 and 2012, we used a 65 percent gas and 35 percent hazardous liquid split across the total budget. The hazardous liquid cost portion is offset by annual funding for the Oil Spill Liability Trust Fund (OSLTF) ($18.547 million for fiscal year 2012). In fiscal year 2013, the gas/liquid split went to 67/33 partially resulting from the state grant for gas programs increase in 2013 over 2012 and the fact that the OSLTF did not proportionally cover the same percent in 2013 (36% of liquid costs) as it did in 2012 (48% of liquid costs).

Change in LNG Facility User Fee Assessments

In the 1986 User Fee Notice, RSPA stated that the total LNG user fee assessment would be ''5 percent of the total gas program costs.'' More specifically, the notice stated:

> Each operator of an LNG facility in service at the beginning of fiscal year 1986 will to [sic] be assessed a designated share of the LNG program costs based on the storage capacity of the facility. For FY–86 these costs are estimated to be approximately 5 percent of the total gas program costs. This percentage represents the approximate ratio between the allocation of resources to LNG facilities and the total allocation of resources to all gas facilities.
>
> The total user fees for LNG facilities will be calculated as follows:
>
> Total LNG user fees equal approximately (105%) (5%) (Total gas program cost)
>
> For FY–86 LNG operator assessments will be as follows:

LNG Facility storage capacity	Operator assessment
Less than 10,000 bbl	$1,250.00
10,000 bbl. but less than 100,000 bbl	2,500.00
100,000 bbl. but less than 250,000 bbl	3,750.00
250,000 bbl. but less than 500,000 bbl	5,000.00
500,000 bbl. or more	7,500.00

Since the inception of the pipeline user fee billing, PHMSA has assessed LNG facilities based on the above rate table. The amount of money collected using this LNG facility fee structure has increased slightly over the years as more facilities were placed in service, but the gas program costs have increased at a far greater rate. The LNG rates have not been adjusted to reflect the increase in gas program costs since 1986. During the 2014 billing cycle, the LNG facility rate structure resulted in a collection of $467,500 which is a mere 0.62% of gas program costs. Five percent of the gas program cost for the 2014 billing cycle would have been $3,774,405.

Notice of LNG Facility Obligation Increase

In order to ensure that user fees assessed for each type of pipeline facility have a reasonable relationship to the allocation of departmental resources and to achieve the 5 percent of total gas program cost level set forth in the User Fee Notice, PHMSA has determined that certain changes to the calculation table are necessary. Specifically, the rate for each of the five tiers in the table will be updated to arrive at 5 percent of total gas program costs when the tiers are added together. PHMSA plans to implement the increase in the LNG facility user fee rates in three equal increments starting in 2015. In 2015, if the gas program costs remained steady at 2014 levels, the total LNG industry obligation would increase to $1,256,667; in 2016, the LNG obligation would increase to $2,513,333; and in 2017, the LNG obligation would increase to $3,774,405. The actual annual rate for a particular LNG facility of a given capacity billed each year will depend on the annual gas program cost and the total number of LNG facilities. As the LNG rates increase over the three year period, PHMSA will maintain the current ratio of rates based on storage capacity reflected in the five tiers. For example, an LNG facility with over 500,000 barrels of storage capacity has a user fee rate that is six times the rate for a facility with less than 10,000 barrels of storage. In 2017, when the LNG rates result in a collection of 5 percent of the gas program cost, an LNG facility with over 500,000 barrels of storage will still have a rate six times the rate for a facility with less than 10,000 barrels of storage. After 2017, PHMSA plans to continue this framework for assessing operators of LNG facilities for 5 percent of the gas program costs. PHMSA has been excluding mobile/temporary LNG facilities from user fee assessment since these facilities typically have very low storage volume, and will continue to exclude the mobile/temporary LNG facilities from user fee assessment.

Therefore, to account for the increase in total gas program costs since 1986 and achieve the 5 percent of total gas program cost level set forth in the User Fee Notice to reflect resource allocation, PHMSA is notifying LNG facility operators that in 2015, if the gas program costs remained steady at 2014 levels, the LNG obligation can be expected to increase to $1,256,667. In 2016, the LNG obligation would increase to $2,513,333, and in 2017, the LNG obligation would increase to $3,774,405. LNG operators should expect their individual user fee assessments to reflect these levels and that the amounts in their user fee billing statements will continue to be proportional to other LNG operators of differing capacities depending on the tiers they are in. Procedures for paying the fees can be found in the annual statement and include instructions for electronic funds transfer.

PHMSA invites interested persons to comment on the user fee assessment process described in this notice. Although the policies and practices described in this notice are final for purposes of fiscal year 2014 assessments, any comments received will be considered in determining whether the fiscal year 2015 and later policies and practices should be continued or modified. Interested persons should submit comments to the docket in writing, identifying the title and docket number of this notice by September 2, 2014.

Authority: 49 U.S.C. 60301; 49 CFR 1.97.

Issued in Washington, DC, on June 27, 2014.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2014–15599 Filed 7–2–14; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0089; Notice No. 14–10]

Safety Advisory: Unauthorized Certification of Compressed Gas Cylinders

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Safety Advisory Notice.

SUMMARY: PHMSA is issuing this safety advisory to notify the public that any DOT-Specification or DOT-Special Permit high pressure compressed gas cylinder marked as complying with the Hazardous Materials Regulations (HMR) by Always Safe Fire Extinguisher and Safety, LLC (ASFES), Yonkers, New York is not authorized for the transportation of hazardous materials in commerce. ASFES has never been authorized by PHMSA to perform these regulatory functions.

FOR FURTHER INFORMATION CONTACT: Patrick Durkin, Hazardous Materials Investigator, Eastern Region, Office of Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 820 Bear Tavern Road, Suite 306, West Trenton, NJ 08034. Telephone: (609) 989–2256, Fax: (609) 989–2277, or email: *patrick.durkin@dot.gov.*

SUPPLEMENTARY INFORMATION: Investigators from PHMSA's Office of Hazardous Materials Safety (OHMS) recently conducted a compliance inspection of Always Safe Fire Extinguisher and Safety, LLC (ASFES), 41 Lockwood Avenue, Yonkers, NY 10701. As a result of that inspection, PHMSA determined that ASFES marked an unknown number of high pressure compressed gas cylinders with unauthorized markings. In addition, ASFES did not have the requisite testing equipment and could not provide evidence to demonstrate that high pressure compressed gas cylinders were properly requalified in accordance with the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180).

ASFES was never approved by PHMSA to either requalify or mark DOT-specification or special permit cylinders as being requalified. The evidence suggests that ASFES stamped the month (2 digits) and year (2 digits) separated by a star, on DOT high pressure gas cylinders. Only high pressure cylinders serviced by ASFES bearing these markings are affected.

If the requalification is not performed in accordance with the HMR, or in accordance with the applicable special permit, a cylinder with compromised structural integrity may not be detected and may be returned to service when it should be condemned. Extensive property damage, serious personal injury, or death could result from rupture of a cylinder.

If DOT-Specification or DOT-Special permit cylinders have been serviced from ASFES from calendar years 2008 to present day, and have the marking described above (i.e., 2-digit month—star—2-digit year), these cylinders may not have been properly tested as prescribed by the HMR or by the applicable special permit. These cylinders should be considered unsafe and not authorized for the filling of hazardous material unless the cylinder is first properly tested by an individual or company authorized to requalify DOT specification and special permit cylinders.

Cylinders described in this safety advisory that are filled with an atmospheric gas should be vented or otherwise safely discharged. Cylinders that are filled with a material other than an atmospheric gas should not be vented but instead should be safely discharged. If a cylinder contains a hazardous material other than an atmospheric gas and the testing facility does not have the capability of safely removing the hazardous material, the requalifier must return the cylinder to the origin for proper discharge of the gas. For toxic gases in Hazard Zone A or B, the cylinder must be cleaned in accordance with the procedure described in CGA pamphlet C–10. Prior to refilling or continued use, the cylinders must be taken to a DOT-authorized cylinder requalifier to ensure their suitability for continued service. A list of authorized requalifiers may be obtained at this Web site: *http://www.phmsa.dot.gov/hazmat/regs/sp-a/approvals/cylinders*.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2014–15601 Filed 7–2–14; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 55 (Sub-No. 709X)]

CSX Transportation, Inc.—Abandonment Exemption—in Marion County, Indiana

CSX Transportation, Inc. (CSXT) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon an approximately 1.49-mile rail line on the Northern Region, Great Lakes Division, Indianapolis Terminal Subdivision, between north of West 29th Street, milepost QIY 3.69, and the end of track south of Langsdale Avenue, milepost QIY 2.20, in Indianapolis, Marion County, Ind. The line traverses United States Postal Service Zip Code 46208.

CSXT has certified that: (1) no freight traffic has moved over the line for at least two years; (2) any overhead freight traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(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 August 5, 2014, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1]

[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

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 July 14, 2014. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 23, 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 CSXT's representative: Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT 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 July 11, 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 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), CSXT 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 CSXT's filing of a notice of consummation by August 5, 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: June 27, 2014.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings,

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2014–15660 Filed 7–2–14; 8:45 am]

BILLING CODE 4915–01–P

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).

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for the 2014 50th Anniversary Kennedy Half-Dollar Gold Proof Coin

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing the price of the 2014 50th Anniversary Kennedy Half-Dollar Gold Proof Coin. This coin will be offered for sale based on the following pricing grid:

$1000.00 to $1049.99.	¾ Troy oz	$1,052.50
$1050.00 to $1099.99.	¾ Troy oz	1,090.00
$1100.00 to $1149.99.	¾ Troy oz	1,127.50
$1150.00 to $1199.99.	¾ Troy oz	1,165.00
$1200.00 to $1249.99.	¾ Troy oz	1,202.50
$1250.00 to $1299.99.	¾ Troy oz	1,240.00
$1300.00 to $1349.99.	¾ Troy oz	1,277.50
$1350.00 to $1399.99.	¾ Troy oz	1,315.00
$1400.00 to $1449.99.	¾ Troy oz	1,352.50
$1450.00 to $1499.99.	¾ Troy oz	1,390.00
$1500.00 to $1549.99.	¾ Troy oz	1,427.50
$1550.00 to $1599.99.	¾ Troy oz	1,465.00
$1600.00 to $1649.99.	¾ Troy oz	1,502.50
$1650.00 to $1699.99.	¾ Troy oz	1,540.00

Pricing can vary weekly dependent upon the London Fix weekly average gold price. Pricing is evaluated every Wednesday and is modified if necessary.

FOR FURTHER INFORMATION CONTACT: J. Marc Landry, Acting Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112, and 9701

Dated: June 25, 2014.

Beverly Ortega Babers,

Chief Administrative Officer, United States Mint.

[FR Doc. 2014–15407 Filed 7–2–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0188]

Agency Information Collection (Claims, Authorization, and Invoice for Prosthetic Items and Services) Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 4, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov*. Please refer to ''OMB Control No. 2900–0188 (Claims, Authorization, and Invoice for Prosthetic items and Services)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–NEW (Veterans, Researchers, and IRB Members Experiences with Recruitment Restrictions)'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites

comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

SUPPLEMENTARY INFORMATION:

Titles:

1. Veterans Application for Assistance in Acquiring Home Improvement and Structural Alterations, VA Form 10–0103.
2. Application for Adaptive Equipment for Motor Vehicle, VA Form 10–1394.
3. Prosthetic Authorization for Items or Services, VA Form 10–2421.
4. Request to Submit Quotation, VA Form Fl-10–90.
5. Prescription Authorization for Glasses, VA Form 10–2914.
6. Prosthetic Service Card Invoice, VA Form 10–2520.

Type of Review: Revision of a currently approved collection.

Abstracts:

a. VA Form 10–0103, *Veterans Application for Assistance in Acquiring Home Improvement and Structural Alterations (HISA) grants,* is used by the Prosthetic Service to determine eligibility/entitlement and reimbursement of individual claims for home improvement and structural alterations.

b. VA Form 10–1394, *Application for Adaptive Equipment Motor Vehicle. This form is used by VHA Prosthetic Service,* Fiscal Service and Veterans Benefits Administration to determine eligibility/entitlement and reimbursement of individual claims for automotive adaptive equipment.

c. VA Form 10–2421, *Prosthetic Authorization for Items or Services,* is used for the direct procurement of new prosthetic appliances and/or services by PSAS (Prosthetic and Sensory Aids Service) under the COCP (Contracting Officers Certification Program). Warrants to PSAS personnel are authorized for open market and Federal Supply Schedule purchases, and decentralized and local beneficiary service contracts.

d. VA Form 10–2520, *Prosthetic Service Card Invoice,* is used by the vendor as an invoice and billing document.

e. VA Form 10–2914, *Prescription and Authorization for Fee Basis Eyeglasses,* is used as a combination prescription, authorization and invoice. It purchases eyeglasses directly for veterans.

f. Form Letter 10–90, *Request to Submit Quotation,* is used by the VAMC Prosthetics Service to request a quotation for items listed.

g. *Affected Public:* Individuals or households.

Estimated Annual Burden:

a. VA Form 10–0103– 583 hours.
b. VA Form 10–01394—1,000 hours.
c. VA Form 10–2421—67 hours.
d. VA Form 10–2520—47 hours.
e. VA Form 10–2914—3,333 hours.
f. VA Form Letter 10–90—708 hours.

Estimated Average Burden Per Respondent:

a. VA Form 10–0103—5 minutes.
b. VA Form 10–1394 –15 minutes
c. VA Form 10–2421—4 minutes.
d. VA Form 10–2520—4 minutes.
e. VA Form 10–2914—4 minutes.
f. VA Form Letter 10–90—5 minutes.

Frequency of Response: Annually.

Estimated Annual Responses:

a. VA Form 10–0103—7,000.
b. VA Form 10–1394—4,000.
c. VA Form 10–2421—1,000.
d. VA Form 10–2520—700.
e. VA Form 10–2914—50,000.
f. VA Form Letter 10–90—8,500.

Dated: June 27, 2014.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2014–15550 Filed 7–2–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee: National Academic Affiliations Council Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the National Academic Affiliations Council will be held via conference call on July 24, 2014, from 11:00 a.m. to 1:00 p.m. EDT. The purpose of the Council is to advise the Secretary on matters affecting partnerships between VA and its academic affiliates.

The Council will review the status of recommendations from its previous meetings and receive an update on Council plans for its fall meeting. The Council will receive public comments from 12:45 p.m. to 1:00 p.m. EDT.

Any member of the public seeking additional information should contact Gloria J. Holland, Ph.D., Special Assistant for Policy and Planning, Office of Academic Affiliations (10A2D), via email *Gloria.Holland@va.gov* or by phone at (202) 461–9490. The dial in number to attend the conference call is: 1–800–767–1750. At the prompt for an access code, enter 16487#. Interested persons may present oral statements to the Council. Individuals wishing to speak are invited to submit a 1–2 page summary of their comments in advance. Oral presentations will be limited to five minutes or less, depending on the number of participants.

Dated: June 30, 2014.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2014–15661 Filed 7–2–14; 8:45 am]

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Part II

Department of Energy

10 CFR Parts 429 and 430

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnace Fans; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket Number EERE–2010–BT–STD–0011]

RIN 1904–AC22

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnace Fans

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: Pursuant to the Energy Policy and Conservation Act of 1975 (EPCA), as amended, the U.S. Department of Energy (DOE) must prescribe energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential furnace fans. EPCA requires DOE to determine whether such standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this final rule, DOE is adopting new energy conservation standards for residential furnace fans. DOE has determined that the prescribed 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 September 2, 2014. Compliance with the prescribed standards established for residential furnace fans in this final rule is required on and after July 3, 2019.

ADDRESSES: The docket for this rulemaking, 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 *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/41*. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT:

Mr. Ron Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7935. Email: *Ronald.Majette@ee.doe.gov*.

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9507. Email: *Eric.Stas@hq.doe.gov*.

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I. Summary of the Final Rule

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Pursuant to EPCA, any new or amended energy conservation standard that DOE prescribes for certain products, such as furnace fans, must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)). Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)). In accordance with these and other statutory provisions discussed in this notice, DOE proposes amended energy conservation standards for furnace fans. The proposed standards shall have a fan energy rating (FER) value that meets or is less than the values shown in Table I.1. These standards would apply to all products listed in Table I.1 and manufactured in, or imported into, the United States on or after manufactured on and after July 3, 2019.

TABLE I.1.—ENERGY CONSERVATION STANDARDS FOR COVERED RESIDENTIAL FURNACE FANS

Product class	FER* (watts/cfm)	Percent increase over baseline (percent)
Non-Weatherized, Non-Condensing Gas Furnace Fan (NWG–NC)	FER = 0.044 x Q_{Max} + 182	46
Non-Weatherized, Condensing Gas Furnace Fan (NWG–C)	FER = 0.044 x Q_{Max} + 195	46
Weatherized Non-Condensing Gas Furnace Fan (WG–NC)	FER = 0.044 x Q_{Max} + 199	46
Non-Weatherized, Non-Condensing Oil Furnace Fan (NWO–NC)	FER = 0.071 x Q_{Max} + 382	12
Non-Weatherized Electric Furnace/Modular Blower Fan (NWEF/NWMB)	FER = 0.044 x Q_{Max} + 165	46
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan (MH–NWG–NC)	FER = 0.071 x Q_{Max} + 222	12
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan (MH–NWG–C)	FER = 0.071 x Q_{Max} + 240	12
Mobile Home Electric Furnace/Modular Blower Fan (MH–EF/MB)	FER = 0.044 x Q_{Max} + 101	46
Mobile Home Non-Weatherized Oil Furnace Fan (MH–NWO)	Reserved	
Mobile Home Weatherized Gas Furnace Fan (MH–WG)	Reserved	

* Q_{Max} is the airflow, in cfm, at the maximum airflow-control setting measured using the final DOE test procedure at 10 CFR part 430, subpart B, appendix AA.

A. Benefits and Costs to Consumers

Table I.2 presents DOE's evaluation of the economic impacts of today's standards on consumers of residential furnace fans, as measured by the average life-cycle cost (LCC) savings and the median payback period (PBP). The average LCC savings are positive for all product classes.

TABLE I.2—IMPACTS OF ENERGY CONSERVATION STANDARDS ON CONSUMERS OF RESIDENTIAL FURNACE FANS

Product class	Average LCC savings (2013$)	Median payback period (years)
Non-Weatherized, Non-Condensing Gas Furnace Fan	$506	5.4
Non-weatherized, Condensing Gas Furnace Fan	$341	5.8
Weatherized Non-Condensing Gas Furnace Fan	$447	4.4
Non-Weatherized, Non-Condensing Oil Furnace Fan	$46	1.7
Non-weatherized Electric Furnace/Modular Blower Fan	$204	3.2
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan	$36	2.7
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	$35	2.3
Mobile Home Electric Furnace/Modular Blower Fan	$85	4.1

B. Impact on Manufacturers

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2014 to 2048). Using a real discount rate of 7.8 percent, DOE estimates that the INPV for manufacturers of residential furnace fans is $349.6 million.[1] Under today's standards, DOE expects that manufacturers may lose up to 16.9 percent of their INPV, which is approximately $59.0 million. Total conversion costs incurred by industry prior to the compliance date are expected to reach $40.6 million.

C. National Benefits and Costs[2]

DOE's analyses indicate that today's standards would save a significant amount of energy. The lifetime energy savings for residential furnace fans purchased in the 30-year period that begins in the year of compliance with the standards (2019–2048) amount to

[1] DOE calculated a present value in 2014; all monetary values in this document are expressed in 2013 dollars unless explicitly stated otherwise.

[2] All monetary values in this section are expressed in 2013$ and are discounted to 2014.

3.99 quadrillion Btu (quads [3]). The estimated annual energy savings in 2030 (0.07 quads) are equivalent to 0.3 percent of total U.S. residential energy use in 2012.

The cumulative net present value (NPV) of total consumer costs and savings of today's standards for residential furnace fans ranges from $10,024 million (at a 7-percent discount rate) to $28,810 million (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for residential furnace fans purchased in 2019–2048.

In addition, today's standards are expected to have significant environmental benefits. The energy savings would result in cumulative emission reductions of approximately 180.6 million metric tons (Mt) [4] of carbon dioxide (CO_2), 695.0 thousand tons of methane (CH_4), 235.7 thousand tons of sulfur dioxide (SO_2), 84.0 thousand tons of nitrogen oxides (NO_X), 6.2 thousand tons of nitrous oxide (N_2O), and 0.4 tons of mercury (Hg).[5] The cumulative reduction in CO_2 emissions through 2030 amounts to 34 million Mt.

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.[6] The derivation of the SCC values is discussed in section IV.L. 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 1,134 million to 16,799 million. DOE also estimates that the net present monetary value of the NO_X emissions reductions is $53.1 million at a 7-percent discount rate, and $110.8 million at a 3-percent discount rate.[7]

Table I.3 summarizes the national economic costs and benefits expected to result from today's standards for residential furnace fans.

TABLE I.3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF RESIDENTIAL FURNACE FANS ENERGY CONSERVATION STANDARDS*

Category	Present value *million 2013 $*	Discount rate (percent)
Benefits		
Consumer Operating Cost Savings	13,409	7
	34,999	3
CO_2 Reduction Monetized Value ($12.0/t case)**	1,134	5
CO_2 Reduction Monetized Value ($40.5/t case)**	5,432	3
CO_2 Reduction Monetized Value ($62.4/t case)**	8,694	2.5
CO_2 Reduction Monetized Value ($119/t case)**	16,799	3
NO_X Reduction Monetized Value (at $2,684/ton)**	53	7
	111	3
Total Benefits†	18,894	7
	40,542	3
Costs		
Consumer Incremental Installed Costs	3,385	7
	6,189	3
Net Benefits		
Including CO_2 and NO_X† Reduction Monetized Value	15,509	7
	34,353	3

* This table presents the costs and benefits associated with residential furnace fans shipped in 2019–2048. These results include benefits to consumers which accrue after 2048 from the products purchased in 2019–2048. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with 3-percent discount rate.

The benefits and costs of today's standards, for products sold in 2019–2048, can also be expressed in terms of annualized values. The annualized monetary values are the sum of: (1) The annualized national economic value of the benefits from operating the product that meets the new or amended standard (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[8]

[3] A quad is equal to 10^{15} British thermal units (Btu).

[4] A metric ton is equivalent to 1.1 short tons. Results for NO_X and Hg are presented in short tons.

[5] DOE calculated emissions reductions relative to the Annual Energy Outlook 2013 (*AEO 2013*) Reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of December 31, 2012.

[6] *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) (Available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf*).

[7] DOE is investigating valuation of avoided Hg and SO_2 emissions.

[8] 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 2014, the year used for discounting the NPV of total consumer costs and savings, for the time-series of costs and benefits using discount rates of three and seven percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table I.4. From the present value, DOE

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, whereas the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of residential furnace fans shipped in 2019–2048. The SCC values, on the other hand, reflect the present value of all future climate-related impacts resulting from the emission of one metric ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of today's standards are shown in Table I.4. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction (for which DOE used a 3-percent discount rate along with the SCC series that has a value of $40.5/t in 2015), the cost of the residential furnace fans standards in today's final rule is $358 million per year in increased equipment costs, while the benefits are $1416 million per year in reduced equipment operating costs, $312 million in CO_2 reductions, and $5.61 million in reduced NO_X emissions. In this case, the net benefit amounts to $1,376 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series that has a value of $40.5/t in 2015, the cost of the residential furnace fans standards in today's rule is $355 million per year in increased equipment costs, while the benefits are $2010 million per year in reduced operating costs, $312 million in CO_2 reductions, and $6.36 million in reduced NO_X emissions. In this case, the net benefit amounts to $1,973 million per year.

TABLE I.4—ANNUALIZED BENEFITS AND COSTS OF STANDARDS FOR RESIDENTIAL FURNACE FANS

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
		million 2013$/year		
Benefits				
Consumer Operating Cost Savings.	7%	1416	1167	1718
	3%	2010	1626	2467
CO_2 Reduction (at $12.0/t case) **.	5%	90	77	108
CO_2 Reduction (at $40.5/t case) **.	3%	312	268	377
CO_2 Reduction (at $62.4/t case) **.	2.5%	459	393	555
CO_2 Reduction (at $119/t case) **.	3%	965	828	1166
NO_X Reduction (at $2,684/ton) **.	7%	5.61	4.80	6.82
	3%	6.36	5.35	7.86
Total Benefits †	7% plus CO_2 range	1,512 to 2,387	1,249 to 2,000	1,833 to 2,891
	7%	1,734	1,439	2,102
	3% plus CO_2 range	2,106 to 2,981	1,708 to 2,459	2,583 to 3,641
	3%	2,328	1,899	2,852
Costs				
Consumer Incremental Product Costs.	7%	358	314	410
	3%	355	304	419
Net Benefits				
Total †	7% plus CO_2 range	1,154 to 2,029	935 to 1,685	1,423 to 2,481
	7%	1,376	1,125	1,692
	3% plus CO_2 range	1,750 to 2,625	1,404 to 2,155	2,164 to 3,222
	3%	1,973	1,595	2,433

* This table presents the annualized costs and benefits associated with residential furnace fans shipped in 2019–2048. These results include benefits to consumers which accrue after 2048 from the products purchased from 2019–2048. The results account for the incremental, variable, and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices and housing starts from the *AEO 2013* Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental product costs reflect a flat rate for projected product price trends in the Primary Estimate, a slightly increasing rate for projected product price trends in the Low Benefits Estimate, and a slightly declining rate for projected product price trends in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.

** The CO_2 values represent global monetized values of the SCC, in 2013$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to the average SCC with a 3% 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.

then calculated the fixed annual payment over a 30-year period (2019 through 2048) that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

D. Conclusion

Based on the analyses culminating in this final rule, DOE found the benefits to the nation of the standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, and emission reductions) outweigh the burdens (loss of INPV and LCC increases for some users of these products). DOE has concluded that the standards in today's final rule represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in significant conservation of energy.

II. Introduction

The following section briefly discusses the statutory authority underlying today's final rule, as well as some of the relevant historical background related to the establishment of standards for residential furnace fans.

A. Authority

Title III, Part B [9] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances (collectively referred to as ''covered products''),[10] which includes the types of residential furnace fans that are the subject of this rulemaking. (42 U.S.C. 6295(f)(4)(D))

Pursuant to EPCA, DOE's energy conservation program for covered products consists of essentially of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. The Federal Trade Commission (FTC) is primarily responsible for labeling, and DOE implements the remainder of the program. Subject to certain criteria and conditions, DOE is required by EPCA to consider and establish energy conservation standards for ''electricity used for purposes of circulating air through duct work'' (which DOE has referred to in shorthand as residential ''furnace fans''). (42 U.S.C. 6295(f)(4)(D)) DOE is also required by EPCA to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product prior to the adoption of an energy conservation standard. (42 U.S.C. 6295(o)(A)(3) and (r)) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c) and 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. (42 U.S.C. 6295(s)) The DOE test procedures for residential furnace fans currently appear at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix AA.

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including furnace fans. As indicated above, any standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and (3)(B)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) Moreover, DOE may not prescribe a standard: (1) For certain products, including residential furnace fans, if no test procedure has been established for the product, or (2) if DOE determines by rule that the standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether a standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven factors:

(1) The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the covered products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (*See* 42 U.S.C. 6295(o)(2)(B)(iii))

Additionally, under 42 U.S.C. 6295(q)(1), the statute specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type of class of covered product 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 products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of such a feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

[9] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[10] 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).

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d)).

Finally, pursuant to the amendments contained in the Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) The furnace fan energy rating metric does not account for the electrical energy consumption in standby mode and off mode, because energy consumption in those modes is being fully accounted for in the DOE energy conservation standards for residential furnaces and residential central air conditioners (CAC) and heat pumps (HP). Manufacturers will be required to use the new metrics and methods adopted in those rulemakings for the purposes of certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA and for making representations about the efficiency of those products. (42 U.S.C. 6293(c); 42 U.S.C. 6295(s))

B. Background

1. Current Standards

Currently, no Federal energy conservation standards apply to residential furnace fans.

2. History of Standards Rulemaking for Residential Furnace Fans

Pursuant to 42 U.S.C. 6295(f)(4)(D), DOE must consider and prescribe new energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work. DOE has interpreted this statutory language to allow regulation of the electricity use of any electrically-powered device applied to residential central heating, ventilation, and air-conditioning (HVAC) systems for the purpose of circulating air through duct work.

DOE initiated the current rulemaking by issuing an analytical Framework Document, ''Rulemaking Framework for Furnace Fans'' (June 1, 2010). DOE then published the Notice of Public Meeting and Availability of the Framework Document for furnace fans in the **Federal Register** on June 3, 2010. 75 FR 31323. See *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/41.* The Framework Document explained the issues, analyses, and process that DOE anticipated using to develop energy conservation standards for residential furnace fans. DOE held a public meeting on June 18, 2010 to solicit comments from interested parties regarding DOE's analytical approach. DOE originally scheduled the comment period on the Framework Document to close on July 6, 2010, but due to the large number and broad scope of questions and issues raised, DOE subsequently published a notice in the **Federal Register** reopening the comment period from July 15, 2010 until July 27, 2010, to allow additional time for interested parties to submit comments. 75 FR 41102 (July 15, 2010).

As a concurrent effort to the residential furnace fan energy conservation standard rulemaking, DOE also initiated a test procedure rulemaking for residential furnace fans. On May 15, 2012, DOE published a notice of proposed rulemaking (NOPR) for the test procedure in the **Federal Register**. 77 FR 28674. In that NOPR, DOE proposed to establish methods to measure the performance of covered furnace fans and to obtain a value for the proposed metric, referred to as the ''fan efficiency rating'' (FER).[11] DOE held the test procedure NOPR public meeting on June 15, 2012, and the comment period closed on July 30, 2012. After receiving comments on the NOPR alleging significant manufacturer burden associated with the proposed test procedure, DOE determined that an alternative test method should be developed. DOE published in the **Federal Register** an SNOPR on April 2, 2013, which contained its revised test procedure proposal and an explanation of the changes intended to reduce burden. 78 FR 19606. DOE proposed to adopt a modified version of the alternative test method recommended by the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) and other furnace fan manufacturers to rate the electrical energy consumption of furnace fans. DOE concluded that the AHRI-proposed method provides a framework for accurate and repeatable determinations of FER that is comparable to the test method previously proposed by DOE, but at a significantly reduced test burden. DOE published in the **Federal Register** a final rule on January 3, 2014, which contained the final test procedure for residential furnace fans. 79 FR 500.

To further develop the energy conservation standards for residential furnace fans, DOE gathered additional information and performed a preliminary technical analysis. This process culminated in publication in the **Federal Register** of a Notice of Public Meeting and the Availability of the Preliminary Technical Support Document (TSD) on July 10, 2012. 77 FR 40530. DOE published a NOPR in the **Federal Register** and made available an accompanying NOPR TSD on October 25, 2013. 78 FR 64068. In that document, DOE requested comment on the following matters discussed in the TSD: (1) Additional FER values; (2) the methodology for accounting for the relationship between FER and airflow capacity; (3) the reasonableness of the values that DOE used to characterize the rebound effect with high-efficiency residential furnace fans; (4) DOE's estimate of the base-case efficiency distribution of residential furnace fans in 2018; (5) the long-term market penetration of higher-efficiency residential furnace fans; (6) data regarding manufacturer product costs for furnace fan equipment and components; (7) the effect of standards on future furnace fan equipment shipments; (8) whether there are features or attributes of the more energy-efficient furnace fans that manufacturers would produce to meet the standards in the proposed rule that might affect how they would be used by consumers; (9) data that would refine the analytical timeline; (10) input on average equipment lifetimes; (11) the new SCC values used to determine the social benefits of CO_2 emissions reductions over the rulemaking analysis period; and (12) input on the cumulative regulatory burden. *Id.* DOE also invited written comments on these subjects, as well as any other relevant issues. A PDF copy of the NOPR TSD is available at *http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0011-0068.*

The NOPR TSD provided an overview of the activities DOE undertook in developing proposed energy

[11] In the May 15, 2012 NOPR for the test procedure, DOE referred to FER as ''fan efficiency rating.'' However, in the April 2, 2013 test procedure SNOPR, DOE proposed to rename the metric as ''fan energy rating,'' thereby keeping the same abbreviation (FER).

conservation standards for residential furnace fans, and discussed the comments DOE received in response to the Preliminary Analysis. It also described the analytical methodology that DOE used and each analysis DOE had performed up to that point. These analyses were as follows:

- A *market and technology assessment* addressed the scope of this rulemaking, identified the potential product classes of residential furnace fans, characterized the markets for these products, and reviewed techniques and approaches for improving their efficiency;
- A *screening analysis* reviewed technology options to improve the efficiency of furnace fans, and weighed these options against DOE's four prescribed screening criteria;
- An *engineering analysis* developed relationships that show the manufacturer's cost of achieving increased efficiency;
- A *markups analysis* developed distribution channel markups that relate the manufacturer production cost (MPC) to the cost to the consumer;
- An *energy use analysis* estimated the annual energy use of furnace fans at various potential standard levels;
- A *life-cycle cost (LCC) analysis* calculated, at the consumer level, the discounted savings in operating costs throughout the estimated average life of the product, compared to any increase in installed costs likely to result directly from the adoption of a given standard;
- A *payback period (PBP) analysis* estimated the amount of time it would take consumers to recover the higher expense of purchasing more-energy-efficient products through lower operating costs;
- A *shipments analysis* estimated shipments of residential furnace fans over the time period examined in the analysis (30 years), which were used in performing the national impact analysis;
- A *national impact analysis* assessed the aggregate impacts at the national level of potential energy conservation standards for residential furnace fans, as measured by the net present value of total consumer economic impacts and national energy savings;
- A *manufacturer impact analysis* estimated the financial impact of new energy conservation standards on manufacturers and calculated impacts on competition, employment, and manufacturing capacity;
- A *consumer subgroup analysis* evaluated variations in customer characteristics that might cause a standard to affect particular consumer sub-populations (such as low-income households) differently than the overall population;
- An *emissions analysis* assessed the effects of the considered standards on emissions of carbon dioxide (CO_2), sulfur dioxide (SO_2) nitrogen oxides (NO_X), mercury (Hg), nitrous oxide (N_20), and methane (CH_4);
- An *emissions monetization* estimated the economic value of reductions in CO_2 and NO_X emissions from the considered standards;
- A *utility impact analysis* estimated selected effects of the considered standards on electric utilities;
- An *employment impact analysis* assessed the impacts of the considered standards on national employment; and
- A *regulatory impact analysis* (RIA) evaluated alternatives to amended energy conservation standards in order to assess whether such alternatives could achieve substantially the same regulatory goal at a lower cost.

The NOPR public meeting took place on December 3, 2013. At this meeting, DOE presented the methodologies and results of the analyses set forth in the NOPR TSD. The numerous comments received since publication of the October 2013 NOPR, including those received at the NOPR public meeting, have contributed to DOE's resolution of the issues raised by interested parties.

The submitted comments include a comment from the American Council for an Energy-Efficiency Economy (ACEEE); a joint comment from the American Fuel and Petrochemical Manufacturers (AFPM), the U.S. Chamber of Commerce (the Chamber), the Council of Industrial Boiler Owners (CIBO), the American Forest and Paper Association (AF&PA), and the American Petroleum Institute (API); a comment from the American Gas Association (AGA); a comment from the Air-Conditioning, Heating, and Refrigeration Institute (AHRI); a comment from the American Public Gas Association (APGA); a joint comment from the Appliance Standards Awareness Project (ASAP), Alliance to Save Energy (ASE), National Consumer Law Center (NCLC) and the Natural Resources Defense Council (NRDC); a second joint comment from California Investor-Owned Utilities (CA IOUs) including Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), Southern California Gas Company (SCGC), and San Diego Gas and Electric (SDGE); a comment from the Cato Institute; a comment from China WTO (WTO); a comment from Earthjustice; a comment from Edison Electric Institute (EEI); a comment from the George Washington University Regulatory Studies Center; a comment from Goodman Global, Inc. (Goodman); a comment from Heating, Air-Conditioning and Refrigeration Distributers International (HARDI); a comment from Johnson Controls; a comment from Laclede Gas Company (Laclede); a comment from a comment from Lennox International, Inc. (Lennox); a comment from the Mercatus Center at George Mason University; a comment from Morrison Products, Inc. (Morrison); a comment from Mortex Product, Inc. (Mortex); a comment from the National Association of Manufacturers (NAM); a joint comment from the Northwest Energy Efficiency Alliance (NEEA) and the Northwest Power and Conservation Council (NPCC); a comment from the Northeast Energy Efficiency Partnerships (NEEP); a comment from Rheem Manufacturing Company (Rheem); a comment from Southern Company; a comment from Ingersoll Rand; and a comment from Unico, Incorporated. Comments made during the public meeting by those not already listed include Nidec Motor Corporation (Nidec) and the motor manufacturer Regal Beloit. This final rule summarizes and responds to the issues raised in these comments. A parenthetical reference at the end of a quotation or paraphrase provides the location of the item in the public record.

III. General Discussion

A. Test Procedures

DOE published the furnace fan test procedure final rule in the **Federal Register** on January 3, 2014. 79 FR 499. DOE's test procedure for furnace fans (hereinafter referred to as ''the test procedure'') is codified in appendix AA of subpart B of part 430 of the code of federal regulations (CFR).The test procedure is applicable to circulation fans used in weatherized and non-weatherized gas furnaces, oil furnaces, electric furnaces, and modular blowers. The test procedure is not applicable to any non-ducted products, such as whole-house ventilation systems without ductwork, central air-conditioning (CAC) condensing unit fans, room fans, and furnace draft inducer fans.

DOE aligned the test procedure with the DOE test procedure for furnaces by incorporating by reference specific provisions from an industry standard that is also incorporated by reference in the DOE test procedure for furnaces. DOE's test procedure for furnaces is codified in appendix N of subpart B of part 430 of the CFR. The DOE furnace test procedure incorporates by reference American National Standards Institute (ANSI)/American Society of Heating, Refrigerating and Air Conditioning

Engineers (ASHRAE) 103–1993, *Method of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers* (ASHRAE 103–1993). The DOE furnace fan test procedure incorporates by reference the definitions, test setup and equipment, and procedures for measuring steady-state combustion efficiency provisions of the 2007 version of ASHRAE 103 (ASHRAE 103–2007). In addition to these provisions, the test procedure includes provisions for apparatuses and procedures for measuring temperature rise, external static pressure, and furnace fan electrical input power. The test procedure also incorporates by reference provisions for measuring temperature and external static pressure from ANSI/ASHRAE 37–2009, *Methods of Testing for Rating Electrically Driven Unitary Air-Conditioning and Heat Pump Equipment* (ASHRAE 37–2009). There are no differences between the 2005 version (which is already incorporated by reference in the CFR) and the 2009 version of the ASHRAE 37 provisions incorporated by reference for the furnace fan test procedure. The test procedure also establishes calculations to derive the rating metric, fan energy rating (FER), for each furnace fan basic model based on the results of testing per the test method for furnace fans codified in appendix AA of subpart B of part 430 of the CFR.

FER is the estimated annual electrical energy consumption of a furnace fan normalized by: (a) The estimated total number of annual fan operating hours (1,870); and (b) the airflow in the maximum airflow-control setting. For the purposes of the furnace fan test procedure, the estimated annual electrical energy consumption is the sum of the furnace fan electrical input power (in Watts), measured separately for multiple airflow-control settings at different external static pressures (ESPs), multiplied by national average operating hours associated with each setting. These ESPs are determined by a reference system, based on operation at maximum airflow that represents national average ductwork system characteristics. Table III.1 includes the reference system ESP values by installation type that are specified by the test procedure. In previous rulemaking documents for the furnace fan test procedure and energy conservation standard rulemaking, DOE used the term ''manufactured home furnace'' to be synonymous with ''mobile home furnace,'' as defined in the Code of Federal Regulation (CFR). 10 CFR 430.2. DOE will use the term ''mobile home'' hereinafter to be consistent with the CFR definition for ''mobile home furnace.'' All provisions and statements regarding mobile homes and mobile home furnaces are applicable to manufactured homes and manufactured home furnaces.

TABLE III.1—REQUIRED REFERENCE SYSTEM CRITERIA (I.E., ESP AT MAXIMUM AIRFLOW) BY FURNACE FAN INSTALLATION TYPE

Installation type	ESP at maximum airflow (in. wc)
Units with an internal evaporator coil	0.50
Units designed to be paired with an evaporator coil	0.65
Units designed to be installed in a mobile home [12]	0.30

The test procedure requires measurements for the airflow-control settings that correspond to fan operation while performing the cooling function (which DOE finds is predominantly associated with the maximum airflow-control setting), heating function, and constant-circulation function. Table III.2 describes the required airflow-control settings by product type.

TABLE III.2—AIRFLOW-CONTROL SETTINGS AT WHICH MEASUREMENTS ARE REQUIRED FOR EACH PRODUCT TYPE

Product type	Airflow-control setting 1	Airflow-control setting 2	Airflow-control setting 3
Single-stage Heating	Default constant-circulation	Default heat	Absolute maximum.*
Multi-stage or Modulating Heating	Default constant-circulation	Default low heat	Absolute maximum.

* For the purposes of the test procedure, ''absolute maximum'' airflow-control setting refers to the airflow-control setting that achieves the maximum attainable airflow at the operating conditions specified by the test procedure.

As shown in Table III.2, for products with single-stage heating, the three airflow-control settings to be tested are: The default constant-circulation setting; the default heating setting; and the absolute maximum setting. For products with multi-stage heating or modulating heating, the airflow-control settings to be tested are: The default constant-circulation setting; the default low heating setting; and the absolute maximum setting. The absolute lowest airflow-control setting is used to represent constant circulation if a default constant-circulation setting is not specified. DOE defines ''default airflow-control settings'' as the airflow-control settings for installed use specified by the manufacturer in the product literature shipped with the product in which the furnace fan is integrated. *See* Section 2.2 of Appendix AA to Subpart B of 10 CFR part 430. Manufacturers typically provide detailed instructions for setting the default heating airflow-control setting to ensure that the product in which the furnace fan is integrated operates safely. In instances where a manufacturer specifies multiple airflow-control settings for a given function to account for varying installation scenarios, the highest airflow-control setting specified for the given function shall be used for the DOE test procedure. High heat and reduced heat shall be considered different functions for multi-stage heating units. Manufacturer installation guides also provide detailed instructions regarding compatible thermostats and how to wire them to achieve the specified default settings.

The Watt measurements for calculating FER are weighted using designated annual operating hours for each function (*i.e.,* cooling, heating, and constant circulation) that represent national average operation. Table III.3 shows the estimated national average operating hours for each function.

[12] Mobile home external static pressure is much lower because there is no return air ductwork in mobile homes. Also, the United States Department of Housing and Urban Development (HUD) requirements for mobile homes stipulate that the ductwork for cooling should be designed for 0.3 in. water column (wc). 24 CFR 3280.715.

TABLE III.3—ESTIMATED NATIONAL AVERAGE OPERATING HOUR VALUES FOR CALCULATING FER

Operating mode	Variable	Single-stage (hours)	Multi-stage or modulating (hours)
Heating	HH	830	830/HCR
Cooling	CH	640	640
Constant Circulation	CCH	400	400

For multi-stage heating or modulating heating products, the specified operating hours for the heating mode are divided by the heating capacity ratio (HCR) to account for variation in time spent in this mode associated with turndown of heating output. The HCR is the ratio of the measured reduced heat input rate to the measured maximum heat input rate.

The FER equation is:

$$FER = \frac{(CH \times E_{Max}) + (HH \times E_{Heat}) + (CCH \times E_{Circ})}{(CH + 830 + CCH) \times Q_{Max}} \times 1000$$

Where:

CH = annual furnace fan cooling operating hours;

E_{Max} = furnace fan electrical consumption at maximum airflow-control setting operating point;

HH = annual furnace fan heating operating hours;

E_{Heat} = furnace fan electrical consumption at the default heating airflow-control setting operating point for units with single-stage heating or the default low-heating airflow control setting operating point for units with multi-stage heating;

CHH = annual furnace fan constant circulation hours;

E_{Circ} = furnace fan electrical consumption at the default constant-circulation airflow-control setting operating point (or minimum airflow-control setting operating point if a default constant-circulation airflow-control setting is not specified);

Q_{Max} = airflow at maximum airflow-control setting operating point; and

1000 = constant to put metric in terms of watts/1000cfm, which is consistent with industry practice.

DOE received comments from interested parties regarding the furnace fan test procedure in response to the furnace fan energy conservation standard (ECS) NOPR. Interested parties' comments on the test procedure are summarized below. DOE addressed many of these issues in the test procedure final rule, published in the **Federal Register** on January 3, 2014. (79 FR 514). The publication of the test procedure final rule occurred after the standards NOPR public meeting, held on December 3, 2013, but before the close of the standards NOPR comment period on January 23, 2014. For comments that were addressed in the test procedure final rule, a reference to the applicable discussion contained in the test procedure final rule document is provided. DOE's detailed response is provided in this document for comments that were not addressed in the test procedure final rule document.

AHRI, Goodman, Morrison, Rheem, Southern Company, Johnson Controls, and Ingersoll Rand commented that DOE's schedule for finalizing the test procedure did not provide interested parties with sufficient time to evaluate product performance in accordance with the final test procedure in order to develop and submit substantive comments on the standards proposed in the NOPR. (AHRI, No. 98 at p. 2, 3; Goodman, No. 102 at pp. 7, 8; Morrison, No. 108 at p. 3; Rheem, No. 83 at p. 1; Southern Company, No. 85 at p. 2; Johnson Controls, No. 95 at p. 3; Ingersoll Rand, No. 43 at p. 33) Ingersoll Rand added that the comments they have submitted to date are based on the proposed test procedure, not the final test procedure. (Ingersoll Rand, No. 107 at pp. 2, 10) AGA and Allied Air agree and recommend that DOE delay promulgation of standards to give interested parties and DOE more time to conduct analyses using the final test procedure. (AGA, No. 110 at pp. 3, 4; Allied Air, Public Meeting Transcript, No. 43 at p. 48) Goodman recommended a delay of three months for this type of product and testing. (Goodman, No. 102 at p. 3) Prior to publication of the test procedure final rule, EEI expressed support for DOE issuing a supplemental notice of proposed rulemaking (SNOPR) for the standard if changes were made to the test procedure final rule that had significant impacts on DOE's analyses results. (EEI, No. 87 at p. 3) APGA and Southern Company also recommended that DOE publish a standards SNOPR. (APGA, No. 90 at p. 2; Southern Company, No. 43 at p. 37)

DOE recognizes that interested parties need sufficient time to collect and evaluate relevant fan performance data in order to submit meaningful comments on the proposed energy conservation standard for furnace fans. Thus, on December 24, 2013, DOE posted a pre-publication test procedure final rule notice to regulations.gov and issued a 30-day extension of the standards NOPR comment period to provide interested parties with time to evaluate DOE's proposed standards using the final test procedure.

AHRI, Johnson Controls, and Morrison stated that, even with the comment period extension, the 20 days between the publication of the test procedure final rule on January 3, 2014 and the close of the standards NOPR comment period on January 23, 2014 did not provide interested parties with sufficient time to assess the energy conservation standards NOPR based on the provisions within the final test procedure. AHRI added that DOE was obligated to issue the NOPR on the proposed energy conservation standards after the issuance of the final rule on the furnace fan test procedures per Section 7(c) of Appendix A to Subpart C of 10 CFR part 430. (AHRI, No. 98 at pp. 2, 3; Johnson Controls, No. 95 at p. 3; Morrison, No. 108 at p. 3) Mortex stated that they were not able to test any of their products according to the final test procedure by the time the energy conservation standard NOPR comment period closed. (Mortex, No. 104 at p. 2) Ingersoll Rand commented that DOE's standards NOPR analyses are invalid because they were not based on the test procedure final rule. (Ingersoll Rand, No. 107 at p. 2, 10). NEEA and NPCC provided there is a need for product testing using the final test procedure, and a re-assessment of the derivation of the proposed FER equations and standard levels. NEEA and NPCC added that they do not support a decision on

standards before there is sufficient data with which to verify that the proposed FER values will not disqualify from compliance the majority of the very products upon which they are founded, and for which DOE's economic analyses are valid. (NEEA and NPCC, No. 96 at p. 2)

DOE disagrees with AHRI and Morrison that the extended comment period was insufficient. DOE issued a test procedure SNOPR for furnace fans on April 2, 2013. 78 FR 19606. DOE did not make changes to the test procedure between the SNOPR and final rule that would significantly alter FER values for most products. Interested parties that conducted testing in accordance with the test procedure SNOPR proposal should not have to retest most furnace models to derive an FER value that is consistent with the final test procedure. For most furnaces, the FER value should not change or the FER value can be recalculated per the final test procedure requirements using the raw data measured according to the SNOPR test method. Therefore, notwithstanding the 20 days between the test procedure final rule and the close of the standards NOPR comment period, interested parties still had over nine months between the publication of the test procedure SNOPR and the close of the standards NOPR comment period to collect and evaluate fan performance data that is relevant to DOE's proposed standards. DOE received data that could be used to derive FER values that meet the final test procedure requirements from multiple manufacturers during this period.

DOE agrees with NEEA and NPCC that its proposed standards should be assessed based on FER values that are reflective of performance as measured by the final test procedure. For the reasons stated above, DOE was able to use much of the FER data it has collected in previous phases of this rulemaking to generate FER values that meet the requirements of the final test procedure. DOE also conducted testing prior to and during the development of the test procedure final rule that generated a broad set of results to enable DOE to derive FER values that are consistent with the requirements of the final test procedure. In addition, DOE continued to collect and use data from publicly-available product literature. DOE relied on the mathematical methods outlined in the test procedure NOPR for using this data to model fan performance and estimate FER values that meet the final test procedure requirements. 77 FR 28690 (May 15, 2012). DOE recognizes that this method is not identical to the final test procedure method. However, DOE believes the FER values generated in this manner are still relevant because the final test method is similar to the test method proposed by AHRI (with support from Goodman, Ingersoll Rand, Lennox, and Morrison) in response to the test procedure NOPR, which they argued would result in accurate and repeatable FER values that are comparable to the FER values resulting from the methods proposed in the NOPR. (AHRI, No. 16 at p. 3; Goodman, No. 17 at p. 4; Ingersoll Rand, No. 14 at p. 1; Morrison, No. 21 at p. 3.) For these reasons, Ingersoll Rand's comment stating that DOE's standards NOPR analyses are invalid because they are not based on the test procedure final rule is inaccurate. The standards proposed in the NOPR and those established by this final rule are based on relevant FER data.

Goodman stated that DOE's modifications to the test procedure since the April 2013 test procedure SNOPR will have a significant impact on FER. Goodman referred specifically to the modification in the test procedure that specifies that airflow be calculated based on firing the product in the absolute maximum airflow-control setting if that setting is a default heating setting. According to Goodman, most furnaces allow heating operation at the highest airflow setting. Thus, instead of heating airflow setting being a mid-range temperature rise as typically set by factory default, it will now be a low-range temperature rise at a much higher and less efficient setting for FER calculation (and a setting that will not be typical of a field installation). (Goodman, No. 102 at p. 7) Ingersoll Rand echoed Goodman's statement, adding that the modification would also result in higher watts in heating mode and a higher FER value than would have resulted using the procedure in the SNOPR for a majority of furnaces. (Ingersoll Rand, No. 107 at pp. 2, 10).

DOE disagrees with Goodman's and Ingersoll Rand's comments. DOE expects that both interested parties have misinterpreted the test procedure requirement. DOE recognizes that product controls can be altered from factory settings to allow heating in the absolute maximum airflow-control setting. The test procedure does not allow for this practice. The test procedure only requires testing in factory-set configurations. Specific to the modification in question, the test procedure requires heating in the absolute maximum airflow-control setting only if that setting is a default heat setting. *See* Section 8.6.1.2 of Appendix AA to Subpart B of 10 CFR part 430. By definition, as outlined in the test procedure, a default heating airflow-control setting is factory-set and specified for installed-use as a heat setting by the manufacturer. *See* Section 2.2 of Appendix AA to Subpart B of 10 CFR part 430. Consequently, the resulting temperature rise is also factory-set by the manufacturer, and the measured performance will be representative of field use. In addition, the test procedure SNOPR and final rule requirements for E_{Heat} (the watts in heating mode input for FER) are consistent and the measured values for this input should not change. The impacts of the modification in question are explained in more detail in the test procedure final rule. 79 FR 514 (January 3, 2014).

AHRI commented that in the final test procedure that was published on January 3, 2014, DOE introduced a change within the test procedure that increases the measured FER. AHRI stated that DOE decided not to implement AHRI's recommendation that a furnace be fired at the maximum airflow rate to calculate the maximum airflow. Instead, according to AHRI, the final rule specifies that the maximum airflow is determined by applying the airflow equation for a heating setting and adjusting to the maximum setting based on pressure measurements. AHRI claims that this approach results in an increase of the measured FER and was not accounted within the analyses associated with the energy conservation standards NOPR TSD that was issued on October 25, 2013. AHRI recommends that DOE reevaluate the analyses within the entire TSD due to this single change. (AHRI, No. 98 at p. 3, 4)

DOE introduced the change referred to by AHRI in the April 2, 2013 test procedure SNOPR. A detailed discussion of DOE's reasoning for that change are provided in that notice. 78 FR 19616. DOE made additional changes to this provision in the test procedure final rule by requiring that the product under test be fired at the maximum airflow rate to calculate the maximum airflow for furnaces for which the maximum airflow-control setting is a default heat setting (consistent with AHRI's recommendation). *See* Section 8.6.1.2 of Appendix AA to Subpart B of 10 CFR part 430. DOE disagrees with AHRI that the change in question will result in higher FER values. DOE fan performance tests, including tests following the final test procedure, show that the maximum airflow calculated when firing the product under test in the maximum airflow control setting is typically lower than when applying the airflow equation for a heating setting

and adjusting to the maximum setting based on pressure measurements. Consequently, FER values would be lower if they were derived using airflow values calculated when firing in the maximum airflow-control setting. AHRI did not provide data to the contrary. As stated above, DOE's proposed standards and the standards established by this document are valid because they are based on FER values that are consistent with the final test procedure (to include FER values employing the airflow adjustment method in question).

AHRI, Morrison, and Ingersoll Rand commented that they are opposed to DOE eliminating the HCR from the denominator of the FER equation. According to AHRI, DOE did not provide a sound technical justification for such a modification and unnecessarily penalized the FER values associated with multi-stage and modulating units. (AHRI, No. 98 at p. 2, 3; Morrison, No. 108 at p. 3, 4; Ingersoll Rand, No. 107 at p. 2, 10)

As discussed in the test procedure final rule, DOE found that including HCR in the denominator of the FER equation resulted in percent reductions in estimated annual energy consumption, as calculated for FER, of 15 percent. 79 FR 515 (January 3, 2014). Further, DOE found percent reductions in FER of approximately 30 percent when comparing single-stage products using constant-torque brushless permanent magnet (BPM) motors to multi-stage products using constant-torque BPM motors. DOE eliminated HCR from the FER equation because, as a result, percent reductions in FER dropped to 15 percent on average, which is consistent with percent reduction in estimated annual energy consumption. 79 FR 515 (January 3, 2014). DOE did not receive any new FER values for products that use a constant-torque BPM motor and multi-stage heating. DOE was also unable to find data in the public domain with which to calculate new FER values to represent such products. In the absence of new data, DOE used the raw airflow, ESP, and fan electrical energy consumption data for single-stage furnaces with constant-torque BPM motors to generate FER values reflecting the addition of theoretical multi-stage heating capabilities. Single-stage furnaces using constant-torque BPM motors typically have additional airflow-control settings that provide less airflow than the factory-set heating airflow-control setting. Theoretically, these airflow-control settings could be used for a low heat setting in a multi-stage heating configuration. DOE identified as many models as possible that meet this criterion and for which DOE has sufficient data to calculate theoretical FER values for a multi-stage configuration. For each model, DOE first calculated the temperature rise in the default heating setting based on the airflow, thermal efficiency and input heat rating in that setting. Next, DOE used a variation of the same relationship between these parameters to calculate the theoretical low input capacity that would achieve the same temperature rise for each available airflow-control setting below the heat setting. DOE then evaluated the HCR for each of the lower airflow-control settings based on the theoretical input capacity of the lower setting and the rated input capacity of the default heat setting. DOE selected the low airflow-control setting that produced an HCR between 0.4 and 0.9 that was closest to 0.7 to represent the theoretical low heating setting. DOE chose these criteria based on investigation of typical HCR values observed in currently available products. Finally, DOE calculated estimated annual energy consumption and an FER value using the single-stage model's data for the absolute maximum and constant circulation airflow-control settings and the data for the theoretical low heating setting for the heating airflow-control setting. DOE's new data shows that multi-staging reduces estimated annual energy consumption by an average of 14 percent and FER by an average of 12 percent. These findings are consistent with DOE's previous findings and support its decision to eliminate HCR from the denominator of the FER calculation.

Ingersoll Rand stated that the final test procedure reduces the estimated savings associated with BPM motors. Ingersoll Rand commented that BPM motors consume more power as static pressure increases than permanent-split capacitor (PSC) motors. (Ingersoll Rand, No. 107 at p. 2, 10)

DOE addressed this issue in the energy conservation standards NOPR. 78 FR 64084 (October 25, 2013). While BPM motors consume more power as static pressure increases, they also provide more airflow. FER is normalized by airflow to account for this difference in behavior between BPM and PSC motors. In addition, the standards established in this document are a function of airflow. BPM motor-driven fan performance is evaluated relative to PSC motor-driven fans that provide the same amount of airflow at the same reference system static pressure as a result. Interested parties did not provide any evidence that these methods are inappropriate for evaluating relative fan performance.

China WTO commented that FER includes factors, such as HCR, to account for multi-stage heating but does not include analogous factors for multi-stage cooling. (China WTO, No. 92 at p. 1)

DOE considered accounting for fan performance during multi-stage cooling operation for the test procedure NOPR. 77 FR 28680. DOE did not include factors for multi-stage cooling in the final test procedure because the presence and capacity of low-stage cooling is dependent on the cooling system with which a product containing a furnace fan is paired. DOE found in its review of publicly-available product literature that detailed characteristics of the cooling system are not typically provided. Consequently, entities performing the DOE furnace fan test procedure cannot identify the airflow-control setting that would be designated for low-stage cooling operation. In addition, multi-stage heating is not necessarily associated with multi-stage cooling capability (e.g., multi-stage cooling equipment is much less common than multi-stage heating equipment).

China WTO stated that the final test procedure does not provide a method for calculating the maximum airflow when the maximum airflow-control setting is only designated for cooling. (China WTO, No. 92 at p. 1)

The method for calculating the maximum airflow when the maximum airflow-control setting is only designated for cooling is provided in the final rule and in Section 9 of appendix AA of subpart B of part 430 of the CFR. 79 FR 524 (January 3, 2014).

The California Investor Owned Utilities (CA IOU) commented that they observed a potential error in the calculation of airflow in the final test procedure. Specifically, CA IOU recommended that DOE include the humidity ratio in pounds water vapor per pounds dry air. CA IOU submits that this addition will increase the accuracy of the calculation of specific volume of test room air in cubic feet per pound of dry air to calculate airflow. (CA IOU, No. 106 at p. 4)

The equation for calculating airflow in the final test procedure already includes the humidity ratio in pounds water vapor per pounds dry air as codified in Section 9 of appendix AA of subpart B of part 430 of the CFR.

CA IOU recommended that in addition to reporting FER, which is the basis for the performance standard, DOE require manufacturers to report individual mode electrical energy consumption values (e.g., E_{Heat}, E_{Max}, and E_{Circ}). According to CA IOU,

reporting these values would greatly facilitate the development of more targeted energy efficiency incentive programs, and manufacturers already have to measure and perform these calculations for the composite FER. CA IOU recognizes that E_{Max} could represent fan electrical energy consumption in either heating or cooling mode depending on the product. Nonetheless, CA IOU also recommends that DOE require manufacturers to report fan electrical energy consumption in cooling mode even if not included in FER because having it as an additional data point could be useful for the development of utility programs across the country. CA IOU stated that energy efficiency incentive programs typically require a rigorous level of review and justification for implementation. Gaps in performance data of commercially available equipment is one of the main limiting factors in program development, contributing to the lengthy and resource-intensive data collection and verification processes. In the case of this rulemaking, manufacturers will already be required to test their products in heating, cooling, and constant circulation modes. CA IOU believes that the minimal extra effort required by manufacturers to report these values would be outweighed by the opportunity for utilities and other public agencies to develop incentive programs using these performance metrics, which in turn would positively impact manufacturers of high performing products. For these reasons, CA IOU strongly urge DOE to require manufacturers to report tested and calculated metrics that feed into a composite metric for the standard. ASAP, ASE, NCLC, and NRDC, hereinafter referred to as ASAP, *et al.,* agree. (ASAP, *et al.,* No. 105 at p. 3)

At this time, DOE is declining to adopt reporting requirements for individual mode electrical consumption values as the CA IOU suggests. While DOE is open to considering additional reporting metrics in the future, DOE believes that establishing a Federal test procedure and metric (*i.e.,* FER) will provide utility programs with a basis for establishing meaningful incentive programs as the CA IOUs desire. Further, DOE believes that reporting the aggregated electrical consumption (*i.e.,* the FER metric) will provide market differentiation amongst currently-available models, thereby allowing the utility programs to set voluntary levels for incentive programs at meaningful levels to obtain energy savings. If data and analyses are provided, which show the disaggregated levels are necessary for the proper execution of utility incentive programs, DOE will consider modifying the certification requirements for furnace fans.

Unico pointed out that DOE presents the required minimum reference system ESP values inconsistently across rulemaking documents. Unico noticed that in some documents DOE presents these values as a range for each installation type, and in other rulemaking documents DOE presents only the lower value within each range with an asterisk. (Unico, No. 93 at p. 6)

As explained in the test procedure final rule, DOE's test experience confirms manufacturer concerns that specific ESP values are difficult to achieve and maintain when measuring airflow. The final test procedure specifies that products maintain an ESP level between the minimum reference system value and 0.05 in. wc. above that minimum value to allow for slight variations. 79 FR 508 (January 3, 2014). Consequently, DOE presents the minimum required ESP values as a range in Section 8.6.1.2 in appendix AA of subpart B of part 430 in the CFR or as the minimum value with an asterisk accompanied by the explanation above in other DOE documents.

AHRI commented that DOE should provide the option of employing an alternative efficiency determination method (AEDM) to determine FER. AHRI insists that an AEDM is critical for manufacturers to implement new requirements on a timely basis while minimizing burden. AHRI believes that the number of furnace fan basic models will be greater than the number of furnace basic models. According to AHRI, the pressure drop due to the gas heat exchanger will require that each furnace basic model also be considered as a furnace fan basic model. AHRI added that additional furnace fan basic models would be created in order to account for the type of installation. AHRI also pointed out that many furnace fan manufacturers also produce several other DOE regulated products. AHRI submits that rather than requiring manufacturers to spend valuable resources on conducting several tests, DOE should recognize that those resources could be better spent on innovating more efficient products. (AHRI, No. 98 at p. 13)

DOE provided a detailed discussion of this issue in the test procedure final rule. 79 FR 513 (January 3, 2014). DOE currently does not allow the use of AEDMs for residential products, with the exception of central air conditioners and heat pumps due to the uniquely large number of combinations of split-system air conditioners and heat pumps that are rated. DOE recognizes that the number of furnace fan basic models may outnumber furnace basic models for the reasons AHRI lists. Even so, DOE expects the number of basic models of furnace fans to be significantly less than the number of basic models of residential central air conditioners and heat pumps (CAC and HP) for which alternative rating methods are currently allowed. DOE has not found the residential furnace fan market to be highly customized (*i.e.,* containing many unique built-to-order designs) and expects that manufacturers will be able to group similar individual furnace fan types into basic models to reduce testing burden. DOE notes that it currently has over 1 million CAC combinations certified in the Compliance Certification Management System (CCMS) compared to approximately 12,500 certified furnace basic models. Consequently, DOE does not agree with AHRI's assertion that an alternative rating method needs to be considered at this time. Should AHRI or the industry provide additional data or substantiation for its requests demonstrating why testing furnace fans are unique, as compared to the majority of other residential products for which AEDMs are not allowed, then DOE may consider such requests in a separate rulemaking.

B. Product Classes and Scope of Coverage

Although the title of 42 U.S.C. 6295(f) refers to ''furnaces and boilers,'' DOE notes that 42 U.S.C. 6295(f)(4)(D) was written using notably broader language than the other provisions within the same section. Specifically, that statutory provision directs DOE to ''consider and prescribe energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work.'' Such language could be interpreted as encompassing electrically-powered devices used in any residential HVAC product to circulate air through duct work, not just furnaces, and DOE has received numerous comments on both sides of this issue. However, in this rulemaking, DOE is only covering those circulation fans that are used in furnaces and modular blowers. DOE is using the term ''modular blower'' to refer to HVAC products powered by single-phase electricity that comprise an encased circulation blower that is intended to be the principal air-circulation source for the living space of a residence. A modular blower is not contained within the same cabinet as a residential furnace, CAC, or heat pump. Instead,

modular blowers are designed to be paired with separate residential HVAC products that provide heating and cooling, typically a separate CAC/HP coil-only unit. DOE finds that modular blowers and electric furnaces are very similar in design. In many cases, the only difference between a modular blower and electric furnace is the presence of an electric resistance heating kit. DOE is aware that some modular blower manufacturers offer electric resistance heating kits to be installed in their modular blower models so that the modular blowers can be converted to stand-alone electric furnaces. In addition, FER values for modular blowers can be easily calculated using the final test procedure. DOE addresses the furnace fans used in modular blowers in this rulemaking for these reasons. As a result of the extent of the current rulemaking, DOE is not addressing public comments that pertain to fans in other types of HVAC products.

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used or by capacity or other performance-related features that justify a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q)) For this rulemaking, DOE differentiates between product classes based on internal structure and application-specific design differences that impact furnace fan energy consumption. Details regarding how internal structure and application-specific design differences that impact furnace fan energy consumption are included in chapter 3 of the final rule technical support document (TSD). DOE includes the following product classes for this rulemaking.

- Non-Weatherized, Non-Condensing Gas Furnace Fan (NWG–NC)
- Non-Weatherized, Condensing Gas Furnace Fan (NWG–C)
- Weatherized Non-Condensing Gas Furnace Fan (WG–NC)
- Non-Weatherized, Non-Condensing Oil Furnace Fan (NWO–NC)
- Non-Weatherized Electric Furnace/Modular Blower Fan (NWEF/NWMB)
- Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan (MH–NWG–NC)
- Mobile Home Non-Weatherized, Condensing Gas Furnace Fan (MH–NWG–C)
- Mobile Home Electric Furnace/Modular Blower Fan (MH–EF/MB)
- Mobile Home Weatherized Gas Furnace Fan (MH–WG)
- Mobile Home Non-Weatherized Oil Furnace Fan (MH–NWO)

Each product class title includes descriptors that indicate the application-specific design and internal structure of its included products. ''Weatherized'' and ''non-weatherized'' are descriptors that indicate whether the HVAC product is installed outdoors or indoors, respectively. Weatherized products also include an internal evaporator coil, while non-weatherized products are not shipped with an evaporator coil but may be designed to be paired with one. ''Condensing'' refers to the presence of a secondary, condensing heat exchanger in addition to the primary combustion heat exchanger in certain furnaces. The presence of an evaporator coil or secondary heat exchanger significantly impacts the internal structure of an HVAC product, and in turn, the energy performance of the furnace fan integrated in that HVAC product. ''Mobile home'' products meet certain design requirements that allow them to be installed in mobile homes (*e.g.,* a more compact cabinet size). Descriptors for ''gas,'' ''oil,'' or ''electric'' indicate the type of fuel that the HVAC product uses to produce heat, which determines the type and geometry of the primary heat exchanger used in the HVAC product.

C. Technological Feasibility

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially-available products or in working prototypes to be technologically feasible. 10 CFR part 430, subpart C, appendix A, Section 4(a)(4)(i).

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) Practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, Section 4(a)(4)(ii)–(iv). Additionally, it is DOE policy not to include in its analysis any proprietary technology that is a unique pathway to achieving a certain efficiency level. Section IV.B of this document discusses the results of the screening analysis for residential furnace fans, particularly the designs DOE considered, those it screened out, and those that are the basis for the tcrial standard levels (TSLs) in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the final rule TSD.

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt a new standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for residential furnace fans, using the design parameters for the most-efficient products available on the market or in working prototypes. The max-tech levels that DOE determined for this rulemaking are described in section IV.C of this final rule and in chapter 5 of the final rule TSD.

D. 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 (2019–2048).[13] The savings are measured over the entire lifetime of products purchased in the 30-year period.[14] DOE used the NIA model to estimate the NES for products purchased over the above period. The model forecasts total energy use over the analysis period for each representative product class at efficiency levels set by each of the considered TSLs. DOE then

[13] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

[14] In the past, DOE presented energy savings results for only the 30-year period that begins in the year of compliance. In the calculation of economic impacts, however, DOE considered operating cost savings measured over the entire lifetime of products purchased 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.

compares the aggregated 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 products that are the subject of this rulemaking. The NIA spreadsheet model (described in section IV. H of this notice) calculates energy savings in site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports national energy savings in terms of the primary (source) energy savings, which are the savings in the energy that is used to generate and transmit the site electricity. To convert site energy to primary energy, DOE derives annual conversion factors from the model used to prepare the Energy Information Administration's (EIA) *Annual Energy Outlook 2013* (*AEO 2013*).

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 (*i.e.,* coal, natural gas, petroleum 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.[15] 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 residential furnace fans, only a single fuel—electricity—is consumed by the product. DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products. 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 standards 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 products covered in this rulemaking. It should be noted that inclusion of FFC savings has not affected DOE's choice of the energy conservation standards adopted in today's final rule. For more information on FFC energy savings, see section IV. H.2.

2. Significance of Savings

EPCA prohibits DOE from adopting a standard for a covered product that would not result in significant energy savings. (42 U.S.C. 6295(o)(3)(B)) Although 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), opined that Congress intended ''significant'' energy savings in this context to be savings that were not ''genuinely trivial.'' The energy savings for today's standards (presented in section V of this notice) are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

E. Economic Justification

1. Specific Criteria

As discussed in section II.A, 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)(I)–(VII)) 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 IV and V of today's document.

Economic Impact on Manufacturers and Commercial Customers

In determining the impacts of a potential new or amended energy conservation standard on manufacturers, DOE conducts a manufacturer impact analysis (MIA), as discussed in section IV.J. DOE first determines a potential standard's quantitative impacts using an annual cash flow approach. This step 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: (1) Industry net present value (INPV) (which values the industry based on expected future cash flows); (2) cash flows by year; (3) changes in revenue and income; and (4) 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, as discussed in section IV.N. 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.

Savings in Operating Costs Compared to Increase in Price (Life-Cycle Costs)

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 standard. (42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of a product (including the cost of its installation) and the operating costs (including energy, 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 product in the first year of compliance with new standards.

The LCC savings and the PBP for the considered efficiency levels are calculated relative to a base-case scenario, which reflects likely market 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

[15] ''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.*

standard level. DOE's LCC analysis is discussed in further detail in section IV.F.

Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting 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)) 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 V.B of this notice and chapter 10 of the final rule TSD.

Lessening of Utility or Performance of Equipment

In establishing product classes, and in evaluating design options and the impact of potential standard levels, DOE follows EPCA's requirement to develop standards that would not lessen the utility or performance of the products under consideration. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) DOE has determined that none of the TSLs presented in today's final rule would reduce the utility or performance of the products under consideration in this rulemaking. During the screening analysis, DOE eliminated from consideration any technology that would adversely impact customer utility. See section IV.B of this notice and chapter 4 of the final rule TSD for further details.

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. 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, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (ii))

To assist the Department of Justice (DOJ) in making such a determination, DOE provided DOJ with copies of both the NOPR and NOPR TSD for review. In its assessment letter responding to DOE, DOJ concluded that the proposed energy conservation standards for residential furnace fans are unlikely to have a significant adverse impact on competition. DOE is publishing the Attorney General's assessment at the end of this final rule.

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)) 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, as discussed in section IV.M.

Energy savings from energy conservation standards are also likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases 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 today's standards, see sections IV.K, IV.L and V.B.6 of this notice. DOE reports the expected environmental effects from today's standards, as well as from each TSL it considered, 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.

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)) 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), EPCA provides for a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the new or amended standard 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 consumers of products subject to 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 an economic analysis that considers the full range of impacts to consumers, manufacturers, the Nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of these analyses serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section IV.F of this rulemaking and chapter 8 of the final rule TSD.

IV. Methodology and Discussion

A. Market and Technology Assessment

DOE develops information that provides an overall picture of the market for the products concerned, including the purpose of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly-available information. The subjects addressed in the market and technology assessment for this residential furnace fans rulemaking include: (1) A determination of the scope of this rulemaking; (2) product classes; (3) manufacturers; (4) quantities and types of products sold and offered for sale; (5) retail market trends; (6) regulatory and non-regulatory programs; and (7) technologies or design options that could improve the energy efficiency of the product(s) under examination. The key findings of DOE's market assessment are summarized below. See chapter 3 of the final rule TSD for further discussion of the market and technology assessment.

1. Definition and Scope of Coverage

EPCA provides DOE with the authority to consider and prescribe new energy conservation standards for electricity used to circulate air through duct work. (42 U.S.C. 6295(f)(4)(D)) DOE adopted the term ''furnace fan'' as shorthand to describe the range of products encompassed by this statutory mandate. In the preliminary analysis, DOE interpreted its statutory mandate by defining ''furnace fan'' to include ''any electrically-powered device used in residential central heating, ventilation, and air-conditioning (HVAC) systems for the purpose of circulating air through duct work.'' 77 FR 40530, 40532 (July 10, 2012). DOE

considered a typical furnace fan as consisting of a fan motor and its controls, an impeller, and a housing, all of which are components of an HVAC product that includes additional components, including the cabinet.

In response to the preliminary analysis, many interested parties disagreed with DOE's definition of ''furnace fan'' and corresponding approach to set component-level regulations, which they warned would ignore system effects that could impact both fan and HVAC system energy consumption. California investor-owned utilities CA IOUs suggested that ''furnace fan'' should be defined as a unit consisting of a fan motor, its controls, an impeller, shroud, and cabinet that houses all of the heat exchange material for the furnace. According to CA IOUs, their suggested definition would reduce ambiguity and ensure that the components in HVAC products that affect furnace fan energy consumption are considered in this rulemaking. (CA IOUs, No. 56 at p. 1) Ingersoll Rand went further and suggested a system-level regulatory approach, where the entire duct and furnace system would be regulated, maintaining that such approach would produce a more useful metric to consumers when evaluating performance. (Ingersoll Rand, PA Public Meeting Transcript, No. 43 at p. 42) Conversely, NEEP observed that by regulating fan energy use separately, the individual efficiency of the component is considered when it would otherwise be ignored by manufacturers. (NEEP, No. 51 at p. 3) Rheem commented that some designs require higher air velocity to improve heat transfer but also require more electrical consumption to drive the blower at the higher velocity. (Rheem, PA Public Meeting Transcript, No. 43 at p. 63) Rheem commented that turbulent flow is considerably more efficient for heat transfer than laminar flow,[16] but more energy is required to move turbulent air. (Rheem, No. 54 at p. 10) Similarly, Lennox and Morrison commented that in order to improve heating and cooling efficiency, often a second heating coil is added, but this also leads to higher electrical consumption by the furnace fan. (Lennox, No. 43 at p. 64; Morrison, No. 43 at p. 64) Ingersoll Rand argued that as the efficiency of the furnace fan motor increases, it dissipates less heat, and consequently, the furnace will consume more gas to compensate and meet the desired house heat load. (Ingersoll Rand, No. 43 at p. 66)

In the NOPR, DOE responded by explaining that DOE is required by EPCA to consider and prescribe new energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work. (42 U.S.C. 6295(f)(4)(D)) Consequently, in the context of furnace fans, DOE does not have latitude to apply only a single standard for the larger HVAC product (which is already regulated). Pursuant to this statutory mandate, DOE issued a NOPR which proposed energy conservation standards for circulation fans used in residential central HVAC systems (78 FR 64068 (Oct. 25, 2013)). DOE added that it did not interpret its authority as including regulating the duct work itself. DOE recognized that component-level regulations could have system-level impacts. Accordingly, DOE conducted its NOPR analyses and selected the standard levels proposed in the NOPR in such a way that meets the statutory requirements set forth by EPCA without ignoring system effects, which otherwise might compromise the thermal performance of the HVAC products that incorporate furnace fans. For example, the final test procedure codified in DOE's regulations at 10 CFR part 430, subpart B, appendix AA specifies that the furnace fan be tested as factory-installed in the HVAC product, thereby enabling the rating metric, FER, to account for system effects on airflow delivery and, ultimately, energy performance. In addition, the product class structure proposed in the NOPR allowed for differentiation of products with designs that achieve higher thermal efficiency but may have lower fan performance, such as condensing furnaces. 78 FR 64068, 64082 (Oct. 25, 2013).

In the January 3, 2014 test procedure final rule, DOE broadened its definition of ''furnace fan'' to mean ''an electrically-powered device used in a consumer product for the purpose of circulating air through ductwork.'' 79 FR 500, 521.

In response to the NOPR, DOE did not receive comments from interested parties regarding the definition of ''furnace fan'' established by the test procedure final rule. Consequently, in this standards final rule, DOE is maintaining the definition for ''furnace fan,'' codified at 10 CFR 430.2. However, DOE did receive comments on its definitions for certain product types that include furnace fans. DOE summarizes and responds to these comments later in this section of the notice.

The scope of the preliminary analysis included furnace fans used in furnaces, modular blowers, and hydronic air handlers. Even though DOE has interpreted its authority as encompassing any electrically-powered device used in residential HVAC products to circulate air through duct work, the preliminary analysis scope excluded single-package central air conditioners (CAC) and heat pumps (HP) and split-system CAC/HP blower-coil units. At the time of the preliminary analysis, DOE determined that it may consider these and other such products in a future rulemaking as data and information to develop credible analyses becomes available.

In response to the preliminary analysis, efficiency advocates expressed concern at DOE's exclusion of packaged and split-system CAC products because advocates believe current standards for these products do not maximize the technologically feasible and economically justified energy savings for the circulation fans integrated in these products. ASAP and Adjuvant stated that the metric used for CAC products does not accurately represent field conditions and requested that they be added to the scope. 78 FR 64068, 64080 (Oct. 25, 2013).

In contrast, many manufacturers submitted comments in response to the preliminary analysis that they believe that the scope of coverage presented in the preliminary analysis exceeds the statutory authority granted to DOE because the statutory language for this rulemaking is found in 42 U.S.C 6295(f) under the title ''Standards for furnaces and boilers.'' Consequently, manufacturers stated that DOE should not include any non-furnace products such as central air conditioners, heat pumps, or condensing unit-blower-coil combinations. Manufacturers also claimed that the electricity used to circulate air through duct work is already adequately accounted for in existing energy efficiency metrics for CAC and HP products that use circulation fans. 78 FR 64068, 64080–81 (Oct. 25, 2013).

In the October 25, 2013 furnace fan energy conservation standard NOPR, DOE noted that, although the title of this statutory section refers to ''furnaces and boilers,'' the applicable provision at 42 U.S.C. 6295(f)(4)(D) was written using notably broader language than the other provisions within the same section. 78

[16] ''Laminar flow'' is as term to describe when all fluid particles move in paths parallel to the overall flow direction (*i.e.,* in layers). Laminar flow may occur when the flow channel is small and the speed is low. ''Turbulent flow'' is characterized by a three-dimensional movement of the fluid particles superimposed on the overall direction of motion. Turbulent flow may occur when the flow speed is higher and when there are obstacles in the channel that disrupt the flow profile. The turbulent flow intensifies the heat transfer, thus resulting in more efficient heat exchange.

FR 64068, 64081. Specifically, that statutory provision directs DOE to ''consider and prescribe energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work.'' *Id.* Such language could be interpreted as encompassing electrically-powered devices used in any residential HVAC product to circulate air through duct work, not just furnaces, and DOE has received numerous comments on both sides of this issue. In the standards NOPR, however, DOE only proposed energy conservation standards for those circulation fans that are used in residential furnaces and modular blowers (see discussion below). As a result, DOE did not address public comments that pertain to fans in other types of HVAC products (other than to clarify instances where there was uncertainty as to whether a given product fits within the scope of the current rulemaking). The following list describes the furnace fans which DOE proposed to address in the standards NOPR.

- *Products addressed in this rulemaking:* Furnace fans used in weatherized and non-weatherized gas furnaces, oil furnaces, electric furnaces, and modular blowers.
- *Products not addressed in this rulemaking:* Furnace fans used in other products, such as split-system CAC and heat pump indoor units, through-the-wall indoor units, small-duct, high-velocity (SDHV) indoor units, energy recovery ventilators (ERVs), heat recovery ventilators (HRVs), draft inducer fans, exhaust fans, or hydronic air handlers.

Id.

In the October 25, 2013 NOPR, DOE also maintained its proposal to account for the electrical consumption of furnace fans while performing all active mode functions (*i.e.,* heating, cooling, and constant circulation) because furnace fans are used not just for circulating air through duct work during heating operation, but also for circulating air during cooling and constant-circulation operation. In DOE's view, in order to obtain a complete assessment of overall performance and a metric that reflects the product's electrical energy consumption during a representative average use cycle, the metric must account for electrical consumption in a set of airflow-control settings that spans all active mode functions. This would ensure a more accurate accounting of the benefits of improved furnace fans. *Id.*

China WTO commented that DOE's definition for ''furnace fan'' and the proposed scope show that residential furnace fans primarily perform the heating function. For this reason, China WTO recommended that DOE exclude fan performance for cooling operation to avoid unnecessary test procedure burden. (China WTO, No. 92 at pp. 1–2).

For the reasons stated above, the energy conservation standards established by this notice account for the electrical consumption of furnace fans while performing all active mode functions (*i.e.,* heating, cooling, and constant circulation). The commenter did not dispute the fact that fans will operate in cooling or constant-circulation mode, often for non-trivial periods of time. Because the electrical energy consumption of the fan may vary substantially depending on its mode of operation, DOE has concluded that testing fan operation in all these modes is necessary to reflect the product's energy consumption during a representative use cycle and that such testing would not be unduly burdensome to conduct.

Unico submitted comments regarding concerns with DOE's test procedure and proposed standard levels as they apply to SDHV systems. Unico explains that DOE proposed to exclude SDHV products from the rulemaking but included modular blowers and electric furnaces, resulting in a potential conflict. Unico added that most of their SDHV air handlers are modular in construction. Unico also offers an add-on electric furnace to provide secondary or backup heat, but very few systems are installed as an electric furnace. As a result, Unico expressed uncertainty whether this rule applies to SDHV modular blowers and SDHV electric furnaces. Unico provided data showing that SDHV blowers operate at different conditions compared to the products proposed to be covered and cannot meet the proposed FER levels. Ultimately, Unico expressed concerns that this rule could potentially eliminate many SDHV products from the market if they are subject to DOE's proposed standards. (Unico, No. 93 at pp.1–4)

In response to the comment, DOE clarifies that the furnace fan test procedure and the energy conservation standards established by this final rule do not apply to SDHV products, including SDHV modular blowers and electric furnaces. DOE recognizes that these products operate at different conditions which significantly impact their fan performance, as compared to the products addressed in this rulemaking. While DOE's regulations at 10 CFR 430.2 include a definition for ''small duct high velocity systems,'' it does not include a definition for small duct high velocity modular blowers or SDHV electric furnaces. Absent clarification, DOE realizes that confusion may result regarding which products are and are not covered by today's standards. Accordingly, DOE is adopting the following definition of ''small-duct high-velocity (SDHV) modular blower,'' which has been drafted to be consistent with the existing definition of ''SDHV system'' at 10 CFR 430.2:

Small-duct high-velocity (SDHV) modular blower means a product that:

- Meets the definition of ''modular blower,'' as set forth in 10 CFR part 430, subpart B, appendix AA;
- Is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling in the highest default cooling airflow-controls setting; and
- When applied in the field, uses high velocity room outlets generally greater than 1,000 fpm that have less than 6.0 square inches of free area.

Similarly, DOE is adopting a definition for ''small-duct high-velocity (SDHV) electric furnace'' to read as follows:

Small-duct high-velocity (SDHV) electric furnace means a product that:

- Meets the definition of ''electric furnace,'' as set forth in 10 CFR 430.2;
- Is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling in the highest default cooling airflow-control setting; and
- When applied in the field, uses high velocity room outlets generally greater than 1,000 fpm that have less than 6.0 square inches of free area.

DOE has concluded that these amendments should eliminate any confusion associated with DOE not addressing SDHV modular blowers and SDHV electric furnaces in the present rulemaking. Unico also submitted other SDHV-related concerns, but DOE need not discuss those issues further because SDHV products are not addressed in this rulemaking.

AHRI, Morrison, Goodman, Johnson Controls, and Mortex stated that modular blowers should be excluded from the scope of this rulemaking. (AHRI, No. 98 at pp. 1, 2; Morrison, No. 108 at p. 1; Goodman, No. 102 at p. 5; Johnson Controls, No. 95 at p. 2; and Mortex, NOPR Public Meeting Transcript, No. 91 at pp. 78–79). AHRI,

Morrison, and Johnson Controls continue to advance an interpretation of 42 USC 6295(f)(4)(D) as being only applicable to furnaces, and these commenters argued that absent a legislative change, DOE has exceeded its statutory authority in terms of the NOPR's proposed coverage of modular blowers. (AHRI, No. 98 at pp. 1–2; Morrison, No. 108 at p. 1; and Johnson Controls, No, 95 at p. 2). AHRI and Johnson Controls added that some modular blowers in today's marketplace are not designed to operate with electric resistance heat kits, rendering the final test procedure insufficient for these products. (AHRI, No. 98 at pp. 1, 2; and Johnson Controls, No. 95 at p. 3).

ASAP, *et al.,* on the other hand, expressed support for the inclusion of modular blowers in the scope of coverage. ASAP, *et al.* stated that they understand that the strip heat used with electric furnaces is often installed in the field, which means that an ''electric furnace'' is often sold by the manufacturer as a ''modular blower.'' ASAP, *et al.* cite DOE's finding that non-weatherized and mobile home electric furnace/modular blower furnace fans represent 10 percent of all furnace fan sales. According to ASAP, *et al.,* excluding modular blowers from the scope of coverage would not only reduce energy savings from this rulemaking, but would also create a loophole—*i.e.,* manufacturers would have an incentive to sell electric furnaces as modular blowers (without strip heat installed) in order to avoid compliance with the furnace fan energy conservation standards. (ASAP, *et al.,* No. 105 at pp. 1, 2)

As stated above, DOE maintains its interpretation that the relevant statutory language at 42 U.S.C. 6295(f)(4)(D) is broader in its applicability than just furnaces, and consequently, it provides DOE authority to cover modular blowers in this rulemaking. These same arguments were already addressed in some detail in the NOPR (see 78 FR 64068, 64081 (Oct. 25, 2013)). DOE also disagrees with the contention of AHRI and Johnson Controls that the final test procedure is not sufficient to address all modular blowers. All modular blower models of which DOE is aware can be operated in conjunction with an electric resistance heat kit, and commenters did not identify any models of modular blowers that cannot. Even assuming *arguendo* that modular blowers do exist that are not designed to operate with an electric resistance heat kit, DOE expects that number of such models would be *de minimis* and that manufacturers producing modular blowers that cannot be operated in conjunction with an electric resistance heat kit would apply for a waiver from the test procedure. DOE provides more details regarding this issue in the January 3, 2014 test procedure final rule. 79 FR 504.

In its comments, Johnson Controls stated that DOE's use of the phrase ''primary heat source'' is too ambiguous, especially when certain products might be modified in the field. According to Johnson Controls, DOE's characterizations of air handlers and modular blowers when an air handler or modular blower is the primary heating source is still confusing and brings uncertainty to the NOPR market assessment. Johnson Controls commented that none of the residential air handlers, modular blowers, or residential single-package finished good models built by Johnson Controls includes factory-installed electric heat kits. Therefore, according to the commenter, electric heat kits installed in these products cannot be considered to be the primary source for heat in their applications, and so none of these products should be included in this rulemaking. Johnson Controls added that while field-installed electric heat kits are available and used frequently, the use of field kits is outside of the air handler or modular blower manufacturer's control, unlike gas furnaces where the application is known to usually be the primary heating source in the vast number of situations. (Johnson Controls, No. 95 at p. 2) NEEA, Mortex, and Daikin agreed that the contractor determines whether a CAC/HP blower-coil unit with electric resistance heat is the principal source of heating for a residence, rendering any such determination speculative for other entities. (NEEA, NOPR Public Meeting Transcript, No. 91 at pp. 64–65; Mortex, NOPR Public Meeting Transcript, No. 91 at pp. 78–79; and Daikin, NOPR Public Meeting Transcript, No. 91 at pp. 75–76)

Modular blowers are not a source of heat per DOE's definition of ''modular blower'' as provided in 10 CFR part 430, subpart B, appendix AA. Consequently, the ''principal heating source'' qualifier (per the definition of ''furnace'' at 10 CFR 430.2) does not apply to modular blowers, so this part of the ''furnace'' definition has the effect of excluding modular blowers from that definition. However, the ''furnace'' definition is not the only factor in deciding whether modular blowers are covered in this rulemaking, contrary to what Johnson Controls suggests. If electric resistance heat is added to a modular blower product, that product no longer meets DOE's definition of a ''modular blower.'' Instead, DOE considers the modified product an electric furnace, absent other design changes. Regardless of whether the electric resistance heat is factory-installed, both product variations are covered in the final test procedure and this energy conservation standard.

DOE recognizes that interested parties may have trouble determining whether a CAC/HP blower-coil unit with electric resistance heating is considered an electric furnace and thereby covered by the energy conservation standards established by this final rule. Strictly following the DOE definition for ''electric furnace'' (which references the DOE definition of ''furnace'') as set forth at 10 CFR 430.2, coverage in this final rule of a CAC/HP blower-coil with electrical resistance heating depends on whether the electric resistance heating is the ''principal heating source for the residence.'' As Johnson Controls points out, this is not as easily determined as for gas and oil furnaces. DOE expects that in the significant majority of CAC/HP blower-coil models that have electric resistance heat, the electric resistance heat is supplemental in nature and not the principal heating source for the residence. For this reason, DOE has decided that the energy conservation standards established by this rule will not cover CAC/HP blower-coil units, regardless of whether they include electric resistance heat.

Lennox argued that including weatherized commercial products in this rulemaking is unrealistic and improper. Specifically, Lennox expressed concerns that DOE mischaracterizes single-package weatherized products as ''residential'' when these products are offered with a single-phase power source. The commenter stated that these products are often used in commercial applications, explaining that single-phase weatherized products are often designed to have higher duct static pressure capability than a traditional residential furnace. Lennox commented that they have single-phase belt-drive products that are capable of operating up to 2 inches water column external static pressure to meet commercial duct static requirements. According to Lennox, BPM motors (including both constant-torque and constant-airflow BPM motors) typically used in residential products cannot achieve the high static pressures required in these commercial installations. Therefore, Lennox recommended that DOE should exclude all products marked not for residential use from standards coverage. (Lennox, No. 100 at p. 4).

DOE recognizes that industry may differentiate between residential products and commercial equipment differently than DOE. The standards

established by this final rule do not cover all single-phase, single-package HVAC products, only single-phase weatherized furnaces (*i.e.,* single-phase, single-package HVAC products that include a ''furnace'' as defined at 10 CFR 430.2). Lennox did not identify, and after additional research, DOE is not aware of any weatherized gas furnace models that operate at the static pressures mentioned by the commenter. DOE expects that the operating conditions mentioned by Lennox are typical of single-package heat pump equipment, which is not covered by this rule. DOE expects the number of models covered by this rule that DOE defines as residential but are designed and operated in commercial applications to be *de minimis.* Any manufacturer which can substantiate its case that it would suffer serious hardship, gross inequity, and an unfair distribution of burdens if required to comply with the furnace fan standards may seek exception relief from DOE's Office of Hearings and Appeals (OHA).[17]

ACEEE commented that if manufacturers offered air handlers as a separate product, without the coil, the modified product would not be inherently different than a modular blower. ACEEE stated that DOE should cover CAC/HP blower-coil units following the same logic that DOE used to justify covering modular blowers (*i.e.,* because of their similarities to electric furnaces). ACEEE also commented that the DOE definition for ''modular blower'' is confusing because, in their experience, all (or almost all) conventional indoor blower units—whether furnaces, HP, or CAC—use a separate assembly (or field-fabricated 'plenum') to house the coil used as the evaporator (CAC) or evaporator and condenser (HP). (ACEEE, No. 94 at pp. 1–2, 4).

DOE disagrees with ACEEE's assessment that a CAC/HP blower-coil unit with the coil removed and an electric furnace are equally comparable to a modular blower. For example, modular blowers are typically designed to accommodate the addition of electric resistance heating kits (after which DOE would consider them as electric furnaces) without modifying the product envelope. Modular blower envelope dimensions are similar, and in many cases identical, to electric furnace dimensions as a result. In addition, the final test procedure requires an electric resistance heat kit to be installed in modular blowers to produce a temperature rise allowing for calculation of airflow for the rating metric, FER. The test configurations for electric furnaces and modular blowers are almost identical as a result. In turn, the FER values for an electric furnace and modular blower with no other design difference other than the presence of an electric resistance heat kit are expected to be approximately equivalent. On the other hand, the coils typically included in CAC/HP blower-coil units are larger than heat resistance kits. Consequently, blower-coil unit envelope dimensions are different than modular blower dimensions, which impacts fan performance. CAC/HP blower-coil unit design, as it relates to fan performance, cannot be compared to modular blower design for this reason. The final test procedure does not include methods for deriving an FER value for CAC/HP blower-coil units. Furthermore, the coil and envelope dimension differences mentioned would preclude the circulation fan performance of a CAC/HP blower-coil unit from being deemed equivalent to an otherwise similarly-designed modular blower. In addition, modular blowers and electric furnaces are product configurations installed in the field. DOE doubts that a CAC/HP blower-coil unit with the coil removed would be offered by manufacturers or purchased and installed in the field. Regarding the criticism of its definition of ''modular blower,'' DOE recognizes that the definition for ''modular blower'' as set forth at 10 CFR part 430, subpart B, appendix AA may be confusing because it does not explicitly state that a modular blower does not include an indoor refrigerant coil, only that it does not provide heating or cooling. An ''indoor unit,'' on the other hand, is defined at 10 CFR 430.2 as containing a ''coil.'' This notice modifies the definition of ''modular blower'' to explicitly exclude products that contain an indoor refrigerant coil in order to eliminate ambiguity between the two definitions.

ACEEE, Earthjustice, and CA IOU stated that DOE's decision to exclude products such as CAC/HP and hydronic air handlers is inappropriate and in conflict with DOE's interpretation of the statutory language. These interested parties also commented that DOE does not provide a justification for its decision to exclude products for which DOE claims to have authority to set energy conservation standards. (ACEEE, No. 94 at pp. 1–2, 4; and CA IOU, No. 106 at pp. 1, 2) According to Earthjustice, DOE's decision to exclude products for which it claims authority to cover represents a failure to carry out EPCA's command to adopt ''standards for electricity used for purposes of circulating air through ductwork'' and does not comply with the statute's requirement that standards ''shall 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). Earthjustice adds that EPCA authorizes DOE not to prescribe an amended or new standard for a type or class of covered product in three situations: (1) The standard will eliminate certain product features from the market; (2) the standard will not result in significant conservation of energy or is not technologically feasible or economically justified; or (3) for certain products, test procedures have not been established. (42 U.S.C. 6295(o)(3) and (4)). Earthjustice states that DOE has failed to show that the products it is not addressing in this rule meet those criteria. (Earthjustice, No. 101 at p. 1).

ASAP, *et al.* encouraged DOE to adopt standards and/or test procedure changes to drive improved efficiency of furnace fans that are part of single-package and blower-coil central air conditioners and heat pumps in the future. According to ASAP, *et al.,* CA IOU and ACEEE, the operating conditions and metrics used in the DOE test procedures for CAC/HP (*i.e.,* SEER and HSPF) are insufficient for representing furnace fan performance in the field for those products. (ASAP, *et al.,* No. 105 at pp. 2, 3; CA IOU, No. 106 at pp. 1, 2; and ACEEE, No. 94 at pp. 1–2, 4). Further, ASAP, *et al.* are concerned that heat pump indoor units will increasingly be installed and operated as electric furnaces (without an outdoor unit) to avoid both the DOE standard for CAC/HP and the standards established by this rule. ASAP, *et al.* added that consumers will have greater incentive to install heat pump indoor units to operate as electric furnaces if a heat pump indoor unit with a PSC motor is less expensive than an electric furnace/modular blower with a constant-torque BPM motor. (ASAP, *et al.,* No. 105 at pp. 2, 3) Earthjustice also identified CAC/HP blower-coil units installed without an outdoor unit and operated as an electric furnace as a potential loophole. (Earthjustice, No. 101 at p. 1) While ASAP, *et al.,* stated that they recognize that it may be too late to include furnace fans that are part of single-package and blower-coil central air conditioners and heat pumps in the scope of coverage in the current rulemaking, they encourage

[17] For information about obtaining exception relief, see 10 CFR part 1003 (available at *http://www.ecfr.gov/cgi-bin/text-idx?SID=d95bf6ed9cd849253fab734656f80c2e&node=10:4.0.3.5.3&rgn=div5*).

DOE to address furnace fan efficiency in these products in the future through one of two options: (1) Amend the test procedures for central air conditioners and heat pumps to incorporate more realistic external static pressure values; or (2) include furnace fans that are part of single-package and blower-coil central air conditioners and heat pumps in a future rulemaking for furnace fans. ASAP, *et al.,* submitted that if DOE pursued the second option, changing the external static pressure values in the central air conditioner and heat pump test procedures would be less critical, because fan efficiency would be addressed through standards for furnace fans. (ASAP, *et al.,* No. 105 at pp. 2, 3) CA IOU also expressed support for a separate, expedited rulemaking to set energy conservation standards for products not addressed in this rule. CA IOU claims that such a rule would ensure that the entire market for furnace fans is regulated, thereby avoiding the negative market impacts due to the prevalence of unregulated products. (CA IOU, No. 106 at pp. 1, 2). NEEA and NPCC also expressed disappointment that DOE is choosing to cover only two-thirds of furnace fan products by excluding indoor blower/cool units used with split system heat pump and air conditioning systems and hydronic air handlers, which leaves substantial energy savings on the table. (NEEA and NPCC, No. 96 at p. 3). ACEEE estimated that approximately two quads of potential cumulative energy savings are left uncaptured by DOE's decision to exclude CAC/HP blower-coil units, which ACEEE claims could jeopardize achievement of the Administration's goal of 3 billion tons of CO_2 avoided. (ACEEE, No. 94 at p. 1–2, 4). CA IOU cited these potential energy savings as another reason that a separate, expedited rulemaking is warranted. (CA IOU, No. 106 at pp. 1, 2). Laclede, APGA, and AGA also recommended that DOE expand the scope of this rule to include products such as split-system central air conditioners, heat pump air handlers, through-the-wall air handlers, and small-duct high-velocity air handlers that compete with the types of natural gas furnaces covered by this rules. Each cited concerns that DOE's decision to exclude fans used in these products could lead to fuel switching. (Laclede, No. 89 at p. 2; APGA, No. 90 at p. 2; and AGA, No. 110 at p. 2). Laclede believes the Department failed to adequately explain why fans in heat pumps are excluded and to clearly demonstrate how this exclusion serves the best interests of the American public.

EEI, on the other hand, supports DOE's exclusion of CAC/HP blower-coils and hydronic air handlers from this rulemaking. EEI commented that the energy used by the fans operating in the cooling mode is part of the calculation of SEER, EER, and HSPF. EEI explains that manufacturers have already made design decisions that reduce the energy usage of such fans for these systems to meet the higher air conditioner and heat pump energy conservation standards (based on SEER and HSPF) that took effect in 1992 and 2006, and will take effect in 2015. EEI stated that including these fans in this rule would be a form of ''double regulation'' of the same product. (EEI, No. 87 at p. 3) Southern Company agreed that CAC/HP fan energy is already covered by the SEER and HSPF rating. (Southern Company, NOPR Public Meeting, No. 43 at p. 70).

As explained previously, DOE has noted the relatively broad scope of the language of 42 U.S.C. 6295(f)(4)(D), which provides DOE authority to regulate ''electricity used for purposes of circulating air through duct work.'' At the present time, however, DOE is only adopting energy conservation standards for those circulation fans that are used in residential furnaces and modular blowers. The DOE test procedure for furnace fans is not currently equipped to address fans contained in central air conditioners, heat pumps, or other products, as would be required for the adoption of standards under 42 U.S.C. 6295(o)(3). Consequently, DOE is not considering standard setting for other products beyond the current scope of the rulemaking at this time.

2. Product Classes

DOE identified nine key product classes in the preliminary analysis, each of which was assigned its own candidate energy conservation standard and baseline FER. DOE identified twelve additional product classes that represent significantly fewer shipments and significantly less overall energy use. DOE grouped each non-key product class with a key product class to which it is closely related in application-specific design and internal structure (*i.e.,* the primary criteria used to differentiate between product classes). DOE assigned the analytical results of each key product class to the non-key product classes with which it is grouped because DOE expected the energy use and incremental manufacturer production costs (MPCs) of improving efficiency to be similar within each grouping. Table IV.1 lists the 21 preliminary analysis product classes.

TABLE IV.1—PRELIMINARY ANALYSIS PRODUCT CLASSES

Key product class	Additional product classes
Non-Weatherized, Non-Condensing Gas Furnace Fan (NWG–NC).	
Non-weatherized, Condensing Gas Furnace Fan (NWG–C).	
Weatherized Non-Condensing Gas Furnace Fan (WG–NC)	Weatherized, Non-Condensing Oil Furnace Fan (WO–NC).
	Weatherized Electric Furnace/Modular Blower Fan (WEF/WMB).
	Mobile Home Weatherized Gas Furnace Fan (MH–WG).
	Mobile Home Weatherized Oil Furnace Fan (MH–WO).
	Mobile Home Weatherized Electric Furnace/Modular Blower Fan (MH–WEF/WMB).
Non-weatherized, Non-Condensing Oil Furnace Fan (NWO–NC)	Non-Weatherized, Condensing Oil Furnace Fan (NWO–C).
	Mobile Home Non-Weatherized Oil Furnace Fan (MH–NWO).
Non-weatherized Electric Furnace/Modular Blower Fan (NWEF/NWMB).	
Heat/Cool Hydronic Air Handler Fan (HAH–HC)	Heat-Only Hydronic Air Handler Fan (HAH–H).
	Hydronic Air Handler Fan with Coil (HAH–C).
	Mobile Home Heat/Cool Hydronic Air Handler Fan (MH–HAH–HC).
	Mobile Home Heat-Only Hydronic Air Handler Fan (MH–HAH–H).
	Mobile Home Hydronic Air Handler Fan with Coil (MH–HAH–C).
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan (MH–NWG–NC).	

TABLE IV.1—PRELIMINARY ANALYSIS PRODUCT CLASSES—Continued

Key product class	Additional product classes
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan (MH–NWG–C).	
Mobile Home Electric Furnace/Modular Blower Fan (MH–EF/MB).	

Manufacturers agreed that the selected key product classes are an accurate representation of the market. Some manufacturers disagreed with DOE's approach to specify additional product classes within a key product class, stating that shipment data indicates that the additional product classes are too small to be covered.

In the NOPR, DOE agreed with manufacturers' assertion that the additional non-key product classes represent products with few and in many cases, no shipments. 78 FR 64082. Individual discussions with manufacturers for the MIA confirmed this assertion. Additionally, review of the AHRI appliance directory revealed that only two of the additional non-key product classes have active models listed: (1) Mobile home weatherized gas furnace fans (MH–WG) and (2) mobile home non-weatherized oil furnace fans (MH–NWO). The number of active basic models for MH–WG and MH–NWO are 4 and 16, respectively. For this reason, DOE proposed in the NOPR to eliminate the additional non-key product classes except for MH–WG and MH–NWO. Due to the limited number of basic models for MH–WG and MH–NWO, DOE did not have data to directly analyze and establish standards for these additional product classes. As a result, DOE proposed to reserve space to establish standards for MH–WG and MH–NWO furnace fans in the future as sufficient data become available. DOE also proposed to exclude hydronic air handlers from consideration in this rulemaking, thereby further reducing the number of product classes addressed in the NOPR to 10. 78 FR 64082. Table IV.2 includes a list of the revised set of product classes for residential furnace fans used in the NOPR.

DOE did not receive comment or additional information on the proposed product classes, thus, DOE is not making changes to the product classes in this Final Rule. Table IV.2 includes a list of the product classes for residential furnace fans used in the Final Rule.

TABLE IV.2—PRODUCT CLASSES FOR RESIDENTIAL FURNACE FANS

Product class
Non-Weatherized, Non-Condensing Gas Furnace Fan (NWG–NC)
Non-Weatherized, Condensing Gas Furnace Fan (NWG–C)
Weatherized Non-Condensing Gas Furnace Fan (WG–NC)
Non-Weatherized, Non-Condensing Oil Furnace Fan (NWO–NC)
Non-Weatherized Electric Furnace/Modular Blower Fan (NWEF/NWMB)
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan (MH–NWG–NC)
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan (MH–NWG–C)
Mobile Home Electric Furnace/Modular Blower Fan (MH–EF/MB)
Mobile Home Weatherized Gas Furnace Fan (MH–WG)
Mobile Home Non-Weatherized Oil Furnace Fan (MH–NWO)

3. Technology Options

In the preliminary analysis, DOE considered seven technology options that would be expected to improve the energy efficiency of furnace fans: (1) Fan housing and airflow path design modifications; (2) high-efficiency fan motors (in some cases paired with multi-stage or modulating heating controls); (3) inverter-driven permanent-split capacitor (PSC) fan motors; (4) backward-inclined impellers; (5) constant-airflow brushless permanent magnet (BPM) motor control relays; (6) toroidal transformers; and (7) switching mode power supplies. In the NOPR, DOE revised its proposed scope of coverage to no longer address hydronic air handlers, the only furnace fan product class for which standby mode and off mode energy consumption is not already fully accounted for in the DOE energy conservation standards rulemakings for residential furnaces and residential CAC and HPs. 76 FR 37408 (June 27, 2011); 76 FR 67037 (Oct. 31, 2011). Consequently, the standby mode and off mode technology options (options 5 through 7 in the list above) are no longer applicable. In addition, DOE found that multi-staging and modulating heating controls can also improve FER, so DOE evaluated multi-staging and modulating heating controls as a separate technology option for the NOPR. 78 FR 64083.

DOE did not receive comment or additional information regarding the evaluated technology options, so DOE did not make any changes to the list of technology options identified in the NOPR. The resultant list of technology options identified to be evaluated in the screening analysis before consideration in the engineering analysis for the Final Rule include: (1) Fan housing and airflow path design modifications; (2) inverter-driven PSC fan motors; (3) high-efficiency fan motors; (4) multi-staging and modulating heating controls; and (5) backward-inclined impellers. Each identified technology option is discussed below and in more detail in chapter 3 of the Final Rule TSD.

Fan Housing and Airflow Path Design Improvements

The preliminary analysis identified fan housing and airflow path design modifications as potential technology options for improving the energy efficiency of furnace fans. Optimizing the shape of the inlet cone [18] of the fan housing, minimizing gaps between the impeller and fan housing inlet, and optimizing cut-off location and manufacturing tolerances were identified as enhancements to a fan

[18] The inlet cone is the opening of the furnace fan housing through which return air enters the housing. The inlet cone is typically curved inward, forming a cone-like shape around the perimeter of the opening, to provide a smooth surface to direct air from outside the housing to inside the housing and into the impeller.

housing that could improve efficiency. Separately, modification of elements in the airflow path, such as the heat exchanger, could reduce internal static pressure and as a result, reduce energy consumption. Manufacturer input was requested to determine the use and practicability of these potential technology options.

Interested parties expressed support for DOE's consideration of the aerodynamics of furnace fan cabinets in its initial analysis of technology options. In particular, ASAP cited a 2003 GE study [19] that quantified energy savings produced by modifying fan housing as justification for its inclusion as an option. ACEEE, *et al.* also cited a Lawrence Berkeley National Laboratory (LBNL) study [20] that linked changes in efficiency to modifying the clearance between fan housing and an air handler cabinet wall. Ingersoll Rand stated that there are proprietary fan housing designs on the market that already improve mechanical efficiency by 10–20 percent at a cost much lower than the cost to implement high-efficiency motors or make changes to the impeller and its tolerances. 78 FR 64083.

DOE is aware of the studies cited by ASAP and ACEEE, as well as the proprietary housing design mentioned by Ingersoll Rand. For the NOPR, DOE decided to include fan housing design modifications as a technology to be evaluated further in the screening analysis because of these indications that each could improve fan efficiency. 78 FR 64083.

Many interested parties requested that DOE keep airflow path design as a technology option. Manufacturers stated that improving airflow path design, like modifying fan housing, is highly cost-effective when compared to other enhancements. Similar to the fan housing design modifications, DOE decided to include airflow path design as a technology option to be evaluated further in the screening analysis as a result of these claims of potential fan efficiency improvement. 78 FR 64083. DOE believes including airflow path design is appropriate because of its potential to impact fan efficiency. Airflow path design will impact the rating metric, FER, because the DOE test procedure requires the furnace fan to be tested as it is factory-installed in the HVAC product.

DOE did not receive comment or additional information on fan housing about including airflow path design improvements as a technology option, thus, DOE is including these as technologies to be evaluated further in the screening analysis. Chapter 3 of the Final Rule TSD provides more technical detail regarding fan housing and airflow path design modifications and how these measures could reduce furnace fan energy consumption.

Inverter Controls for PSC Motors

In the preliminary analysis, DOE identified inverter-driven PSC motors as a technology option. DOE is aware of a series of non-weatherized gas furnaces with inverter-driven PSC furnace fan motors that was once commercially available. DOE has determined that inverter controls provide efficiency improvement by offering additional intermediate airflow-control settings and a wider range of airflow-control settings (*i.e.,* lower turndown ratio) than conventional PSC controls. The additional airflow-control settings and range enable the furnace fan to better match demand. Publically-available performance data for the series of furnaces using inverter-driven PSCs demonstrate that the use of this technology results in reduced FER values compared to baseline PSC furnace fans. Consequently, DOE considered inverter-driven PSCs as a technologically feasible option for reducing furnace fan energy consumption.

Manufacturers were opposed to listing inverter-driven PSCs as a viable technology option. Manufacturers commented that there are alternate, more cost-effective solutions to reduce energy consumption for air-moving systems, such as airflow path design or ECM (referred to herein by DOE as a ''constant-airflow BPM motor'') technology. 78 FR 64084.

For the NOPR analysis, DOE recognized manufacturers' concerns with the cost-effectiveness of inverter-driven PSC fan motors. However, DOE decided to include inverter-driven PSC motors as a technology option to be evaluated further in the screening analysis due to their potential to reduce furnace fan energy consumption. 78 FR 64084.

DOE did not receive comment or additional information on including inverter controls for PSC motors as a technology option, thus, DOE is including this technology option in the Final Rule. DOE evaluates in the engineering analysis the cost-effectiveness of all energy-saving technology options that are not screened out. Chapter 3 of the Final Rule TSD provides a more detailed discussion of inverter-driven PSC furnace fan motors.

High-Efficiency Motors

In the preliminary analysis, DOE identified four motor types that are typically used in furnace fan assemblies: (1) PSC motors; (2) PSC motors that have more than 3 airflow-control settings and sometimes improved materials (hereinafter referred to as ''improved PSC'' motors); (3) constant-torque BPM motors (often referred to as ''X13 motors''); and (4) constant-airflow BPM motors (often referred to as ''ECMs'').[21] DOE finds that furnace fans using high-efficiency motor technology options operate more efficiently than furnace fans using baseline PSC motors by:

- Functioning more efficiently at a given operating condition;
- Maintaining efficiency throughout the expected operating range; and
- Achieving a lower turndown ratio [22] (*i.e.,* ratio of airflow in lowest setting to airflow in highest setting).

Ingersoll Rand commented that a PSC motor will use less energy at higher static pressures, while an ECM increases energy use as static pressure rises. Ingersoll Rand stated that as a result, understanding the impact of switching to an ECM at higher static pressures may confuse the consumer. (Ingersoll Rand, PA Public Meeting Transcript, No. 43 at p. 67)

For the NOPR analysis, DOE stated that it is aware that consumers may be confused when BPM motors (referred to as ECMs by Ingersoll Rand above) consume more energy than PSC motors at higher static pressures, because consumers expect BPM motors to consume less energy than PSC motors under the same operating conditions. In general, input power to the fan motor increases as static pressure increases to provide a given airflow (*i.e.,* the fan motor has to work harder in the face of increased resistance to provide a desired amount of air).[23] DOE agreed with Ingersoll Rand that as static pressure increases, input power to a PSC-driven furnace fan will decrease, which is

[19] Wiegman, Herman, Final Report for the Variable Speed Integrated Intelligent HVAC Blower (2003) (Available at: *http://www.osti.gov/bridge/servlets/purl/835010-GyvYDi/native/835010.pdf*).

[20] Walker, I.S, State-of-the-art in Residential and Small Commercial Air Handler Performance (2005) LBNL 57330 (Available at: *http://epb.lbl.gov/publications/pdf/lbnl-57330plus.pdf*).

[21] ''ECM'' and ''X13'' refer to the constant-airflow and constant torque (respectively) BPM offerings of a specific motor manufacturer. Throughout this notice, DOE will refer to these technologies using generic terms, which are introduced in the list above. However, DOE's summaries of interested-party submitted comments include the terminology used by the interested party when referring to motor technologies.

[22] A lower turndown ratio can significantly improve furnace fan efficiency because fan input power has a cubic relationship with airflow.

[23] See chapter 3 of the TSD for more details regarding fan operation.

seemingly contradictory to the principle described above. DOE found that input power to a PSC-driven furnace fan decreases because the airflow provided by the fan decreases as static pressure rises (*i.e.,* the fan does not have to work as hard in the face of increased resistance because the fan is not providing as much air). 78 FR 64084. Input power to a constant-airflow BPM motor-driven furnace fan, on the other hand, will increase as static pressure rises because the BPM motor-driven fan is designed to maintain the desired level of airflow. Recognizing that this behavior could complicate comparing the relative performance of these motor technologies, DOE's rating metric, FER, is normalized by airflow to result in ratings that are in units of watts/cfm. DOE believed that a comparison using a watts/cfm metric will mitigate confusion by accurately reflecting that even though a constant-airflow BPM motor is consuming more power at higher statics, it is also providing more airflow, which is useful to the consumer.

As detailed in the NOPR, interested parties recognized the benefits provided by constant-torque and constant-airflow BPM motors. Interested parties also agreed that the BPM motor variations (*i.e.,* constant-torque and constant-airflow) and inverter-driven PSC motors generally have lower turndown ratios than a three-speed PSC motor. 78 FR 64084. Table IV.3 contains the turndown ratio estimates supplied publicly by interested parties. Manufacturers generally provided similar feedback during interviews.

TABLE IV.3—INTERESTED PARTY ESTIMATED FAN MOTOR TURNDOWN RATIOS

Interested party	PSC	Wave chopper controller PSC	Constant-torque ECM	Constant-airflow ECM
NMC (NMC, No. 60 at p. 1)	0.45	0.36	0.45	0.20
Goodman (Goodman, No. 50 at p. 2)	0.70–0.75	.....	0.40–0.50	0.25–0.35
Rheem (Rheem, No. 54 at p. 6)	0.60	.....	0.30	0.20

Overall, comments regarding high-efficiency motor turndown ratio validated DOE's expectation that lower turndowns are associated with improved PSCs, inverter-driven PSCs, and BPM motor variations. These motors consume significantly less energy over a typical residential furnace fan operating range. DOE disagreed with Lennox that including constant circulation as part of FER would ''artificially'' inflate the performance of BPM motors compared to PSC motors, because DOE concluded that there is non-trivial use of this mode by consumers. 78 FR 64085. As part of the test procedure rulemaking, DOE estimated that on average, consumers operate furnace fans in constant-circulation mode 400 hours annually. This estimate is used to weight fan constant-circulation electrical energy consumption in FER. Excluding this mode from the rating metric would underestimate the potential efficiency improvements of technology options, such as BPM motors, that could reduce fan electrical consumption while performing this function. A detailed discussion of DOE's estimate for national average constant-circulation furnace fan operating hours can be found in the test procedure NOPR. 77 FR 28674, 28682 (May 15, 2012). DOE did not revise these estimates in the test procedure Final Rule published on January 3, 2014. 79 FR 499.

DOE did not receive comment or additional information on including high-efficiency motors as a technology option, thus, DOE is including this technology option in the Final Rule. DOE evaluates in the engineering analysis the cost-effectiveness of all energy-saving technology options that are not screened out. Chapter 3 of the Final Rule TSD provides a more detailed discussion of high-efficiency furnace fan motors.

Multi-Stage or Modulating Heating Controls

In the preliminary analysis (77 FR 40530 (July 10, 2012)), DOE identified two-stage and modulating heating controls (hereinafter collectively referred to as ''multi-stage'' controls) as a method of reducing residential furnace fan energy consumption. Multi-stage furnaces typically operate at lower heat input rates and, in turn, a lower airflow-control setting for extended periods of time compared to single-stage furnaces to heat a residence.[24] Due to the cubic relationship between fan input power and airflow, operating at the reduced airflow-control setting reduces overall fan electrical energy consumption for heating despite the extended hours. In the preliminary analysis, DOE analyzed multi-staging controls paired with use of a constant-airflow BPM fan motor as one technology option, because DOE found the two to be almost exclusively used together in commercially-available products.

Interested parties encouraged DOE to consider X13-level motors applied with multi-stage furnace controls as a technology option. 78 FR 64085. During interviews, manufacturers commented that multi-stage heating controls can be and are used regardless of motor type.

Based on comments from manufacturers, DOE recognized that multi-stage controls can be paired with other motor types, not just constant-airflow BPM motors. DOE agreed with interested parties that implementing multi-stage heating controls independent of motor type could result in residential furnace fan efficiency improvements. Consequently, DOE decided to de-couple multi-staging controls from the constant-airflow BPM motor technology option. Accordingly, DOE evaluated multi-staging controls as a separate technology option for the NOPR. 78 FR 64085.

DOE did not receive comment or additional information on multi-staging controls as a technology option, thus, DOE is including this technology option in the Final Rule.

Backward-Inclined Impellers

DOE determined in the preliminary analysis that using backward-inclined impellers could lead to possible residential furnace fan energy savings. Although limited commercial data regarding backward-inclined impeller performance were available, DOE cited research by General Electric (GE) that showed large improvements in efficiency were achievable under certain operating conditions.[25]

Interested parties disagreed with the DOE's findings, stating that literature indicates there are varying degrees of performance improvement when

[24] A further discussion of multi-stage heating controls is found in chapter 3 of the preliminary analysis TSD, which can be found at the following web address: *http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0011-0037.*

[25] Wiegman, Herman, Final Report for the Variable Speed Integrated Intelligent HVAC Blower (2003) (Available at: *http://www.osti.gov/bridge/servlets/purl/835010-GyvYDi/native/835010.pdf*).

backward-inclined impellers are used in place of forward-curved impellers. 78 FR 64085. Ebm-papst, a company that provides custom air-movement products, offered a diverging opinion from most manufacturers regarding the energy-saving potential of backward-inclined impellers. That company retrofitted several HVAC products with furnace fan assemblies that incorporated backward-inclined impellers without increasing cabinet size and tested them. Depending on the application and the external static pressure load (typically 0.5 in. w.c. to 1 in. w.c.), ebm-papst found that the backward-inclined impeller achieved input power reductions from 15–30 percent. (ebm-papst Inc., No. 52 at p. 1).

DOE recognized that backward-inclined impellers may not be more efficient than forward-curved impellers under all operating conditions and that there may be considerable constraints to implementation. However, the GE prototype and ebm-papst prototype both demonstrate that significant energy consumption reduction is achievable at some points within the range of residential furnace fan operation. For this reason, DOE included backward-inclined impellers as a technology option in the NOPR. 78 FR 64086.

DOE did not receive additional comment or information on including backward-inclined impellers as a technology option. Thus, DOE included backward-inclined impellers as a technology to be evaluated further in the screening analysis for the Final Rule.

B. Screening Analysis

DOE uses the following four screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

1. *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

2. *Practicability to manufacture, install, and service.* If it is determined that mass production and reliable installation and servicing of a technology in commercial products could not be achieved on the scale necessary to serve the relevant market at the time of the compliance date of the standard, then that technology will not be considered further.

3. *Impacts on product utility or product availability.* If it is determined that a technology would have significant adverse impact on the utility of the product to significant subgroups of consumers or would result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

4. *Adverse impacts on health or safety.* If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further.

(10 CFR part 430, subpart C, appendix A, 4(a)(4) and 5(b))

In sum, if DOE determines that a technology, or a combination of technologies, fails to meet one or more of the above four criteria, it will be screened out from further consideration in the engineering analysis. The reasons for eliminating any technology are discussed below.

The subsequent sections include comments from interested parties pertinent to the screening criteria, DOE's evaluation of each technology option against the screening analysis criteria, and whether DOE determined that a technology option should be excluded (''screened out'') based on the screening criteria.

1. Screened-Out Technologies

DOE screened out fan housing and airflow path design improvements in the preliminary analysis. DOE had little quantitative data to correlate specific fan housing alterations with efficiency improvements. Additionally, DOE anticipated that any improvements to airflow path design that would result in fan efficiency improvement would require an increase in furnace fan cabinet size or negatively impact heat exchanger performance, thereby compromising the practicability to manufacture or reducing utility to consumers.

In response to the preliminary analysis, interested parties stated many concerns associated with modifying airflow path designs to reduce residential furnace fan electrical energy consumption, namely, that airflow path design modifications would likely require increasing HVAC product size. Manufacturers explained that increasing HVAC products size would have adverse impacts on practicability to install and consumer utility, because the furnace fan market is predominantly a replacement market. 78 FR 64086.

For the NOPR, DOE did not receive or find additional quantitative data that shows a measurable increase in fan efficiency as a result of a specific fan housing or airflow path design modification. Even after individual discussion with manufacturers, DOE was not able to identify a case in which fan housing or airflow path design modifications could lead to potential fan energy savings without increasing the size of the HVAC product or compromising thermal performance or safety. DOE is aware of the impacts on thermal efficiency and furnace fan performance of the additional heat exchanger in condensing furnaces. As discussed in section III.B, DOE accounted for these impacts in its criteria for differentiating product classes. In addition, DOE concurs with manufacturers' observations that an increase in envelope size would adversely impact practicability to manufacture and install, as well as product utility. Accordingly, DOE decided to screen out fan housing and airflow path design modifications in the NOPR. 78 FR 64086.

DOE did not receive additional comment or information regarding fan housing and airflow path design modifications in response to the NOPR. Thus, DOE determined to screen out fan housing and airflow path design modifications in the Final Rule.

2. Remaining Technologies

Through a review of each technology, DOE found that all of the other identified technologies met all four screening criteria to be examined further in DOE's analysis. 78 FR 64087. In summary, DOE did not screen out the following technology options: (1) Inverter-driven PSC fan motors; (2) high-efficiency fan motors; (3) multi-stage heating controls; and (4) backward-inclined impellers. DOE understands that all of these technology options are technologically feasible, given that the evaluated technologies are being used (or have been used) in commercially-available products or working prototypes. These technologies all incorporate materials and components that are commercially available in today's supply markets for the residential furnace fans that are the subject of this Final Rule. Therefore, DOE believes all of the efficiency levels evaluated in this notice are technologically feasible. For additional details, please see chapter 4 of the Final Rule TSD.

Interested parties, however, voiced concerns regarding these screening criteria as they apply to BPM fan motors and backward-inclined impellers in previous phases of this rulemaking. DOE summarizes and addresses these concerns in the sections immediately below. DOE did not receive public comments relevant to the screening

analysis criteria for the other remaining technology options.

High-Efficiency Motors

In response to the preliminary analysis, manufacturers stated that there are a limited number of ECM motor suppliers to furnace fan manufacturers, and that it is a proprietary technology. Manufacturers also stated that no alternative ECM exists at the scale of Regal Beloit ECMs and that limiting PSC applicability would reduce product flexibility.

Motor manufacturers disagreed with residential furnace fan manufacturers, claiming that there is more than just a single motor manufacturer offering ECM technology. Motor manufacturers also supported DOE's assumption that after implementation of furnace fan efficiency standards, brushless permanent magnet motor technologies will become increasingly available over time. DOE discovered during interviews with manufacturers that there are multiple suppliers of BPM motors. DOE also found further evidence that some manufacturers purchase BPM motors from multiple suppliers. EEI stated that the expiration of Regal Beloit ECM patents around 2020 may increase the availability of this motor type while decreasing cost. (EEI, PA Public Meeting Transcript, No. 43 at p. 127)

In the preliminary analysis, DOE requested comment as to whether manufacturers could alternatively develop BPM motor controls in-house when using high-efficiency motors from other, non-Regal Beloit, suppliers. Most furnace fan manufacturers claimed that development of in-house controls for BPM motors is not an option. 78 FR 64087.

While DOE recognizes that Regal Beloit possesses a number of patents in the BPM motor space, other motor manufacturers (*e.g.,* Broad Ocean, ebm-papbst, and NMC) also offer BPM models. Additionally, DOE is aware that in years past, residential furnace fans paired with constant-airflow BPM motors accounted for 30 percent of the market. While DOE estimates that constant-airflow BPM motors represent only 10–15 percent of the current furnace fan market, the manufacturing capability to meet BPM motor demand exists. Thus, DOE continues to expect that BPM motor technology is currently available from more than one source and will become increasingly available to residential furnace fan manufacturers. 78 FR 64087.

Also in response to the preliminary analysis, some fan manufacturers expressed concern that high-efficiency motor reliance on rare earth metals would impact supply. However, DOE is aware of high-efficiency motors that do not contain rare earth materials. DOE is also confident, after discussions with manufacturers, that if BPM motors are adopted as a means to meet a future residential furnace fan energy conservation standard, manufacturers would have a number of cost- and performance-competitive suppliers from which to choose who have available, or could rapidly develop, control systems independently of the motor manufacturer. 78 FR 64087.

DOE did not receive additional comment or information in response to the NOPR about high-efficiency motors related to the screening criteria. Thus DOE included high-efficiency motors as a technology option in the engineering analysis.

Backward-Inclined Impellers

In response to the preliminary analysis, furnace fan manufacturers stated that backward-inclined impellers must have larger diameter and operate at higher speed than forward-curve impellors in order to attain equivalent performance (*i.e.,* flow and pressure rise). However, ebm-papst stated that they retrofitted existing equipment with backward-inclined impellers, which only required making minor changes to the airflow path within the equipment. 78 FR 64088.

Manufacturers were also concerned with the potential impacts that backward-inclined impellers could have on heat exchanger temperatures. Some commenters also argued that backward-inclined impellers may affect furnace fan utility, because the noise produced by this impeller type may limit product application. Utilities claimed that a backward-inclined impeller, in combination with increased fan motor speeds to achieve higher efficiency, leads to amplified noise levels. 78 FR 64088.

For the NOPR, DOE found that there are multiple approaches to implementing backward-inclined impellers to reduce furnace fan energy consumption. DOE recognized that one approach is to use a backward-inclined impeller that is larger than a standard forward-curved impeller, which may lead to larger HVAC products. Another approach is to pair the backward-inclined impeller with a motor that operates at increased RPM. Ebm-papst tests show a significant potential to reduce fan electrical energy consumption for a backward-inclined impeller assembly that uses existing motor technology at higher RPMs and is implemented in existing HVAC products (i.e., no increase in product size required). Ebm-papst does not believe that achieving higher RPMs with existing motor technology is an obstacle for implementing this technology. DOE believed that this prototype represented a backward-inclined implementation approach that could achieve fan energy savings while avoiding the negative impacts listed by manufacturers. Consequently, DOE decided not to screen out the backward-inclined impeller technology option in the NOPR. 78 FR 64088.

DOE did not receive additional comment or information about backward-inclined impellers related to the screening criteria. Thus, DOE decided not to screen out backward-inclined impellers in the Final Rule.

C. Engineering Analysis

In the engineering analysis (corresponding to chapter 5 of the Final Rule TSD), DOE establishes the relationship between the manufacturer selling price (MSP) and improved residential furnace fan efficiency. This relationship serves as the basis for cost-benefit calculations for individual consumers, manufacturers, and the Nation. DOE typically structures the engineering analysis using one of three approaches: (1) Design option; (2) efficiency level; or (3) reverse engineering (or cost-assessment). The design-option approach involves adding the estimated cost and efficiency of various efficiency-improving design changes to the baseline to model different levels of efficiency. The efficiency-level approach uses estimates of cost and efficiency at discrete levels of efficiency from publicly-available information, and information gathered in manufacturer interviews that is supplemented and verified through technology reviews. The reverse engineering approach involves testing products for efficiency and determining cost from a detailed bill of materials derived from reverse engineering representative products. The efficiency values range from that of a least-efficient furnace fan sold today (*i.e.,* the baseline) to the maximum technologically feasible efficiency level. For each efficiency level examined, DOE determines the MSP; this relationship is referred to as a cost-efficiency curve.

1. Efficiency Levels

In this rulemaking, DOE used an efficiency-level approach in conjunction with a design-option approach to identify incremental improvements in efficiency for each product class. An efficiency-level approach enabled DOE to identify incremental improvements in efficiency for efficiency-improving

technologies that furnace fan manufacturers already incorporate in commercially-available models. A design-option approach enabled DOE to model incremental improvements in efficiency for technologies that are not commercially available in residential furnace fan applications. In combination with these approaches, DOE used a cost-assessment approach to determine the manufacturing production cost (MPC) at each efficiency level identified for analysis. This methodology estimates the incremental cost of increasing product efficiency. When analyzing the cost of each efficiency level, the MPC is not for the entire HVAC product, because furnace fans are a component of the HVAC product in which they are integrated. The MPC includes costs only for the components of the HVAC product that impact FER.

Baseline

During the preliminary analysis, DOE selected baseline units typical of the least-efficient furnace fans used in commercially-available, residential HVAC models that have a large number of annual shipments. This sets the starting point for analyzing potential technologies that provide energy efficiency improvements. Additional details on the selection of baseline units may be found in chapter 5 of the Final Rule TSD. DOE compared the FER at higher energy efficiency levels to the FER of the baseline unit and compared baseline MPCs to the MPCs at higher efficiency levels.

DOE reviewed FER values that it calculated using test data and performance information from publicly-available product literature to determine baseline FER ratings. Table IV.4 presents the baseline FER values identified in the preliminary analysis for each product class.

TABLE IV.4—PRELIMINARY ANALYSIS BASELINE FER

Product class	FER (W/1,000 cfm)
Non-Weatherized, Non-Condensing Gas Furnace Fan	380
Non-Weatherized, Condensing Gas Furnace Fan	393
Weatherized, Non-Condensing Gas Furnace Fan	333
Non-Weatherized, Non-Condensing Oil Furnace Fan	333
Electric Furnace/Modular Blower Fan	312
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan	295
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	319
Mobile Home Electric Furnace/Modular Blower Fan	243

In response to the preliminary analysis, manufacturers asserted that the baseline FER values presented were not representative of the furnace fans in the least-efficient residential HVAC models offered for sale today. Some manufacturers also requested that DOE alter FER to better reflect unit capacity. Specifically, some manufacturers stated that residential furnace fans having a larger capacity also have higher FERs and recommended that DOE adjust baseline FER values to include the largest-capacity fan within a product class. 78 FR 64089.

In the NOPR, DOE evaluated the feedback it received and used the data provided by interested parties to generate new FER values and to revise its baseline, intermediate efficiency levels, and max-tech FER estimates. DOE's revisions included FER results for furnace fan models that span the capacity range of residential products. After reviewing all of the available FER values based on new data, DOE concluded that FER can best be represented as a linear function of airflow capacity (*i.e.,* a first constant added to airflow multiplied by a second constant). The slope of the linear fit characterizes the change in FER for each unit of airflow capacity increase, and the y-intercept represents where the FER line intersects the y-axis (where airflow capacity is theoretically zero). For the NOPR, DOE proposed to use such linear functions to represent FER for the different efficiency levels of the different product classes. 78 FR 64089.

Table IV.5 shows the revised FER baseline efficiency levels estimates that DOE used for the NOPR.

TABLE IV.5—NOPR BASELINE FER ESTIMATES

Product class	FER* (W/1,000 cfm)
Non-Weatherized, Non-Condensing Gas Furnace Fan	FER = 0.057 × Q_{Max} + 362.
Non-Weatherized, Condensing Gas Furnace Fan	FER = 0.057 × Q_{Max} + 395.
Weatherized Non-Condensing Gas Furnace Fan	FER = 0.057 × Q_{Max} + 271.
Non-Weatherized, Non-Condensing Oil Furnace Fan	FER = 0.057 × Q_{Max} + 336.
Electric Furnace/Modular Blower Fan	FER = 0.057 × Q_{Max} + 331.
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan	FER = 0.057 × Q_{Max} + 271.
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	FER = 0.057 × Q_{Max} + 293.
Mobile Home Electric Furnace/Modular Blower Fan	FER = 0.057 × Q_{Max} + 211.
Mobile Home Weatherized Gas Furnace Fan	Reserved.
Mobile Home Non-Weatherized Oil Furnace Fan	Reserved.

*Q_{Max} is the airflow, in cfm, at the maximum airflow-control setting measured using the proposed DOE test procedure at the time of the ECS NOPR publication. 78 FR 19606, 19627 (April 2, 2013).

Manufacturers stated that the baseline FER values presented in the NOPR need to be re-evaluated to determine the appropriate baseline. Because the test procedure was not finalized at the time of the ECS NOPR publication, Lennox believes that assumptions were made by DOE to determine the baseline from other sources, leading to overstated energy savings and misleading conclusions. (Lennox, No. 100 at p. 3) Goodman believes that the NOPR

baseline values are too high. Goodman initially commented that baseline values were too low for the preliminary analysis. Based on the product testing per the April 2013 test procedure SNOPR, Goodman feels the increased values for baseline FER are too high, and should be closer (but still higher than) the original TSD estimated values. (Goodman, No. 102 at p. 8) Morrison, NEEA, and NPPC also commented that because there was no finalized test procedure at the time the ECS NOPR was published, DOE should not be using test data from public literature to generate FER values. (Morrison, No. 91 at p. 124; NEEA, NPCC, No. 96 at p. 2) Ingersoll-Rand echoed Lennox's and Morrison's comments, stating that it is difficult to get furnace fan power data from public literature, and that DOE's baseline FER values are over-estimated. (Ingersoll-Rand, No. 91 at pp. 110–111) Rheem and Lennox questioned whether the efficiency levels are based off of FER or the average annual auxiliary electrical energy consumption (E_{ae}). (Rheem, No. 83 at p. 4; Lennox, No. 100 at p. 3) Lennox and Ingersoll-Rand also commented specifically about the baseline FER for weatherized gas furnaces, citing a dramatic difference in DOE's baseline performance level as compared to their product offerings. Additionally, when the performance improvement factors are applied to DOE's baseline, the result is a very aggressive mandated increase in performance. (Lennox, No. 100 at p. 3; Ingersoll-Rand, No. 107 at p. 4) AHRI also commented on the FER for weatherized gas furnaces, stating that the FER values for weatherized gas furnace fans and non-weatherized condensing gas furnace fans should be the same because the test procedure is the same for both products, except for a difference in ESP. AHRI explained the difference in ESP accounts for the cooling coil within the weatherized gas furnace, therefore, in effect, the furnace fan assemblies for weatherized and non-weatherized gas furnaces are subject to the same ESP. (AHRI, No. 91 at pp. 127–129) Goodman agreed with AHRI that weatherized gas furnace fans should have the save efficiency levels as non-weatherized gas, non-condensing furnace fans. (Goodman, No. 102 at p. 3)

DOE did not use E_{ae} as an input for the engineering analysis. All efficiency levels considered by DOE throughout this rulemaking, including the baseline, are based on FER data, not E_{ae}. DOE used E_{ae} as a proxy for FER to evaluate market-wide energy performance of furnace fans in the market and technology assessment only. Further description of this characterization is found in chapter 3 of the Final Rule TSD. DOE disagrees with Lennox, Morrison, NEEA, and NPPC that FER values that DOE generated prior to the final test procedure or based on public literature should not be considered in this Final Rule. DOE outlines in detail in section III.A the reasons that FER data from previous stages of the rulemaking and public literature are relevant. Section III.A also explains how DOE's changes to the test procedure between the test procedure SNOPR and final rule should not result in significant differences in FER values for many covered products. Thus, DOE disagrees with Ingersoll Rand, Lennox, Goodman, and Morrison's claims that, in the absence of a final test procedure or because of changes in the final test procedure, DOE used unreliable information to calculate FER and model efficiency levels for the NOPR. Regardless, DOE agrees with interested parties that DOE should re-update its NOPR baseline equations based on new data. DOE received some baseline FER data from interested parties in response to the NOPR. As discussed in section III.A, DOE also conducted testing prior to and during the development of the test procedure final rule that generated a broad enough set of results to enable DOE to derive FER values that are consistent with the requirements of the final test procedure. DOE used this new baseline FER data to revise its baseline equations.

DOE investigated interested party claims that DOE's proposed baseline equation for weatherized gas furnace fans did not match manufacturer performance estimates. DOE did not receive additional baseline FER data for weatherized gas furnace fans. However, DOE did derive additional FER values from data from specification sheets and testing of weatherized gas furnaces at higher efficiency levels (i.e., weatherized gas furnaces that use constant-torque and constant-airflow BPM motors). DOE was able to collect more reliable FER data for more efficient weatherized gas furnace fans than for baseline weatherized gas furnace fans. Consequently, DOE estimated the weatherized gas furnace fan baseline FER by multiplying the market and capacity weighted FER value for weatherized gas furnace fans with constant-airflow BPM motor and multi-staging by the expected percent increase in FER (i.e., the inverse of the expected percent reduction in FER for constant-airflow BPM and multi-staging). DOE then developed a conversion factor from the non-weatherized, non-condensing gas furnace fan baseline FER to generate a y-intercept for the weatherized non-condensing gas furnace fan baseline FER equation. This approach significantly increased DOE's estimated baseline FER for weatherized non-condensing gas furnace fans to a level consistent with the revised baseline for non-weatherized, condensing gas furnace fans. Even though they are not identical, DOE concludes that the approach described is appropriate based on interested party feedback. The airflow path design of weatherized non-condensing gas and non-weatherized, condensing gas furnaces are very different, which impacts furnace fan performance, accounting for the slightly different FER equations.

DOE also received comments from interested parties regarding the slopes in the NOPR FER equations. Rheem and Lennox commented that the slope characterizing the relationship between FER and airflow capacity is too flat, adding that higher-capacity models are space constrained, and their FER values do not meet the proposed FER levels in the NOPR. (Rheem, No. 83 at p. 8; Lennox, No. 100 at p. 6) Ingersoll-Rand commented that for condensing furnaces and furnaces using improved PSC motors and multi-staging controls, FER tends to decrease as capacity increases, creating a negative slope. (Ingersoll-Rand, No. 91 at pp. 110–111; Ingersoll-Rand, No. 107 at pp. 3–4) Ingersoll-Rand also commented that even though FER values for furnace fans with PSC motors follow a linear trend, FER values for furnace fans that use BPM motor technologies do not because they react differently to changes in static pressure (Ingersoll-Rand, No. 107 at p. 5) ACEEE, Goodman, and Mortex questioned whether a linear slope is the best way to characterize the relationship between FER and airflow capacity. AHRI and Goodman added that there is a cubic relationship between fan input power and airflow, thus, a non-linear slope may be more appropriate. (ACEEE, No. 94 at p. 3; Goodman, No. 102 at p. 13; Mortex, No. 104 at p. 3; AHRI, No. 98 at p. 3)

In response to interested party comments, DOE recalculated FER versus airflow capacity slopes using new data from baseline series for both non-weatherized, non-condensing gas furnace fans and non-weatherized, condensing gas furnace fans. DOE found that the average baseline slope increased dramatically from 0.057 to 0.081. DOE is aware that some instances of furnace series models will not match DOE's slope analysis results. The data, that DOE has, shows a positive slope when characterizing the relationship between

FER and airflow capacity. Furthermore, DOE did not determine that a linear fit was the best fit statistically. DOE believes a linear fit is the best representation of furnace fan performance given the level of data available. DOE finds that linear fits result in a distribution of efficiency levels that match the distribution of furnace fan performance by technology option used. Additionally, a cubic trend-line does not account for changes in furnace envelope size, heat exchanger size, furnace fan outlet size, and other factors the affect furnace fan performance. Using a cubic trend-line would only be appropriate if these other factors were held constant. DOE finds that input power to a PSC-driven furnace fan decreases because the airflow provided by the fan decreases as static pressure rises (*i.e.,* the fan does not have to work as hard in the face of increased resistance because the fan is not providing as much air). Input power to a constant-airflow BPM motor-driven furnace fan, on the other hand, will increase as static pressure rises because the BPM motor-driven fan is designed to maintain the desired level of airflow. Recognizing that this behavior could complicate comparing the relative performance of these motor technologies, DOE's rating metric, FER, is normalized by airflow to result in ratings that are in units of watts/cfm.

Table IV.5 shows the revised FER baseline efficiency levels estimates that DOE used for the Final Rule.

TABLE IV.6—FINAL RULE BASELINE FER ESTIMATES

Product class	FER * (W/1,000 cfm)
Non-Weatherized, Non-Condensing Gas Furnace Fan	FER = 0.081 × Q_{Max} + 335.
Non-Weatherized, Condensing Gas Furnace Fan	FER = 0.081 × Q_{Max} + 358.
Weatherized Non-Condensing Gas Furnace Fan	FER = 0.081 × Q_{Max} + 365.
Non-Weatherized, Non-Condensing Oil Furnace Fan	FER = 0.081 × Q_{Max} + 433.
Electric Furnace/Modular Blower Fan	FER = 0.081 × Q_{Max} + 304.
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan	FER = 0.081 × Q_{Max} + 252.
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	FER = 0.081 × Q_{Max} + 273.
Mobile Home Electric Furnace/Modular Blower Fan	FER = 0.081 × Q_{Max} + 186.
Mobile Home Weatherized Gas Furnace Fan	Reserved.
Mobile Home Non-Weatherized Oil Furnace Fan	Reserved.

* Q_{Max} is the airflow, in cfm, at the maximum airflow-control setting measured using the final DOE test procedure. 79 FR 499, 524 (January 3, 2014).

Percent Reduction in FER

For the preliminary analysis, DOE determined average FER reductions for each efficiency level for a subset of key product classes and applied these reductions to all product classes. DOE found from manufacturer feedback and its review of publically-available product literature that manufacturers use similar furnace fan components and follow a similar technology path to improving efficiency across all product classes. DOE does not expect the percent reduction in FER associated with each design option, whether commercially available or prototype, to differ across product classes as a result. Table IV.7 includes DOE's preliminary analysis estimates for the percent reduction in FER from baseline for each efficiency level.

TABLE IV.7—PRELIMINARY ANALYSIS ESTIMATES FOR PERCENT REDUCTION IN FER FROM BASELINE FOR EACH EFFICIENCY LEVEL

Efficiency level (EL)	Design option	Percent reduction in FER from baseline
1	Improved PSC	2
2	Inverter-Driven PSC	10
3	Constant-Torque BPM Motor	45
4	Constant-Airflow BPM Motor + Multi-Staging	59
5	Premium Constant-Airflow BPM Motor + Multi-Staging + Backward-Inclined Impeller	* 63

* DOE estimates that implementing a backward-inclined impeller at EL 5 results in a 10% reduction in FER from EL 4. This is equivalent to a reduction of 4% percent of the baseline FER. The total percent reduction in FER from baseline for EL 5 includes the 59% reduction from EL 4 and the 4% net reduction of the backward-inclined impeller for a total percent reduction of 63% from baseline.

Interested parties questioned DOE's estimates for the FER reduction for high-efficiency motors. Specifically, interested parties noted that DOE underestimated the efficiency gain of improved PSC motors over standard PSC motors, and overestimated the efficiency improvement of BPM motor technology options. 78 FR 64090.

For the NOPR, DOE reviewed its estimates of percent reduction in FER from baseline for each efficiency level based on interested party feedback. In addition to the comments summarized above, interested parties also provided FER values for higher-efficiency products in manufacturer interviews. DOE used these data to revise its percent reduction estimates. Table IV.8 shows DOE's revised estimates for the percent reduction in FER for each efficiency level that DOE used in the NOPR. For a given product class, DOE applied the percent reductions below to both the slope and y-intercept of the baseline FER equation to generate FER equations to represent each efficiency level above baseline.

TABLE IV.8—NOPR ESTIMATES FOR PERCENT REDUCTION IN FER FROM BASELINE FOR EACH EFFICIENCY LEVEL

Efficiency level (EL)	Design option	Percent reduction in FER from baseline
1	Improved PSC	10
2	Inverter-Driven PSC	25
3	Constant-Torque BPM Motor	42
4	Constant-Torque BPM Motor and Multi-Staging	50
5	Constant-Airflow BPM Motor and Multi-Staging	53
6	Premium Constant-Airflow BPM Motor and Multi-Staging + Backward-Inclined Impeller	*57

*DOE estimates that implementing a backward-inclined impeller at EL 6 results in a 10% reduction in FER from EL 5. This is equivalent to a 4% percent reduction in FER from baseline. The total percent reduction in FER from baseline for EL 6 includes the 53% reduction from EL 5 and the 4% net reduction from the backward-inclined impeller for a total percent reduction of 57% from baseline.

Note that EL 4 in the table above was a newly proposed efficiency level in the NOPR. As discussed in section IV.A.3, DOE analyzed multi-staging as a separate technology option. For the NOPR, DOE also evaluated a separate efficiency level representing applying multi-staging to a furnace fan with a constant-torque BPM motor. 78 FR 64091.

In response to the NOPR, AHRI asked if DOE considered pairing PSC motors with multi-stage furnace controls in its analysis. (AHRI, No. 91 at p. 310) While DOE did gather data for and investigated PSC-driven furnace fans in multi-stage products, DOE did not include this combination as an efficiency level for the Final Rule. In the engineering analysis, DOE assesses technology options in order of cost-effectiveness. DOE finds that constant-torque BPM motors are more cost-effective than PSC motors with multi-staging. While the cost of multi-staging for each motor type is approximately the same, multi-staging results in significantly less energy savings when used with a PSC motor. DOE expects this is the result of a limited turndown ratio as discussed in section III.A.4.

Interested parties commented on the NOPR percent reductions in FER from the baseline and resulting efficiency level equations. Nidec stated that the percent reductions do not reflect furnace fan performance improvements when using higher-efficiency PSC motors. (Nidec, No. 91 at p. 147) Many manufacturers stated that the proposed efficiency levels are not consistent with product performance using the varying design options. Rheem, Allied Air, Daikin, Lennox, and Ingersoll-Rand stated that only their multi-staging furnace lines that use constant-airflow BPM motors would meet the proposed standard level. (Rheem, No, 83 at pp. 1–2; Allied Air, No. 91 at p. 105; Daikin, No. 91 at p. 105; Lennox, No. 100 at p. 5; Ingersoll-Rand, No. 91 at pp. 102–103) Goodman and AHRI submitted similar comments stating that there are existing products that use the design options specified within TSL 5 that will not even meet the proposed energy conservation standards. (AHRI, No. 98 at p. 3; and Goodman, No 102 at pp. 4 and 7) In a joint comment submitted by Appliance Standards Awareness Project (ASAP), Alliance to Save Energy (ASE), National Consumer Law Center (NCLC), and National Resources Defense Council (NRDC) and in a separate comment submitted by California Investor-Owned Utilities (CA IOUs), interested parties recommended that DOE conduct additional testing of furnace fans with constant-torque BPM motors with multi-staging controls to verify the accuracy of the proposed FER standard level equations, and to ensure that the majority of products containing constant-torque BPM motors with multi-staging controls meet the standard. (ASAP, *et al.,* No. 105 at p. 2; CA IOU, No. 106 at p. 3)

DOE carefully considered the feedback received from interested parties on the percent reductions in FER from baseline that the Department proposed in the NOPR. DOE shares manufacturers' concerns that their products are not meeting the levels proposed in the NOPR despite those models using the technologies (or more efficient technologies) on which those levels are based. DOE used data provided by interested parties, conducted additional testing using the final DOE test procedure, and gathered data from additional product specification sheets to generate new FER values. DOE used this new FER data to revise its estimates of percent reduction in FER from baseline for each efficiency level. In response to Nidec, DOE did analyze an efficiency level associated with improved PSC motors. However, DOE did not receive and could not gather any new FER data with which to revise its estimated percent reduction in FER from baseline for this technology. Using the revised estimates of percent reduction in FER from baseline, DOE revised its FER equations. Then, for the product classes with the highest shipments, DOE assessed how many models for which DOE has an FER value met the revised EL 4. DOE finds that over 90% of the non-weatherized, non-condensing gas, non-weatherized, condensing gas and weatherized non-condensing gas furnace fans for which DOE has FER values that use constant-torque BPM motors and multi-staging meet the revised EL 4. DOE finds that many models in those product classes for which DOE has FER data that use constant-torque BPM motors without multi-staging would also meet the revised EL 4. DOE feels that the percentage of models that meet the revised EL 4 show that the Final Rule efficiency levels are reflective of the performance of the technologies on which they are based.

Ingersoll Rand stated that percent reduction in FER from the baseline should not be constant across all capacities for products using constant-torque BPM motor technologies. Specifically, Ingersoll-Rand noted that efficiency improvements with this technology decrease with increasing furnace capacity, and that at high airflow capacities, there is little or no difference in FER values between furnace fans using improved PSC motors and those using constant-torque BPM motors. (Ingersoll-Rand, No. 107 at p. 5) Additionally, Ingersoll-Rand stated that wider cabinets for furnaces with more cooling capacity but the same heating input will have lower FERs. (Ingersoll-Rand, NOPR Public Meeting Transcript, No. 91 at p. 94) Ingersoll-Rand and Mortex disagree with DOE using the same slope for FER equations for both mobile home furnaces as well as non-mobile home furnaces. These parties cite that there are space constraints associated with mobile home applications, and that it is more difficult to meet the proposed standard at higher capacities because the cabinet

size must remain the same. (Ingersoll-Rand, No. 91 at pp. 116–117; Mortex, No. 91 at pp. 129–131)

DOE recognizes that percent reduction in FER from baseline for a given technology option varies with capacity. DOE's estimates of percent reduction in FER from baseline are based on market-weighted averages of FER values from across the entire range of furnace fan airflow capacities to account for this variation. As discussed above, DOE finds that constant percent reductions in FER from baseline result in a distribution of efficiency levels that match the distribution of furnace fan performance by technology option used across the entire range of furnace fan airflow capacities. Thus, DOE believes that a constant percent reduction in FER from baseline across all airflow capacities is appropriate. DOE is also aware that in some instances FER may decrease for furnaces with higher cooling capacities but the same heating input. DOE's analysis includes FER data for furnace fans that have differing heating capacity to cooling capacity ratios. DOE recognizes that these ratios indicate design differences that impact fan performance. However, a significant majority of the models for which DOE has FER data are meeting the ELs associated with the technologies that they use. Of the few models that do not, DOE observes no pattern related to the ratio of heating capacity to cooling capacity. DOE recognizes that mobile home products are more space-constrained than the other products covered by this standard. DOE did not receive mobile home FER data in response to the NOPR. Despite DOE using the same slope for mobile home product classes to characterize the relationship between FER and airflow capacity for all product classes, the resulting ELs for mobile home furnace fans are less stringent than those for non-mobile home furnaces at higher capacities. EL 4 for MH–NWG–NC and NWG–NC both have slopes of 44 FER per 1000 cfm, for example. Thus, for an increase in airflow capacity of 1000 cfm, EL 4 allows for an increase of 44 in FER for both classes. At 1,200 cfm, EL 4 is represented by and FER of 235 for NWG–NC and 190 for MH–NWG–NC. An increase of 44 in FER would represent an increase in FER of approximately 18 percent for the NWG–NC furnace fan, but an increase in FER of approximately 23% for the MH–NWG–NC furnace fan. Consequently, the allowable increase in FER as capacity increases is more lenient for mobile home furnaces. DOE believes this leniency is appropriate considering the more rigid space constraints mobile home furnaces must meet. DOE recognizes that the same variation in stringency occurs as a result of DOE's method for establishing baseline FER equations using conversion factors as described in more detail in chapter 5 of the Final Rule TSD. However, the difference in FER values between mobile home and non-mobile home furnace fans is much greater than the difference between FER values amongst non-mobile home furnace fans. The variation in stringency for non-mobile home products is minimal as a result.

Table IV.9 shows DOE's revised estimates for the percent reduction in FER for each efficiency level that DOE used in the Final Rule analyses.

TABLE IV.9—FINAL RULE ESTIMATES FOR PERCENT REDUCTION IN FER FROM BASELINE FOR EACH EFFICIENCY LEVEL

Efficiency level (EL)	Design option	Percent reduction in FER from baseline
1	Improved PSC	12
2	Inverter-Driven PSC	25
3	Constant-Torque BPM Motor	41
4	Constant-Torque BPM Motor and Multi-Staging	46
5	Constant-Airflow BPM Motor and Multi-Staging	51
6	Premium Constant-Airflow BPM Motor and Multi-Staging + Backward-Inclined Impeller	*56

* DOE estimates that implementing a backward-inclined impeller at EL 6 results in a 10% reduction in FER from EL 5. This is equivalent to a 5% percent reduction in FER from baseline. The total percent reduction in FER from baseline for EL 6 includes the 51% reduction from EL 5 and the 5% net reduction from the backward-inclined impeller for a total percent reduction of 56% from baseline.

Ingersoll Rand provided a significant amount of FER data in its written comment to support its statements. (Ingersoll Rand, No. 107 at pp. 3, 12–16) DOE appreciates this information and included these FER values in its revision of the engineering analysis to account for the furnace fan performance behaviors described by Ingersoll Rand.

2. Manufacturer Production Cost (MPC)

In the preliminary analysis, DOE estimated the manufacturer production cost associated with each efficiency level to characterize the cost-efficiency relationship of improving furnace fan performance. The MPC estimates are not for the entire HVAC product because furnace fans are a component of the HVAC product in which they are integrated. The MPC estimates includes costs only for the components of the HVAC product that impact FER, which DOE considered to be the:

- Fan motor and integrated controls;
- Primary control board (PCB);
- Multi-staging components;
- Impeller;
- Fan housing; and
- Components used to direct or guide airflow.

DOE separated the proposed product classes into high-volume and low-volume product classes and generated high-volume and low-volume MPC estimates to account for the increased purchasing power of high-volume manufacturers.[26]

[26] High-volume and low-volume product classes are discussed further in chapter 5 of the Final Rule TSD.

Production Volume Impacts on MPC

In response to the preliminary analysis, manufacturers commented that they use different manufacturing processes for high and low-volume products. In the NOPR analysis, DOE found that 94 percent of the MPC for furnace fans is attributed to materials (included purchased parts like fan motors), which are not impacted by process differences. DOE's estimates also already accounted for process differences between manufacturers for high-volume and low-volume products. The products that DOE evaluated to support calculation of MPC included furnace fans from various manufacturers, including both high-volume and low-volume models. Observed process differences are reflected in the bills of materials for

those products. DOE believed that its approach to distinguish between high-volume and low-volume product classes accounts for the expected difference in MPC between high-volume and low-volume product classes. 78 FR 64091.

DOE did not receive comment or additional information on production volume impacts on MPC, thus, DOE is taking the same approach to distinguish between high-volume and low-volume product classes in the Final Rule.

Inverter-Driven PSC Costs

In the preliminary analysis, DOE estimated that the MPC of inverter control for a PSC motor is $10–$12, depending on production volume. Interested parties commented that DOE was underestimating the cost of adding an inverter to a PSC motor, and questioned if DOE's cost estimate was for wave chopper technology and not inverters. In the NOPR, DOE stated that the preliminary analysis estimate for the MPC of an inverter-driven PSC was indeed based on a wave chopper drive. DOE found that more sophisticated and costly inverters are required to achieve the efficiencies reflected in DOE's analysis. Consequently, DOE adjusted its cost estimate for PSC inverter technology. DOE gathered more information about the cost of inverters that are suited for improving furnace fan efficiency. In addition to receiving cost estimates during manufacturer interviews, DOE also reviewed its cost estimates for inverter drives used in other residential applications, such as clothes washers. DOE found that $30 for high-volume products and $42.29 for low-volume products are better estimates of the MPC for inverters used to drive PSC furnace fan motors. Accordingly, DOE updated those values for the NOPR. 78 FR 64091–64092.

DOE did not receive comment or additional information on cost estimates for inverter-driven PSC motors, thus, DOE is not making changes to the MPC estimates for inverters used to drive PSC furnace fan motors in the Final Rule.

Furnace Fan Motor MPC

In response to the preliminary analysis, manufacturers stated that DOE underestimated the incremental MPC to implement high-efficiency motors in HVAC products, other than oil furnaces. Most manufacturers stated that the cost increase to switch from PSCs to more-efficient motor technologies was at least twice that of the DOE's estimate. Based upon the input received from interested parties, DOE adjusted its motor cost estimates in the NOPR analysis. In general, DOE increased its estimates by approximately 10 to 15 percent, which is consistent with the feedback DOE received. 78 FR 64092.

Goodman stated that DOE significantly underestimated the costs of the increasing levels of fan motor cost. (Goodman, No. 102 at p. 9) Lennox stated that DOE underestimated the total cost of furnace fans with BPM motor technology by 10 to 30 percent, therefore, the incremental costs are underestimated by 20 to 120 percent. (Lennox, No. 100 at p. 6) Conversely, ACEEE commented that DOE has a well-established record of over-estimating the cost of complying with standards, thus, DOE's cost estimates should be discounted to further improve the economics of advanced technology options. (ACEEE, No. 94 at p. 3) Rheem questioned if the DOE motor cost estimates included power factor correction filters for BPM motors, as those can cost $10 to $20. (Rheem, No. 91 at p. 165)

DOE recognizes that BPM motor use contributes to concerns regarding total harmonic distortion. However, the use of power factor correction filters for BPM motor technologies is currently not required under federal regulations. The DOE cost estimates reflect what is currently available on the market, thus, the added cost of filters for BPM motor technologies is not included in DOE's MPC estimates for BPM motors. DOE believes the motor MPC estimates presented in the NOPR are representative of current motor costs. Thus, DOE is keeping the same furnace fan motor cost estimates presented in the NOPR for the Final Rule analysis. Details regarding DOE's MPC estimates are provided in chapter 5 of the Final Rule TSD.

Motor Control Costs

In the preliminary analysis, DOE estimated that the MPC of the primary control board (PCB) increases with each conversion to a more-efficient motor type (*i.e.,* from PSC to constant-torque BPM motor and from constant-torque to constant-airflow BPM motor). Manufacturers confirmed that higher-efficiency motors and modulating motors require more sophisticated and costly controls. DOE also received feedback regarding the cost of the PCBs associated with each motor type during manufacturer interviews. In general, manufacturers commented that the PCBs used with constant-torque BPM motors are more costly. However, other manufacturer interview participants stated that the MPC of the PCB used with these motors should be equivalent or even less expensive than the PCBs used with PSC motors. 78 FR 64092.

In the NOPR, DOE agreed with interested parties that the MPC of the PCB needed for a constant-airflow BPM motor is higher than for the PCB paired with a PSC motor. DOE estimated that the MPC of a PCB paired with a constant-airflow BPM motor is roughly twice as much as for a PCB paired with a constant-torque BPM motor or PSC. DOE also agreed with the interested parties that stated that the MPC for a PCB paired with a constant-torque BPM motor is equivalent to that of a PCB needed for a PSC motor. DOE revised its analysis to reflect this assumption in the NOPR as a result.

DOE did not receive comment or additional information on motor control costs, thus, DOE is not making changes to this in the Final Rule.

Backward-Inclined Impeller MPC

Interested parties commented that DOE's preliminary analysis estimate for the incremental MPC associated with implementing a backward-inclined impeller, in combination with a premium constant-airflow BPM motor and multi-staging, is too low. Manufacturers also commented that tighter tolerances and increased impeller diameter lead to increased material costs, as well as increased costs associated with motor mount structure and reverse forming fabrication processes.

During the NOPR, DOE reviewed its manufacturer production cost estimates for the backward-inclined impeller technology option based on interested party comments. During manufacturer interviews, some manufacturers reiterated or echoed that DOE's estimated MPC for backward-inclined impellers is too low, but they did not provide quantification of the total MPC of backward-inclined impellers or the incremental MPC associated with the changes needed to implement them. Other manufacturers did quantify the MPC of backward-inclined impeller solutions and their estimates were consistent with DOE's preliminary analysis estimate. Consequently, DOE did not modify its preliminary analysis estimated MPC for backward-inclined impellers in the NOPR. 78 FR 64092.

In response to the NOPR, Mortex questioned whether the price differential between backward-inclined impellers manufactured at high volume and those manufactured at low volume should be greater than DOE's estimate of 32 cents. (Mortex, No. 91 at p. 163)

DOE reviewed its manufacturer production cost estimates for the backward-inclined impeller technology option based on interested party comments. DOE did not receive any

quantification of the total MPC of backward-inclined impellers or the incremental MPC associated with the changes needed to implement them. Consequently, DOE did not modify its NOPR estimated MPC for backward-inclined impellers in the Final Rule. Regardless, DOE finds that EL 6, which represents use of a backward-inclined impeller, is not economically justified. Modifying the MPC estimate for this technology would not impact the standard set by this Final Rule as a result.

Other Components

In response to the MPCs presented in the NOPR, Goodman commented that there are likely additional components for the furnace that may need to be added if significant changes to the blower system are implemented. For example, improving air moving efficiency may require an increase in cabinet size, or the addition of internal baffling to direct airflow over the heat exchanger. None of these additional components or modifications were accounted for in the furnace fan MPC. (Goodman, No. 102 at p. 13)

As discussed in section III.B.1 and chapter 4 of the Final Rule TSD, DOE did not include housing design modifications in the engineering analysis. Thus, DOE did not develop cost estimates for housing design modifications. DOE recognizes that the airflow path design of the HVAC product in which the furnace fan is integrated impacts efficiency. DOE anticipates that modifying the size of the cabinet and the geometry of the heat exchanger(s) would be the primary considerations for improving airflow path design. Alterations to the design and configuration of internal components, such as the heat exchanger, could impact the thermal performance of the HVAC product, potentially reducing or eliminating product availability for certain applications. While DOE did not consider airflow path design as a technology option, as described in section III.B.1, DOE did account for the components used to direct or guide airflow in the MPC estimates.

D. Markups Analysis

DOE uses manufacturer-to-consumer markups to convert the manufacturer selling price estimates from the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis and in the manufacturer impact analysis. Before developing markups, DOE defines key market participants and identifies distribution channels. Generally, the furnace distribution chain (which is relevant to the residential furnace fan distribution chain) includes distributors, dealers, general contractors, mechanical contractors, installers, and builders. For the markups analysis, DOE combined mechanical contractors, dealers, and installers in a single category labeled ''mechanical contractors,'' because these terms are used interchangeably by the industry. Because builders serve the same function in the HVAC market as general contractors, DOE included builders in the ''general contractors'' category.

DOE used the same distribution channels for furnace fans as it used for furnaces in the recent energy conservation standards rulemaking for those products. DOE believes that this is an appropriate approach, because the vast majority of the furnace fans covered in this rulemaking is a component of a furnace. Manufactured housing furnace fans in new construction have a separate distribution channel in which the furnace and fan go directly from the furnace manufacturer to the producer of mobile homes. DOE has concluded that there is insufficient evidence of a replacement market for furnace fans to establish a separate distribution channel on that basis.

DOE develops baseline and incremental markups to transform the manufacturer selling price into a consumer product price. DOE uses the baseline markups, which cover all of a distributor's or contractor's costs, to determine the sales price of baseline models. Incremental markups are separate coefficients that DOE applies to reflect the incremental cost of higher-efficiency models.

Ingersoll Rand stated that the incremental markup percentages do not represent real life practices and are too low. It commented that once the new rule goes into effect, the more expensive furnaces will become the baseline and will need to be marked up appropriately for manufacturers, distributors, and dealers to remain viable. (Ingersoll Rand, No. 107 at p. 8) However, the commenter provided no data to support its expectation of how the actors respond in terms of pricing when confronted with more-stringent energy conservation standards.

DOE acknowledges that detailed information on actual distributor and contractor practices would be helpful in evaluating their markups on furnaces. In the absence of such information, DOE has concluded that its approach, which is consistent with expected business behavior in competitive markets, is reasonable to apply. If the cost of goods sold increases due to efficiency standards, DOE continues to assume that markups would decline slightly, leaving profit unchanged, and, thus, it uses lower markups on the incremental costs of higher-efficiency products.

Goodman stated that lower markups on incremental costs of higher-efficiency products is an invalid practice because manufacturers will attempt to have higher margin dollars to offset overall lower volumes. (Goodman, No. 102 at p. 9) For the LCC and NIA analyses, DOE does not use a lower markup on the incremental manufacturer selling price of higher-efficiency products. Instead, it assumes that manufacturers are able to maintain existing average markups in response to new standards. The MIA considers different markup scenarios for manufacturers (see section IV.J.2.b).

E. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of residential furnace fans in representative U.S. homes and to assess the energy savings potential of increased furnace fan efficiency. In general, DOE estimated the annual energy consumption of furnace fans at specified energy efficiency levels across a range of climate zones. The annual energy consumption includes the electricity use by the fan, as well as the change in natural gas, liquid petroleum gas (LPG), electricity, or oil use for heat production as result of the change in the amount of useful heat provided to the conditioned space as a result of the furnace fan. The annual energy consumption of furnace fans is used in subsequent analyses, including the LCC and PBP analysis and the national impact analysis.

DOE used the existing DOE test procedures for furnaces and air conditioners to estimate heating and cooling mode operating hours for the furnace fan. The power consumption of the furnace fan is determined using the individual sample housing unit operating conditions (the pressure and airflow) at which a particular furnace fan will operate when performing heating, cooling, and constant-circulation functions. The methodology and the data are fully described in chapter 7 of the final rule TSD.

DOE used the Energy Information Administration's (EIA) Residential Energy Consumption Survey (RECS) [27] to establish a sample of households using furnace fans for each furnace fan

[27] Energy Information Administration, 2009 Residential Energy Consumption Survey (Available at: *http://www.eia.gov/consumption/residential/data/2009/index.cfm?view=consumption*).

product class. RECS data provide information on the age of furnaces with furnace fans, as well as heating and cooling energy use in each household. The survey also includes household characteristics such as the physical characteristics of housing units, household demographics, information about other heating and cooling products, fuels used, energy consumption and expenditures, and other relevant data. DOE uses the household samples not only to determine furnace fan annual energy consumption, but also as the basis for conducting the LCC and PBP analysis.

DOE used RECS 2009 [28] heating and cooling energy use data to determine heating and cooling operating hours. DOE used data from RECS 2009, American Housing Survey (AHS) 2011,[29] and the Census Bureau [30] to project household weights in 2019, which is the anticipated compliance date of any new energy efficiency standard for residential furnace fans. These adjustments account for housing market changes since 2009, as well as for projected product and demographic changes.

The power consumption (and overall efficiency) of a furnace fan depends on the speed at which the motor operates, the external static pressure difference across the fan, and the airflow through the fan. To calculate furnace fan electricity consumption, DOE determined the operating conditions (the pressure and airflow) at which a particular furnace fan will operate in each RECS housing unit when performing heating, cooling, and constant-circulation functions. For the final rule, DOE adjusted the furnace fan energy use estimated from RECS 2009 data to account for projected changes in heating and cooling loads due to climate change (as projected by EIA in *AEO 2013*).

DOE gathered field data from available studies and research reports to determine an appropriate distribution of external static pressure (ESP) values. DOE compiled over 1,300 field ESP measurements from several studies that included furnace fans in single-family and mobile homes in different regions of the country. The average ESP value in the cooling operating mode from these studies results in an average 0.65 in. w.c. for single-family households and 0.30 in. w.c. for mobile homes.

Rheem stated that substitution of a BPM motor can increase the conditioned air that is leaked to the atmosphere. (Rheem, No. 83 at p. 13) However, the commenter provided no data to support its view on increased air leakage associated with BPM motors.

DOE agrees that if a BPM motor maintains flow in a high-resistance duct system that has leakage, it may lead to higher duct leakage compared to a PSC motor. However, in cases where the heating load can be met with low air flow, the BPM motor may have lower air leakage. Given that the magnitude of these effects is uncertain and may offset, DOE did not include it in its analysis. DOE notes that the constant-torque BPM motor, which meets the standards in today's final rule, may not maintain the flow in leaky and overly-restrictive ducts, and, thus, would be expected to have similar losses as a PSC motor.

NEEA stated that their field measurements of ESP for the past 40 years are consistent with DOE's analysis. (NEEA, No. 91 at p. 222) Daikin stated that, from experience over the past 30 plus years, mobile homes have higher external static pressure than the typical site-built home in the preponderance of cases. (Daikin, No. 91 at p. 222)

The data that DOE has seen (described in appendix 7B of the final rule TSD) do not indicate that mobile homes have higher external static pressure. Furthermore, the HUD static pressure criteria for mobile homes [31] are supportive of DOE's assumptions regarding ESP. Consequently, DOE has maintained its approach regarding ESP for this final rule.

DOE determined furnace fan operating hours in heating mode by calculating the furnace burner operating hours and adjusting them for delay times between burner and fan operation. Burner operating hours are a function of annual house heating load, furnace efficiency, and furnace input capacity.

For the NOPR, to estimate use of constant circulation in the sample homes, DOE evaluated the available studies, which include a 2010 survey in Minnesota [32] and a 2003 Wisconsin field monitoring of residential furnaces.[33] DOE did not use these data directly, however, because it believes they are not representative of consumer practices for the U.S. as a whole. In these northern States, many homes have low air infiltration, and there is a high awareness of indoor air quality issues, which could lead to significant use of constant circulation. To develop appropriate assumptions for other regions, DOE modified the data from these States using information from manufacturer product literature (which suggests very little use in humid climates) and consideration of climate conditions in other regions. For the NOPR, DOE used the same assumptions for use of constant circulation as were used in the proposed DOE test procedure for furnace fans. 77 FR 28674 (May 15, 2012). The average value that emerges is approximately 400 hours per year. The shares of homes using the various constant-circulation modes are presented in Table IV.10.

NEEA and NPCC commented that DOE's estimate of 400 hours per year of continuous-circulation mode may be overly conservative, and they disagree with stakeholders who suggest that 400 hours per year is too high. (NEEA, NPCC, No. 32 at p. 5)

For the final rule, DOE examined a newly-released proprietary survey that broadly evaluates the use of continuous circulation across the U.S.[34] This survey shows a higher number of continuous-circulation hours than DOE used for the NOPR. DOE has concerns about the representativeness of the data, however, because the survey only included homeowners who had been involved in the purchase of central HVAC equipment in the past two years. The practices of these consumers may not accurately portray the use of continuous circulation across the entire stock of homes with central HVAC equipment. Given the uncertainty regarding the survey data, DOE decided that it would not be appropriate to change the continuous-circulation hours for the final rule.

Southern Company stated that if DOE is assuming a greater percentage of variable speed fans in the future, the need for constant circulation will be reduced. (Southern Company, No. 91 at p. 233) DOE accounted for the reduced hours of operation during constant-circulation mode when variable speed motors are applied (see appendix 7–C). Variable speed fans tend to increase the operating hours in heating and cooling modes, which would result in a smaller fraction of time in continuous-fan mode.

[28] *See http://www.eia.gov/consumption/residential/data/2009/.*

[29] *See http://www.census.gov/housing/ahs/data/national.html.*

[30] *See http://www.census.gov/popest/.*

[31] HUD for Mobile Home with comfort cooling certificate −0.3 inches WC at cooling airflow setting [Title 24 of the HUD code PART 3280—Mobile Home Construction and Safety Standards, Part 3280.715(a)(3)(ll)].

[32] Provided in CEE, No. 22 at pp. 1–2.

[33] Pigg, S., ''Electricity Use by New Furnaces: A Wisconsin Field Study'' (October 2003) (Available at *http://www.ecw.org/sites/default/files/230-1.pdf*)

[34] Decision Analysts, 2013 American Home Comfort Study (2013) (Available at: *http://www.decisionanalyst.com/Syndicated/HomeComfort.dai*).

DOE also performed a sensitivity analysis to estimate the effect on the LCC results if it assumed half as much use of constant circulation. These results are discussed in section V.B.1 of this document.

TABLE IV.10—CONSTANT-CIRCULATION TEST PROCEDURE ASSUMPTIONS USED FOR FURNACE FANS STANDARDS ANALYSIS

Constant-circulation fan use	Assumed average number of hours	Estimated share of homes in north and south-hot dry regions (percent)	Estimated share of homes in south-hot humid region (percent)
No constant fan	0	84	97
Year-round	7290	7	1
During heating season	1097	2	0.4
During cooling season	541	2	0.4
Other (some constant fan)	365	5	1
Total		100	100

Morrison stated that not all the energy used in circulation is wasted heat because the energy consumed for circulation during the heating season is useful energy. Morrison recommended that for a more accurate analysis of energy use in circulation mode, DOE should split heating and cooling hours. (Morrison, No. 108 at p. 2) DOE adjusted its analysis so that heat generated by constant-circulation fan operation reduces furnace heating energy use in the heating season, and in the cooling season, it adds to the operating hours of the air conditioner.

In the NOPR, DOE recognized that the energy savings in cooling mode from higher-efficiency furnace fans used in some higher-efficiency CAC and heat pumps was already accounted for in the analysis related to the energy conservation standards for those products. To avoid double-counting, the analysis for furnace fans did not include furnace fan electricity savings that were counted in DOE's rulemaking for CAC and heat pump products.[35]

Several stakeholders stated that DOE may be double-counting energy savings in cooling mode in this rulemaking by accounting for the central air conditioner blower output used for calculating SEER. (JCI, No. 95 at pp. 4–5; Morrison, No. 108 at p. 2; AHRI, No. 98 at p.6; Goodman, No. 102 at p. 5) EEI stated that a large share of the estimated furnace fan energy savings are a result of the air conditioner and heat pump energy efficiency standards, so some or all of these estimated energy savings should be removed from the furnace fan analyses. (EEI, No. 87 at p. 5)

DOE's rulemaking analysis for CAC and heat pump products included savings from those households purchasing a CAC or heat pump at SEER 15 or above that would need to have a BPM motor-driven fan in the furnace to achieve that efficiency level. The base-case efficiency distribution of fans used in the current analysis includes the presence of those BPM motor-driven fans in homes with the higher-efficiency CAC or heat pumps. Because the energy savings from the considered fan efficiency levels are measured relative to the base-case efficiencies, any savings reported here for furnace fans are over and above those counted in the CAC and heat pump rulemaking.

Morrison stated that any reduction in energy use by the fan from this rulemaking would be a *de facto* improvement in SEER and an unlawful change to the current SEER regulations. It noted that if there is no change to SEER, then there will be no energy savings when operated in the cooling mode. (Morrison, No. 108 at p. 2)

A reduction in energy use by the furnace fan resulting from this rulemaking would improve the CAC operating efficiency (for homes with both furnace and CAC), but DOE is not increasing the energy conservation standard for CAC or requiring a change to the reported current SEER ratings for CAC. DOE has clear and explicit statutory authority to regulate furnace fans under 42 U.S.C. 6295(f)(4)(D), and any related improvements to CAC efficiency would simply be an added benefit.

Recognizing the possibility of consumers using higher-efficiency furnace fans more than baseline furnace fans, DOE included a rebound effect in its preliminary analysis. DOE used a 2009 program evaluation report from Wisconsin[36] to estimate the extent to which increased use of constant circulation under a standard requiring BPM furnace fans is likely to cancel out some of the savings from such a fan. The specific assumptions are described in chapter 7 of the final rule TSD.

Commenting on the average energy use estimates reported in the final rule TSD, EEI stated that the baseline energy use values seem to be overstated, because baseline values reported in the market and technology assessment are lower than what was used in following analyses. Consequently, the estimated energy savings and energy cost savings are overstated as well, because they are shown in the NOPR as percentage savings based on the design options. (EEI, No. 87 at pp. 4–5) Goodman believes that the calculated baseline values, and thus the projected energy savings, are too high based on product testing for the April 2013 test procedure SNOPR. (Goodman, No. 102 at p. 8)

The baseline values reported in the market and technology assessment are based on the test procedure. The energy use analysis is not based on test procedure conditions, but instead reflects actual usage in the field, which is more appropriate for estimating the impacts of higher furnace fan efficiency on consumers. Therefore, the estimated energy savings and energy cost savings are not overstated.

JCI and AHRI stated that DOE needs to ensure that it avoids double-counting energy consumption associated with standby mode, noting that there is no standby mode and off mode energy use associated with furnace fans that would

[35] U.S. Department of Energy—Energy Efficiency & Renewable Energy, Final Rule Technical Support Document: Energy Efficiency Standards for Consumer Products: Central Air Conditioners, Heat Pumps, and Furnaces (2011) (Available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2011-BT-STD-0011-0012*).

[36] State of Wisconsin, Public Service Commission of Wisconsin, Focus on Energy Evaluation Semiannual Report, Final (April 8, 2009) (Available at: *https://focusonenergy.com/sites/default/files/semiannualreport18monthcontractperiodfinalrevisedoctober192009_evaluationreport.pdf*).

not already be measured by the established test procedures, because they are integrated in the electrical systems of the HVAC products in which they are used. (JCI, No. 95 at p. 5; AHRI, No. 98 at p. 6)

The proposed furnace fan energy rating metric would not account for the electrical energy consumption in standby mode and off mode, because energy consumption in those modes is already accounted for in the energy conservation standards for residential furnaces and residential CAC and HP. Accordingly, DOE did not include standby mode and off mode energy use associated with furnace fans in the present analysis. Consequently, there should not be any problems associated with double-counting of standby mode and off mode energy consumption.

F. Life-Cycle Cost and Payback Period Analysis

In determining whether an energy conservation standard is economically justified, DOE considers the economic impact of potential standards on consumers. The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE uses the following two metrics to measure consumer impacts:

- *Life-cycle cost* (LCC) is the total consumer cost of an appliance or product, generally over the life of the appliance or product. The LCC calculation includes total installed cost (equipment manufacturer selling price, distribution chain markups, sales tax and installation cost), operating costs (energy, repair, and maintenance costs), equipment lifetime, and discount rate. Future operating costs are discounted to the time of purchase and summed over the lifetime of the product.
- *Payback period* (PBP) measures the amount of time it takes consumers to recover the assumed higher purchase price of a more energy-efficient product through reduced operating costs. Inputs to the payback period calculation include the installed cost to the consumer and first-year operating costs.

DOE analyzed the net effect of potential residential furnace fan standards on consumers by calculating the LCC and PBP for each efficiency level for each sample household. DOE performed the LCC and PBP analyses using a spreadsheet model combined with Crystal Ball (a commercially-available software program used to conduct stochastic analysis using Monte Carlo simulation and probability distributions) to account for uncertainty and variability among the input variables (*e.g.,* energy prices, installation costs, and repair and maintenance costs). It uses weighting factors to account for distributions of shipments to different building types and States to generate LCC savings by efficiency level. Each Monte Carlo simulation consists of 10,000 LCC and PBP calculations. The model performs each calculation using input values that are either sampled from probability distributions and household samples or characterized with single-point values. The analytical results include a distribution of points showing the range of LCC savings and PBPs for a given efficiency level relative to the base-case efficiency forecast. The results of DOE's LCC and PBP analysis are summarized in section IV.F and described in detail in chapter 8 of the final rule TSD.

1. Installed Cost

The installed cost at each efficiency level is based on the product price, distribution chain markups, sales tax, and installation cost.

The current product price comes from the engineering analysis. DOE believes that price trends for integral horsepower electric motors are a reasonable proxy for trends in prices of furnace fans, and for the NOPR DOE evaluated the historic real (*i.e.,* adjusted for inflation) producer price index (PPI) of such motors. DOE found that this index has been decreasing except for the last few years, when it started to increase (see appendix 10–C of the final rule TSD). Given the uncertainty about whether the recent trend will continue or instead revert to the historical mean, DOE elected to use constant prices at the most recent level as the default price assumption to project future prices of furnace fans. 78 FR 64068, 64096 (Oct. 25, 2013).

Morrison stated that motor prices have remained flat in the last decade because production of motors moved offshore and foreign competitors entered the marketplace. It stated that in the coming decades, motor prices will increase at the rate of long run prices for commodities (e.g. copper, steel, aluminum). (Morrison, No. 108 at p. 2) Goodman believes that it is incorrect to use constant prices at the most recent level of motor cost, which has shown a recent increasing trend, as the default price assumption to project future prices of furnace fans. (Goodman, No. 102 at p. 9)

DOE continues to believe that it is unclear whether the increasing trend in motor prices since 2004 will continue in the future. Part of the recent growth in prices of commodities used in motors was due to strong demand from China. Current projections envision slower growth in China, which would likely dampen commodity prices. Given the uncertainty, DOE continued to use constant prices at the most recent level as the default price assumption for the final rule. For the NIA, DOE also conducted sensitivity analysis using alternative price growth assumptions.

Because furnace fans are installed in furnaces in the factory, there is generally no additional installation cost at the home. However, furnace fans that employ a constant-airflow BPM design may require additional installation costs. DOE assumed that all constant-airflow BPM furnace fan installations will require extra labor at startup to check and adjust airflow.

Goodman stated that it is acceptable for relative product cost comparison to include costs only for the components of the HVAC product that impact FER in the manufacturing cost, but it disagrees with using the cost of only the furnace fan portion of the furnace in the LCC, GRIM, and other aspects of the financial analysis. The real upfront costs for the consumer will be significantly higher (likely two to four times more) than DOE has included in the analysis using only the furnace fan portion. (Goodman, No. 102 at p. 9) DOE believes that the commenter is claiming that the consumer will face higher costs when buying a furnace because the proposed furnace fan standards would require changes in furnace design. As discussed in section IV.B.1, DOE screened out fan housing and airflow path design modifications from further analysis. Accordingly, it is unlikely that significant changes in furnace design would be required to accommodate furnace fans that meet today's standards. Therefore, DOE concludes that using the incremental costs of the furnace fan portion is reasonable.

2. Operating Costs

To estimate the annual energy costs for operating furnace fans at different efficiency levels, DOE used the annual energy use results from the energy use analysis and projections of residential energy prices. DOE derived average monthly energy prices for a number of geographic areas in the United States using the latest data from EIA [37] and monthly energy price factors that it

[37] U.S. Department of Energy—Energy Information Administration, Form EIA–826 Database Monthly Electric Utility Sales and Revenue Data, 2013. *http://www.eia.doe.gov/cneaf/electricity/page/eia826.html*; U.S. Department of Energy—Energy Information Administration, Natural Gas Navigator. 2013. *http://tonto.eia.doe.gov/dnav/ng/ng_pri_sum_dcu_nus_m.htm.*

developed. Electricity and natural gas prices were adjusted using seasonal marginal price factors to come up with monthly marginal electricity and natural gas prices. DOE assigned an appropriate price to each household in the sample, depending on its location.

Laclede stated that using average utility rates leads to significantly overstating consumer savings. DOE should use marginal energy rates in its consumer energy savings calculations. (Laclede, No. 86 at p. 4) As described above, DOE did derive marginal electricity and natural gas prices based on recent data. (For a discussion of the development of marginal energy price factors, see appendix 8–C of the final rule TSD). To arrive at marginal prices in future years, DOE multiplied the current marginal prices by values in the Reference case projection of annual average residential electricity and natural gas price changes in EIA's *AEO 2013.* The price trends projected in the *AEO 2013* Reference case are shown in chapter 8 of the final rule TSD. For electricity prices, which are primarily of interest in this rulemaking, the *AEO 2013 projection* shows the average residential price growing from 0.119 $/kWh in 2020 to 0.122 $/kWh in 2030 and 0.131 $/kWh in 2040 (constant dollars).

To estimate annual maintenance costs, DOE derived labor hours and costs for annual maintenance from RS Means data.[38] The frequency with which the maintenance occurs was derived from a consumer survey [39] on the frequency with which owners of different types of furnaces perform maintenance.

For the NOPR, DOE used the same maintenance costs for furnace fans at different efficiency levels. 78 FR 64096. Goodman stated that it is invalid to assume that the maintenance costs for all efficiency levels are the same regardless of technology, as higher technology products will take a higher skill level of technician, and will require more costly equipment for service than baseline products. (Goodman, No. 102 at p. 9) Allied Air stated that in shifting from a primarily single-stage PSC market to multistage constant torque, the maintenance cost could be two to three times current costs. (Allied Air, No. 43 at pp. 252–253)

DOE understands that furnace fans require very little maintenance, and it did not find any evidence that there is any additional maintenance cost associated with higher efficiency equipment. It seems likely that the commenters are including repair costs under the term ''maintenance.'' DOE's treatment of repair costs is discussed below.

The most important element of repair costs for furnace fans is replacement of the fan motor. For the NOPR, to estimate rates of fan motor failure, DOE developed a distribution of fan motor lifetime (expressed in operating hours) by motor size using data developed for DOE's small electric motors final rule. 75 FR 10874 (March 9, 2010). DOE then paired these data with the calculated number of annual operating hours for each sample furnace, including constant circulation as appropriate. DOE did not have a firm basis for quantifying whether constant-torque BPM motors and constant-airflow BPM motors have different failure rates than PSC motors. Thus, it used the same motor lifetime for each fan efficiency level in terms of total operating hours (the lifetime in terms of years is lower for constant-torque BPM and constant-airflow BPM motors because they are more frequently used in multi-stage heating mode). 78 FR 64097.

Rheem stated that DOE did not justify the assumption that furnace fan motor lifetimes are equal to furnace lifetimes. (Rheem, No. 83 at p. 4) DOE modeled overall furnace fan lifetime based on furnace lifetimes (see discussion below), but it used the approach described above for furnace fan motor lifetime.

Morrison stated that multi-staged BPM assemblies will have longer operating times within a given period (to account for lower fire rates and heat output) and therefore, all else being equal, will have a shorter life expectancy. (Morrison, No. 108 at p. 5) DOE's approach is consistent with the comment; a multi-staged BPM motor has a shorter lifetime measured in years.

A number of stakeholders stated that failure rates are higher for BPM motors than for PSC motors, leading to shorter lifetime. Rheem stated that the PSC motor life, which it estimated to be 15 years, is much longer than the BPM motor life. (Rheem, No. 83 at pp. 2 and 13) Mortex stated that, based on their experience, BPM lifetime is half that of PSC motors. (Mortex, No. 104 at p. 2) Lennox estimated that constant-airflow BPM motors have failure rates that are 50% higher than PSC motors at 5 and 10 years, and furnaces with constant-torque BPM motors have failure rates that are 385% higher than PSC motors at 5 and 10 years. (Lennox, No. 100 at p. 8) Ingersoll Rand stated that its data indicate that BPM motors fail at 2.3 times the rate of PSC motors in the 5 to 10 year time frame. (Ingersoll Rand, No. 107 at pp. 6–7) AHRI stated that the failure rate for a high efficiency motor is typically higher than that of a PSC motor because the electronics added to a high efficiency motor introduce additional failure modes associated with the life of electronic controls in damp, very cold and very hot conditions. AHRI has collected data from manufacturers that show that the failure rates associated with constant-torque BPM and constant-airflow BPM technologies are higher than PSC motors over an extended time period. (AHRI, No. 98 at p. 7) Morrison and Ingersoll Rand cited recent data from an AHRI survey of manufacturers that indicate failure rates at 1, 5 and 10 years are 24%, 87% and 165% greater for BPM motors than PSC ones. (Morrison, No. 108 at p. 5, Ingersoll Rand, No. 107 at p. 6) JCI stated that, based on an analysis of JCI's residential warranty data, failure rates associated with constant-torque BPM and constant-airflow BPM technologies are significantly higher than those experienced by standard PSC motors due to the added electronic controls that are required as part of the BPM motor designs, which are more susceptible to failure due to power fluctuations and other factors. (JCI, No. 95 at p. 7) Ingersoll Rand stated that repair of the electronics is not possible for the constant-torque BPM motors available today, so an electronics failure will result in a complete motor replacement. (Ingersoll Rand, No. 107 at pp. 7–8)

In contrast, NEEA and NPCC believe that the NOPR analysis assumptions may unfairly penalize BPM motors, as the Department has insufficient data to properly estimate the frequency and nature of BPM motor repair. (NEEA, NPCC, No. 96 at p. 5)

DOE notes that BPM motors had higher level of failure in the late 1990s and early 2000s when the electronics technologies went through major renovations. The comments from furnace manufacturers may reflect this past experience. For example, the cited data from an AHRI survey of manufacturers would reflect BPM technology in the early 2000s. For the final rule, DOE searched for more information on the lifetime of BPM and PSC motors. This information (discussed in appendix 8–E) suggests that BPM and PSC motors have similar lifetimes, as BPM designs have improved over the years. While BPM motor designs could have additional failures due to the additional controls or

[38] RS Means Company Inc., Means Facilities Maintenance & Repair Cost Data. 2012. Kingston, MA.

[39] Decision Analysts, 2008 American Home Comfort Study: Online Database Tool, 2009. Arlington, Texas. *http://www.decisionanalyst.com/Syndicated/HomeComfort.dai.*

electronics, furnace fan motor manufacturers claim longer mechanical life for BPM designs due to better bearings and less heat generated by inefficiency. Between now and the compliance date, future BPM motor enhancements could further strengthen product reliability and reduce failures. In this analysis, DOE assumes higher failures for BPM designs due to longer operating hours (because of multi-stage operating at more hours and more constant circulation operation of BPM motors), as well as additional control failures. For example, DOE estimates that 43% for BPM constant torque multi-stage designs experience failure during the lifetime of the furnace, compared to 35% of PSC designs.

Recognizing that there exists some uncertainty regarding the lifetime of BPM motors, DOE conducted a sensitivity analysis using alternative assumptions, as requested in a comment by Mortex. (Mortex, No. 43 at pp. 264–265) This analysis is described in appendix 8–E of the final rule TSD.

For the NOPR, the replacement motor costs were based on costs developed in the engineering analysis for each motor type, and the labor time and unit costs were based on RS Means data.[40] 78 FR 64097. DOE included additional labor hours to repair constant-torque BPM and constant-airflow BPM motors, as well as higher equipment cost for the BPM motors. DOE assumed that when replacement is necessary, consumers replace the failed motor with the same type of motor.

A number of stakeholders stated that the replacement cost of BPM motors is higher than the cost DOE used in its analysis. (Morrison, No. 108 at p. 2; Goodman, No 102 at p. 8; APGA, No. 110 at p. 3) Mortex stated that DOE substantially underestimated BPM replacement costs, which in its experience are 2–3 times that of a PSC. (Mortex, No. 104 at p. 2) Ingersoll Rand stated that replacement costs are significantly underestimated for constant-torque BPM and constant-airflow BPM motors. It added that the difference between PSC motor replacement and constant-torque BPM motor replacement should be at least $225, and the PSC to constant-airflow BPM difference should be at least $295. (Ingersoll Rand, No. 107 at pp. 7–8) JCI stated that outside the warranty periods (typically 10 years for parts), ECM motors can cost 3 to 5 times the replacement costs of PSC motors due to the complexity of those motors and the electronic controls required to use them. (JCI, No. 95 at p. 6)

The replacement equipment cost of BPM and PSC motors used in DOE's LCC analysis is based on costs derived in the engineering analysis, which DOE believes are accurate. It is possible that the stakeholders believe that the higher BPM replacement costs are largely due to extra labor charges by contractors. DOE determined that for a constant torque BPM motor any such extra charges would be minimal. In the analysis for today's final rule, on average the replacement cost is $407 for a constant torque multi-stage BPM (EL 4) and $356 for the PSC design (EL 0).

Several stakeholders stated that the replacement cost of an aftermarket furnace fan is 2–3 times higher than DOE's estimated manufacturer production costs for low-volume product classes. They added that DOE's material cost estimate of $0.00 for furnace fan replacements is incorrect. (JCI, No. 95 at p. 6; Morrison, No. 108 at p. 5; AHRI, No. 98 at p. 8; Lennox, No. 100 at p. 8; Unico, No. 93 at p. 5)

DOE believes that the first comment above refers to a replacement motor. DOE applies markups to the motor MPC, such that the cost to the consumer is two to three times higher than the MPC. The material cost is listed as $0.00 in the cited tables because these tables refer to labor costs only (as stated in the table captions).

Ingersoll Rand stated that motors that fail in-warranty are not free, as standard product warranties in the HVAC industry cover parts only, and do not typically include labor charges, which the homeowner must pay. (Ingersoll Rand, No. 107 at p. 7) DOE excluded labor charges only if the consumer has a service contract or if the motor fails the first year (which is rare).

Southern Company stated that DOE unrealistically considered component failures as independent events rather than interdependent ones. It stated that in actual consumer settings, rather than a lab, it is likely that a capacitor failure will not be detected until it results in a motor failure. (Southern Company, No. 85 at p. 3) Undetected capacitor failure that leads to motor failure (as may occur for PSC motors) is reflected in DOE's distribution of motor lifetimes.

3. Furnace Fan Lifetime

DOE used the same modeling for furnace fan lifetime (meaning the life of the overall equipment not including the motor) as in the NOPR.78 FR 64097. Chapter 8 of the final rule TSD describes the approach. DOE used the same lifetime for furnace fans at different efficiency levels because there are no data that indicate variation of lifetime with efficiency. For the NOPR analysis, DOE assumed that the lifetime for the fans installed in electric furnaces and gas furnaces is the same.

Rheem stated that the lifetime of a residential furnace fan is limited by the lifetime of the electronic control, and advanced controls may shorten the lifetime of the product. (Rheem, No. 83 at pp. 6, 13) JCI stated that the repair costs for furnace fans are generally the cost of replacing the motors used, as there are very few failures of fan components other than the motor. (JCI, No. 95 at p. 6)

DOE believes that with current technology there are few failures of the electronic control, as stated by JCI. DOE also expects that the reliability of the electronic controls is likely to increase as the technology matures. Nonetheless, DOE accounts for failure of capacitors and motor electronic controls in its repair cost analysis.

APGA stated that 23.6 years lifetime for gas-fired furnace fans in the LCC analysis is unrealistic, and DOE should employ more realistic furnace fan lives based on documented motor lives. (APGA, No. 110 at p. 3) It would appear that APGA misinterpreted DOE's approach. Motor failure, which occurs on average at around 15 years, is counted as a repair cost. However, DOE believes that the rest of the furnace fan would last as long as the furnace itself.

Southern Company stated that because the analysis shows at least 50% greater shipments of furnace fans than furnaces, the data seems to indicate a shorter lifetime for furnace fans than furnaces. (Southern Company, No. 85 at p. 3) DOE did not calculate the shipments of furnace fans. Since furnace fans are a component of furnaces, the shipments in the NIA analysis are limited to furnace shipments only.

4. Discount Rates

For the NOPR, DOE used distributions of discount rates based on a variety of financial data. 78 FR 64097. For replacement furnaces, the average rate was 5.0 percent.

Miller stated that, based on a literature review of consumer discount rates for energy-using durables, the 3-percent and 7-percent discount rates used in the analysis only represent high-income households; other consumers may use much higher discount rates. Consumers with higher discount rates—including median-income Americans, low-income Americans, and the elderly—are much less likely to benefit from higher efficiency furnace fans. (Miller, No. 79 at pp. 10–13)

[40] RS Means Company Inc., *RS Means Residential Cost Data* (2012); RS Means Company Inc., *Facilities Maintenance & Repair Cost Data* (2012).

DOE uses 3-percent and 7-percent discount rates to measure net consumer benefits from energy efficiency standards from a national perspective (see section IV.H). DOE recognizes that a wide range of discount rates may be appropriate for consumers, and thus it uses distributions of discount rates when it evaluates consumer impacts in the LCC analysis. For the final rule, DOE developed specific distributions of discount rates for each of six consumer income groups. Chapter 8 of the final rule TSD describes the approach. The estimated impacts of today's standards on low-income households are discussed in section V.B.1.[41]

5. Compliance Date

In the NOPR, DOE proposed a 5-year compliance date for residential furnace fan standards. 78 FR 64103. A number of stakeholders encouraged DOE to adopt a three-year period between the final rule publication and the compliance date rather than the five years proposed in the NOPR. (ACEEE, No. 94 p. 6; NEEP, No. 109 at p. 2; Earthjustice, No. 101 at p. 3; CA IOU, No. 106 at p. 3; Joint Advocates, No. 105 at p. 4; NEEA, NPCC, No. 96 at p. 3) ACEEE, CA IOU, the Joint Advocates, and NEEA and NPCC stated that the technologies assumed to be required to meet TSL 4 are well-established in the market and commercially available. (ACEEE, No. 94 at p. 6; CA IOU, No. 106 at p. 3; Joint Advocates, No. 105 at p. 4; NEEA, NPCC, No. 96 at p. 3) NEEP stated that three years should provide adequate time for manufacturers to adjust product lines. (NEEP, No. 109 at p. 2) The Joint Advocates stated that constant-torque BPM motors are essentially drop-in replacements for PSC motors, and capital conversion costs are not required. (Joint Advocates, No. 105 at p. 4) NEEA and NPCC believe that three years of lead time should be sufficient to allow a ramping up of motor manufacturing capacity and a gradual shift of air handler manufacturing lines to incorporate them. The technology required to meet the TSL 4 standards requires little more than expansion of current production capacity for these models, which mostly means buying different furnace fan motors and the associated controls. (NEEA, NPCC, No. 96 at p. 3) Earthjustice stated that DOE must choose a compliance date based on an assessment that includes a consideration of factors beyond the impact on manufacturers. (Earthjustice, No. 101 at p. 3)

JCI, Morrison, AHRI, Lennox, and HARDI support the five-year period between the final rule publication and the compliance date as proposed in the NOPR. (JCI, No. 95 at p. 2; Morrison, No. 108 at p. 2; AHRI, No. 98 at p. 2; Lennox, No. 100 at p. 4; HARDI, No. 103 at p. 2) JCI, AHRI, and Lennox stated that to comply with the proposed standard, manufacturers would not only have to alter the designs and fabrication processes for the furnace fan assembly but also modify the broader product design of the furnaces, air handlers, modular blowers, and residential single package units that include those furnace fans. (JCI, No. 95 at p. 2; AHRI, No. 98 at p. 2; Lennox, No. 100 at pp. 4–5) AHRI stated that similar products that require similar actions for compliance typically have lead times of five years. (AHRI, No. 98 at p 2) Ingersoll Rand agrees with AHRI's comments. (Ingersoll Rand, No. 107 at p. 11)

DOE continues to believe a 5-year lead time is appropriate. Since EPCA does not mandate a specific lead time for furnace fan standards, DOE considered the actions required by manufacturers to comply with today's standards. As discussed in the NOPR, during manufacturer interviews, DOE found that standards would result in manufacturers' extending R&D beyond the furnace fan assembly to understand the impacts on the design and performance of the furnace or modular blower in which the furnace fan is integrated. 78 FR 64103. To comply with the standards, manufacturers may have to alter not only the designs and fabrication processes for the furnace fan assembly, but also for the furnace or modular blower into which the furnace fan is integrated. Similar products that require similar actions for compliance typically have lead times of five years. For these reasons, DOE selected a 5-year lead time, which would place the compliance date in 2019. For the purposes of the LCC and PBP analysis, DOE assumed that all relevant consumers purchase a furnace fan in 2019.

6. Base-Case Efficiency Distribution

To estimate the share of consumers that would be affected by an energy conservation standard at a particular efficiency level, DOE's LCC and PBP analysis considers the projected distribution (*i.e.,* market shares) of product efficiencies in the first compliance year under the base case (*i.e.,* the case without new or amended energy conservation standards).

For the NOPR, DOE reviewed the information provided by the manufacturers and estimated that the combined market share of constant-torque BPM fans and constant-airflow BPM fans will be 35 percent in 2019. The shares are 13 percent for constant-torque BPM fans and 22 percent for constant-airflow BPM fans. DOE estimated separate shares for replacement and new home applications.78 FR 64097.

The market shares of efficiency levels within the constant-torque BPM motor and constant-airflow BPM motor categories were derived from AHRI data on number of models.[42] No such data were available for the PSC fan efficiency levels, so DOE used the number of models it tested or could measure using product literature to estimate that 40 percent of shipments are at the baseline level and 60 percent are improved PSC fans. There are currently no models of PSC with a controls design, so DOE assumed zero market share for such units. *Id*

No comments were received on the base case efficiency distribution, and DOE retained the NOPR assumptions for the final rule. The details of DOE's approach are described in chapter 8 of the final rule TSD.

7. Payback Period

To calculate PBPs for the considered efficiency levels, DOE uses the same inputs as for LCC analysis, except that discount rates are not required.

Goodman stated that not including repair costs from later years in the PBP does not provide a realistic picture of what most consumers will face. It noted that while repair costs later in the product life cycle may allow the initial investment to balance out faster, the overall life-cycle costs can be very negatively impacted by such repairs. (Goodman, No 102 at p. 10)

DOE recognizes that the PBP metric does not provide a complete assessment of all costs that consumers may face, but it has found that the results are of interest in standards rulemakings. The LCC analysis does include all costs, and in part for this reason, DOE expresses the share of consumers who benefit

[41] The comment refers to high discount rates based on studies of implicit consumer discount rates using the purchase of energy-using durables (such as air conditioners, dishwashers, and refrigerators) to measure consumer time preferences. While these studies of implicit consumer discount rates provide a way of characterizing consumer behavior, they do not necessarily measure consumer time preferences. What appears to be low valuation of future energy cost savings from higher-efficiency appliances instead may be partially a result of lack of information on the magnitude of savings or inability to evaluate the available information.

[42] DOE used the AHRI Directory of Certified Furnace Equipment (Available at: *http://www.ahridirectory.org/ahridirectory/pages/home.aspx*) as well as manufacturer product literature.

from standards in terms of the change in LCC.

As discussed in section III.E.2, EPCA provides that a rebuttable presumption is established that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. (42 U.S.C. 6295(o)(2)(B)(i)) The calculation of this so-called rebuttable presumption payback period uses the same inputs as the calculation of the regular PBP for each sample household, but it uses average values instead of distributions, and the derivation of energy consumption and savings only uses the parameters specified by the proposed DOE test procedure for furnace fans rather than the method applied in the energy use analysis (described in section IV.E), which considers the characteristics of each sample household.

DOE's LCC and PBP analyses generate values that calculate the payback period for consumers of potential energy conservation standards, which includes, but is not limited to, the three-year payback period contemplated under the rebuttable presumption test discussed above. However, DOE routinely conducts a full economic analysis that considers the full range of impacts, including those to the consumer, manufacturer, Nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification).

G. Shipments Analysis

DOE uses forecasts of product shipments to calculate the national impacts of standards on energy use, NPV, and future manufacturer cash flows. DOE develops shipment projections based on historical data and an analysis of key market drivers for each product.

The vast majority of furnace fans are shipped installed in furnaces, so DOE estimated furnace fan shipments by projecting furnace shipments in three market segments: (1) Replacements; (2) new housing; and (3) new owners in buildings that did not previously have a central furnace.

To project furnace replacement shipments, DOE developed retirement functions for furnaces from the lifetime estimates and applied them to the existing products in the housing stock. The existing stock of products is tracked by vintage and developed from historical shipments data. The shipments analysis uses a distribution of furnace lifetimes to estimate furnace replacement shipments.

To project shipments to the new housing market, DOE utilized projected new housing construction and historic saturation rates of various furnace and cooling product types in new housing. For the final rule, DOE used *AEO 2013* for projections of new housing. Furnace saturation rates in new housing are provided by the U.S. Census Bureau's *Characteristics of New Housing*.[43]

DOE also included a small market segment consisting of households that become ''new owners'' of a gas furnace. This segment consists of households that have central air conditioning and non-central heating or central air conditioning and electric heating and choose to install a gas furnace.

Lennox stated that the shipment projections do not appear to be supported by the record or recent sales figures, as historical shipments data from AHRI for gas and oil warm air furnaces show a downward trend in shipments. (Lennox, No. 100 at pp. 6–7) AHRI stated that DOE's shipment projections are inaccurate and the projected numbers significantly skew the national energy savings estimates. (AHRI, No. 98 at pp. 4–5)

DOE's shipments projections are based on replacement of furnaces installed over the past few decades and furnaces installed in future new homes. Most of the recent downward trend in shipments is due to lower new construction in the wake of the financial crisis. DOE updated historical shipments with 2013 data, which shows a growth in gas furnace shipments. DOE also updated the new construction forecast based on *AEO 2013* projections, which reflect improving economic conditions and a future increase of the new construction market. In addition, the replacements reflect an updated furnace retirement function based on the latest furnace lifetime data. Oil furnace shipments are projected to continue to drop in the future.

JCI and AHRI stated that the projected shipments should account for an echo effect loss in replacement sales for the furnaces that were not sold in the years 2008–2012. (JCI, No. 95 at p. 10; AHRI, No. 98 at pp. 4–5) The projection for today's final rule shows a lower level of replacement shipments in the 2025–2030 period, which is a consequence (*i.e.,* an echo) of the decline in historical shipments in 2006–2009.

JCI believes that the shipment projections for furnaces are too optimistic. It noted that during the years prior to 2006, demand for large homes with multiple furnace systems was more common than it is today. (JCI, No. 95 at pp. 9–10) Mortex stated that forecasts of future shipments are unrealistically high because new homes are smaller and less likely to have two furnaces. (Mortex, No. 104 at p. 3) In DOE's final rule analysis, DOE assumed that new homes would not have multiple furnaces.

It is reasonable to expect that energy conservation standards for residential furnace fans that result in higher furnace prices would have some dampening effect on sales. Some consumers might choose to repair their existing furnace rather than purchase a new one, or perhaps install an alternative space heating product. To estimate the impact on shipments of the price increase for the considered efficiency levels, DOE used a relative price elasticity approach. This approach also gives some weight to the operating cost savings from higher-efficiency products.

Ingersoll Rand stated that the shipment projections do not account for a drop off in sales due to higher furnace prices that will result from using more expensive components. (Ingersoll Rand, No. 107 at p. 9) The comment is incorrect; the relative price elasticity approach does estimate the impact on shipments of the price increase for the considered efficiency levels for the NOPR and the final rule.

Several stakeholders raised issues with DOE's relative price elasticity approach. They stated that the household income data and data used to derive the elasticity are outdated and do not reflect current trends, and the household appliances used to derive the relative price elasticity (refrigerators, clothes washers and dishwashers) are inappropriate for this rulemaking. (JCI, No. 95 at p. 10; Morrison, No. 108 at p. 8; AHRI, No. 98 at pp. 12–13; Goodman, No. 102 at p. 13) Rheem expressed similar concerns. (Rheem, No. 83 at p. 12)

In response, DOE notes that there are very few estimates of consumer demand elasticity for durable goods. Although the data that DOE used to estimate relative price elasticity are not current, and the analysis focused on products that differ from furnaces, DOE believes that consumer behavior with respect to the impact of higher appliance price on

[43] Available at: *http://www.census.gov/construction/chars/*.

demand is not likely to have changed significantly. One recent paper suggests that demand elasticity for air conditioners is inelastic—holding efficiency constant, a 10% rise in price leads to a 1.4% decline in sales.[44] This is a lower elasticity than DOE uses in its analysis. Therefore, DOE believes that it is reasonable to use the relative price elasticity approach for today's final rule. See chapter 9 in the final rule TSD for a description of the method.

Mortex stated that a big increase in the installed cost of a new furnace under the proposed energy conservation standards will lead many consumers to repair rather than replace with a new furnace. (Mortex, No. 104 at p. 3) In terms of the overall cost of a new furnace, the increase attributable to using a more energy-efficient furnace fan is relatively small—less than 10 percent—for fans meeting today's standards. In any case, the price elasticity approach described above captures the potential consumer response to higher furnace prices, which often would consist of choosing to repair an existing furnace rather than replace it with a new furnace.

AGA urged the Department to include a robust fuel switching analysis, including the competing economics of natural gas furnaces versus both electric furnaces and heat pumps. (AGA, No. 110 at p. 3) There is a possibility that for some consumers considering replacement of a non-condensing gas furnace, the higher price of a gas furnace due to today's standards could lead to some switching to heat pumps. However, this switching would only occur if the CAC is replaced at the same time as the furnace. Furthermore, switching to a heat pump would require additional cost to install backup electric resistance heating elements. Based on the above considerations, DOE believes that any switching to heat pumps due to today's standards would be minimal. The standards would not create any incentive to switch to electric furnaces because electric furnaces are subject to the furnace fan standard and would see a similar incremental cost as a gas furnace.

H. National Impact Analysis

The NIA assesses the NES and the NPV from a national perspective of total consumer costs and savings expected to result from new or amended energy conservation standards at specific efficiency levels. DOE determined the NPV and NES for the potential standard levels considered for the furnace fan product classes analyzed. To make the analysis more accessible and transparent to all interested parties, DOE prepared a computer spreadsheet that uses typical values (as opposed to probability distributions) as inputs. To assess the effect of input uncertainty on NES and NPV results, DOE has developed its spreadsheet model to conduct sensitivity analyses by running scenarios on specific input variables.

Analyzing impacts of potential energy conservation standards for residential furnace fans requires comparing projections of U.S. energy consumption with new or amended energy conservation standards against projections of energy consumption without the standards. The forecasts include projections of annual appliance shipments, the annual energy consumption of new appliances, and the purchase price of new appliances.

A key component of DOE's NIA analysis is the energy efficiencies projected over time for the base case (without new standards) and each of the standards cases. The projected efficiencies represent the annual shipment-weighted energy efficiency of the products under consideration during the shipments projection period (*i.e.,* from the assumed compliance date of a new standard to 30 years after compliance is required).

For the NOPR, DOE reviewed the information provided by the manufacturers and modified its estimate of the long-run trend in market shares of constant-torque BPM and constant-airflow BPM motor furnace fans. The NOPR analysis assumes a long-run trend that results in market share of the constant-torque BPM and constant-airflow BPM furnace fans reaching 45 percent in 2048. 78 FR 64099. No comments were received on this issue and DOE retained the same approach for the final rule.

For the NOPR, DOE used a roll-up scenario for estimating the impacts of the potential energy conservation standards for residential furnace fans. Under the roll-up scenario, DOE assumes: (1) Products with efficiencies in the base case that do not meet the standard level under consideration would roll up to meet the new standard level; and (2) products with efficiencies above the standard level under consideration would not be affected. *Id.*

Rheem stated that DOE's assumption that the sale of premium products above the standard level will be unaffected is unreasonable. (Rheem, No. 83 at p. 3) DOE acknowledges that the market shares of fans with efficiency levels above a given standard level could change after compliance with the new standards is required. Estimating how manufacturers will respond to new standards with regard to their marketing strategy for ''above-standard'' products is very difficult, however. Rather than speculate, DOE believes that it is preferable to retain a roll-up scenario for today's final rule.

For the standards cases, the assumed efficiency trend after the compliance year varies depending on the particular standard. For the case with today's standards, the overall BPM motor market share goes to 100 percent in 2019 and remains at that level. The shares of the specific BPM motor designs (i.e., constant-torque BPM, constant-torque BPM motor + multi-stage, constant-airflow BPM motor + multi-stage, and constant-airflow BPM motor + multi-stage + backward-inclined impeller) remain at the levels of 2019. The details are provided in chapter 10 of the final rule TSD.

1. National Energy Savings Analysis

The national energy savings analysis involves a comparison of national energy consumption of the considered products in each potential standards case (TSL) with consumption in the base case with no new or amended energy conservation standards. DOE calculated the national energy consumption by multiplying the number of units (stock) of each product (by vintage or age) by the unit energy consumption (also by vintage). Vintage represents the age of the product. DOE calculated annual NES based on the difference in national energy consumption for the base case (without new efficiency standards) and for each higher efficiency standard. DOE estimated energy consumption and savings based on site energy and converted the electricity consumption and savings to primary energy. Cumulative energy savings are the sum of the NES for each year over the timeframe of the analysis.

DOE calculates primary energy savings (power plant consumption) from site electricity savings by applying a factor to account for losses associated with the generation, transmission, and distribution of electricity. For the NOPR, DOE derived marginal site-to-power plant factors based on the version of the National Energy Modeling System (NEMS) that corresponds to *AEO 2012.* 78 FR 64099. The factors change over time in response to projected changes in the types of power plants projected to provide electricity to the country.

[44] David Rapson. Durable Goods and Long-Run Electricity Demand: Evidence from Air Conditioner Purchase Behavior. Department of Economics, University of California, Davis. Available at: *www.econ.ucdavis.edu/faculty/dsrapson/Rapson_LR_electricity.pdf.*

Commenting on DOE's approach, AGA stated that it is highly unlikely and unrealistic that all of the projected changes in types of power plant used to generate electricity in this country will occur between 2019 and 2021 and that essentially no change will occur from 2031 through 2048. AGA stated that realistic trend lines to 2048 including a linear forecast of declining site-to-power plant energy use should be provided. (AGA, No. 110 at p. 3)

For the final rule, DOE derived site-to-power plant factors based on the version of NEMS that corresponds to *AEO 2013*. As shown in Figure 10.3.1 in the final rule TSD, the factor (expressed as primary energy per site kWh) declines through 2030 as more efficient power plants gain share in power generation. After 2035, there is an increase due to lower projected share of highly-efficient combined-cycle power plants. DOE acknowledges that projections after 2035 are uncertain, but it believes that NEMS provides a reasonable projection.

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). After evaluating the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in the **Federal Register** in which DOE explained its determination that NEMS is the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (August 17, 2012). The approach used for today's final rule is described in appendix 10–C of the final rule TSD.

JCI and AHRI stated that, for cooling mode, the NIA spreadsheet model does not indicate how DOE used the average annual electricity use values from the energy use analysis to determine national energy savings. (JCI, No. 95 at pp. 4–5; AHRI, No. 98 at p. 6) In the NIA spreadsheet, the LCC Inputs worksheet shows how the average annual electricity use values are used over the analysis period.

Several stakeholders questioned the accuracy of the doubling in FFC energy savings from TSL 3 to TSL 4 from an incremental efficiency level improvement of 8 percent for five of the product classes from adding the multi-staging option. (JCI, No. 95 at p 4; EEI, No. 91 at pp. 307, 309; Morrison, No. 108 at p. 4; AHRI, No. 98 at pp. 4–5; Lennox, No. 100 at p. 2; Ingersoll Rand, No. 107 at p. 9) Similarly, AHRI stated that if the effect of multi-staging was indeed prominent enough to nearly double the estimated FFC energy savings between TSLs 3 and 4, DOE should have evaluated this effect for PSC motors as well. (AHRI, No. 98 at p. 5) Morrison stated that for non-weatherized gas furnace fans, it is inconsistent that TSL 4 could produce a very large increase in FFC energy savings over TSL 3 while TSL 2 and 3 have the same national energy savings; compared to the difference in energy use between TSL 2 and TSL 3, TSL 4 has a much lower incremental average electricity savings and higher additional fuel use compared to TSL 3. (Morrison, No. 108 at p. 4)

For the final rule, DOE incorporated new test data on the fan efficiency levels that were included in TSL 3 (constant torque BPM motors) and TSL 4 (constant torque BPM motors (multi-stage)). These data contributed to a decrease in efficiency for TSL 4 (see section IV.C.1) With this change, the increase in savings from TSL 3 to TSL 4 is now smaller than in the NOPR. The NIA results are presented in section V.B.3.

Several stakeholders stated that it is implausible that the furnace fan standard will save about as much energy as the 2006 13 SEER rulemaking (76 FR 7185) or the 2013/2015 90% AFUE furnace and 14 SEER rulemaking (76 FR 37412). (AHRI, No. 98 at p. 6; Ingersoll Rand, No. 107 at p. 9; Lennox, No. 100 at p. 2; Goodman, No. 102 at p. 6) Ingersoll Rand stated that the energy savings from the proposed rule claim to be greater than savings from the 13 SEER rule, but the energy savings of a furnace switching from a PSC motor to a constant torque BPM is nearly an order of magnitude less than the energy use of the furnace or heat pump. (Ingersoll Rand, No. 107 at p. 9)

DOE reviewed the methodology used to assess the energy savings estimated for the proposed standards, as discussed in previous parts of this notice, and believes that the energy savings estimated for the considered TSLs are reasonable. Comparison with other rules must be done with caution, as the savings in those rules depends on both the stringency of the standards and the base case that was chosen in the analysis. The fact that the energy savings of a furnace switching from a PSC motor to a constant torque BPM is much less than the energy use of the furnace or heat pump is not relevant to the energy savings associated with standards for furnaces or heat pumps.

2. Net Present Value Analysis

The inputs for determining NPV are: (1) Total annual installed cost; (2) total annual savings in operating costs; (3) a discount factor to calculate the present value of costs and savings; (4) present value of costs; and (5) present value of savings. DOE calculated net savings each year as the difference between the base case and each standards case in terms of total savings in operating costs versus total increases in installed costs. DOE calculated savings over the lifetime of products shipped in the forecast period. DOE calculated NPV as the difference between the present value of operating cost savings and the present value of total installed costs. DOE used a discount factor based on real discount rates of 3 and 7 percent to discount future costs and savings to present values.

For the NPV analysis, DOE calculates increases in total installed costs as the difference in total installed cost between the base case and standards case (*i.e.,* once the standards take effect).

DOE assumed no change in residential furnace fan prices over the 2019–2048 period. In addition, DOE conducted a sensitivity analysis using alternative price trends, specifically one in which prices decline over time, and another in which prices rise. These price trends are described in appendix 10–C of the final rule TSD.

DOE expresses savings in operating costs as decreases associated with the lower energy consumption of products bought in the standards case compared to the base efficiency case. Total savings in operating costs are the product of savings per unit and the number of units of each vintage that survive in a given year.

DOE estimates the NPV of consumer benefits using both a 3-percent and a 7-percent real discount rate. DOE uses these discount rates in accordance with guidance provided by the Office of Management and Budget (OMB) to Federal agencies on the development of regulatory analysis.[45] The NPV results for the residential furnace fan TSLs are presented in section V.B.3 of this document.

I. Consumer Subgroup Analysis

A consumer subgroup comprises a subset of the population that may be affected disproportionately by new or revised energy conservation standards (*e.g.,* low-income consumers, seniors).

[45] OMB Circular A–4 (Sept. 17, 2003), section E, ''Identifying and Measuring Benefits and Costs.''

The purpose of a consumer subgroup analysis is to determine the extent of any such disproportional impacts.

For today's final rule, DOE evaluated impacts of potential standards on two subgroups: (1) Senior-only households and (2) low-income households. DOE identified these households in the RECS sample and used the LCC spreadsheet model to estimate the impacts of the considered efficiency levels on these subgroups. The consumer subgroup results for the residential furnace fan TSLs are presented in section V.B.1 of this document.

J. Manufacturer Impact Analysis

1. Overview

DOE performed an MIA to estimate the financial impact of new energy conservation standards on manufacturers of residential furnace fans and to calculate the potential 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 industry net present value (INPV). Different sets of assumptions (markup scenarios) will produce different results. The qualitative part of the MIA addresses factors such as product characteristics, impacts on particular subgroups of firms, and important market and product trends. The complete MIA is outlined in chapter 12 of the final rule TSD.

For this rulemaking, DOE considers the ''furnace fan industry'' to consist of manufacturers who assemble furnace fans as a component of the HVAC products addressed in this rulemaking.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE prepared a profile of the residential furnace fans 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,[46] corporate annual reports, the U.S. Census Bureau's Economic Census,[47] and Hoover's reports.[48]

In Phase 2 of the MIA, DOE prepared an industry cash-flow analysis to quantify the potential impacts of a new energy conservation standard. In general, energy conservation standards can affect manufacturer cash flow in three distinct ways: (1) Create a need for increased investment; (2) raise production costs per unit; and (3) alter revenue due to higher per-unit prices and 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. Section IV.J.4 of the NOPR contains a description of the key issues manufacturers raised during the interviews. 78 FR 64068, 64104–05 (Oct. 25, 2013).

Additionally, in Phase 3, DOE evaluated subgroups of manufacturers that may be disproportionately impacted by new 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 (*i.e.,* small manufacturers) for a separate impact analysis.

DOE applied the small business size standards published by the Small Business Administration (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 (Sept. 5, 2000) and codified at 13 CFR part 121. To be categorized as a small business under North American Industry Classification System (NAICS) code 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing,'' a residential furnace fan 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 15 residential furnace fan manufacturers that qualify as small businesses. The residential furnace fan small manufacturer subgroup is discussed in chapter 12 of the final rule TSD and in section V.B.2.d of this document.

2. Government Regulatory Impact Model

DOE uses the GRIM to quantify the changes in cash flow due to new 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. The GRIM model changes in costs, distribution of shipments, investments, and manufacturer margins that could result from new energy conservation standards. The GRIM spreadsheet uses the inputs to arrive at a series of annual cash flows, beginning in 2014 and continuing to 2048. DOE calculated INPVs by summing the stream of annual discounted cash flows during this period. For residential furnace fan manufacturers, DOE used a real discount rate of 7.8 percent, which was derived from industry financials and then modified according to feedback received during manufacturer interviews.

The GRIM calculates cash flows using standard accounting principles and compares changes in INPV between a base case and each standards case. The difference in INPV between the base case and a standards case represents the financial impact of the new energy conservation standard on manufacturers. As discussed previously, DOE collected this 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, the discount rate, and other financial parameters 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 typically more costly than baseline components. The changes in the MPCs of the analyzed products can affect the revenues, gross

[46] U.S. Securities and Exchange Commission, Annual 10–K Reports (Various Years) (Available at: *http://sec.gov*).

[47] U.S. Census Bureau, Annual Survey of Manufacturers: General Statistics: Statistics for Industry Groups and Industries (Available at: *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t*).

[48] Hoovers Inc. Company Profiles (Various Companies) (Available at: *http://www.hoovers.com*).

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.C and further detailed in chapter 5 of the final rule TSD. In addition, DOE used information from its teardown analysis, described in chapter 5 of the TSD, to disaggregate the MPCs into material, labor, and overhead costs. To calculate the MPCs for equipment above the baseline, DOE added the incremental material, labor, and overhead costs from the engineering cost-efficiency curves to the baseline MPCs. These cost breakdowns and product markups were validated and revised with manufacturers during manufacturer interviews.

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 2014 (the base year) to 2048 (the end year of the analysis period). See chapter 9 of the final rule TSD for additional details.

Product and Capital Conversion Costs

New energy conservation standards would cause manufacturers to incur one-time conversion costs to bring their production facilities and product designs into compliance. DOE evaluated the level of conversion-related expenditures that would be needed to comply with each considered efficiency level in each product class. 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 one-time investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with the new energy conservation standard. Capital conversion costs are one-time investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new product designs can be fabricated and assembled.

To evaluate the level of capital conversion expenditures manufacturers would likely incur to comply with new energy conservation standards, DOE used manufacturer interviews to gather data on the anticipated level of capital investment that would be required at each efficiency level. DOE validated manufacturer comments through estimates of capital expenditure requirements derived from the product teardown analysis and engineering analysis described in chapter 5 of the TSD.

DOE assessed the product conversion costs at each considered efficiency level by integrating data from quantitative and qualitative sources. DOE considered market-share-weighted 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.

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 the new standard. The investment figures used in the GRIM can be found in section IV.J.2 of this notice. For additional information on the estimated product and capital conversion costs, see chapter 12 of the final rule TSD.

b. Government Regulatory Impact Model Scenarios

Shipment Scenarios

In the NIA, DOE modeled shipments with a roll-up scenario to represent possible standards-case efficiency distributions for the years beginning 2019 (the year that compliance with new standards would be required) through 2048 (the end of the analysis period). The roll-up scenario represents the case in which all shipments in the base case that do not meet the new standard would roll up to meet the new standard level, with the efficiency of products already at the new standard level remaining unchanged. Consumers in the base case who purchase products above the standard level are not affected as they are assumed to continue to purchase the same product in the standards case. See chapter 9 of the final rule TSD for more information.

Markup Scenarios

As discussed above, MSPs include direct manufacturing production costs (*i.e.,* labor, materials, 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 non-production cost markups to the MPCs estimated in the engineering analysis for each product class and efficiency level. 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 new energy conservation standards: (1) A preservation of gross margin percentage markup scenario; and (2) a preservation of per unit 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, which assumes that manufacturers would be able to maintain the same amount of profit as a percentage of revenues at all efficiency levels within a product class. 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 residential furnace fans 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 the following for each residential furnace fan product class:

TABLE IV.11—MANUFACTURER MARKUP BY RESIDENTIAL FURNACE FAN PRODUCT CLASS

Product class	Markup
Non-Weatherized, Non-Condensing Gas Furnace Fan (NWG–NC)	1.30
Non-Weatherized, Condensing Gas Furnace Fan (NWG–C)	1.31
Weatherized, Non-condensing Gas Furnace Fan (WG–NC)	1.27
Non-Weatherized, Non-condensing Oil Furnace Fan (NWO–NC)	1.35
Electric Furnace/Modular Blower Fan (EF/MB)	1.19

TABLE IV.11—MANUFACTURER MARKUP BY RESIDENTIAL FURNACE FAN PRODUCT CLASS—Continued

Product class	Markup
Mobile Home Non-Weatherized, Non-condensing Gas Furnace Fan (MH–NWG–NC)	1.25
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan (MH–NWG–C)	1.25
Mobile Home Electric Furnace/Modular Blower Fan (MH–EF/MB)	1.15

Because this markup scenario assumes that manufacturers would be able to maintain their gross margin percentage markups as production costs increase in response to a new energy conservation standard, it represents a high bound to industry profitability.

In the preservation of per unit operating profit scenario, manufacturer markups are set so that operating profit one year after the compliance date of the new energy conservation standard is the same as in the base case on a per unit basis. Under this scenario, as the costs of production increase under a standards case, manufacturers are generally required to reduce their markups to a level that maintains base-case operating profit per unit. The implicit assumption behind this markup scenario is that the industry can only maintain its operating profit in absolute dollars per unit after compliance with the new 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 as in the base case. This markup scenario represents a low bound to industry profitability under a new energy conservation standard.

3. Discussion of Comments

During the NOPR public meeting, interested parties commented on the assumptions and results of the NOPR analysis TSD. Oral and written comments addressed several topics, including conversion costs, cumulative regulatory burdens, scope of MIA coverage, markups analysis, employment impacts, consumer utility impacts, and impacts on small businesses.

a. Conversion Costs

Several manufacturers expressed concern regarding the DOE's estimates of the capital and product conversion costs, including costs relating to testing and certification.

Regarding capital conversion costs associated with a furnace fans standard, Goodman commented that DOE's estimate of zero capital conversion costs at TSL 4 does not properly reflect feedback from manufacturer interviews. (Goodman, No. 102 at p. 10) AHRI stated that the technology option associated with TSL 4 would necessitate changes in manufacturers' assembly and subassembly production lines, including the modification and/or elimination of current fan housings, heat exchanger types, and furnace cabinet sizes, at a cost of $103 million for the industry. (AHRI, No. 98 at p. 10) Johnson Controls commented that compliance with the proposed standard would likely require them to make a capital investment ranging from $2.8 million to $4 million. (JCI, No. 95 at p. 2)

In the engineering analysis, most of the technology options being considered require only a change in the type of motor used. At the NOPR stage, DOE tentatively concluded that TSLs 1 through 5 would not require manufacturers to incur capital expenditures for new tooling or equipment. However, in response to the above-mentioned public comments received during the NOPR period, DOE has revised its methodology for estimating capital conversion costs at all TSLs for the final rule. DOE incorporated all capital conversion cost values submitted by manufacturers during the course of MIA interviews and used a product listing weighted-average of feedback (based on basic model listings in the AHRI directory) to determine conversion costs for the industry. As a result, capital conversion costs were revised upward at all TSLs, as shown in Table IV.12.

TABLE IV.12—FINAL RULE CAPITAL CONVERSION COSTS (CCC)

	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Total Industry CCCs ($ millions)	8.8	11.1	11.8	15.1	15.7	134.7

DOE notes that the conversion costs submitted by AHRI and Johnson Controls are generally consistent with DOE's estimates of conversion costs at TSL 6 in the final rule. However, without a more detailed breakdown of the conversion costs by TSL from those stakeholders, it was not feasible for DOE to determine the discrepancies in capital conversion cost values or to incorporate their feedback into the GRIM model.

With regards to product conversion costs, including costs associated with compliance, certification, and enforcement (CC&E), both Trane and Johnson Controls provided their own estimates in support of the notion that there will be significant testing burden associated with standards compliance. (Trane, No. 107 at pp. 2, 6, and JCI, No. 95 at p. 8) Goodman also stated that investments in additional testing equipment may be required in order to keep pace with current and future testing requirements. (Goodman, No. 102 at p. 11) AHRI and multiple manufacturers commented that the performance standard associated with TSL 4 would require total industry product conversion costs of $6.2 million. (AHRI, No. 98 at p. 10)

DOE acknowledges manufacturers' concerns regarding product conversion cost estimates, including those relating to testing and certification. Similar to the capital conversion cost analysis, DOE refined its final rule modeling of product conversion costs to better reflect information received during manufacturer interviews. DOE used a product listing weighted-average (based on basic model listings in the AHRI directory) to extrapolate individual manufacturer feedback to an industry value for each efficiency level and for each product class. Additionally, for the final rule, DOE explicitly incorporated certification costs into the product conversion cost estimates used in the GRIM. These certification costs occur in the base case and apply in the standards cases. DOE modeled testing and certification costs under the assumption

that larger manufacturers have would conduct all FER testing in-house, while small manufacturers would outsource all certification testing. DOE assumed a cost of $175 per test per basic model for large manufacturers (derived from the test procedure estimate of a maximum of 4 hours per test) (79 FR 500 (Jan. 3, 2014)) and a cost of $2,000 per test per basic model for small manufacturers (77 FR 28674 (May 15, 2012)). See Table IV.13 and Table IV.14 below for a summary of testing and certification cost calculations and overall product conversion costs. Conversion costs are discussed in detail in section V.B.2.a of today's document and in chapter 12 of the final rule TSD.

TABLE IV.13—TESTING AND CERTIFICATION COSTS

	Value
General assumptions:	
[a] Number of FER tests required per Basic Model	2
[b] Total Industry Number of Basic Models [1]	2,254
[c] Number of Basic Models for Large Manufacturers	1,943
[d] Number of Basic Models for Small Manufacturers	311
Large manufacturer assumptions:	
[e] Labor rate ($/hr) [2]	43.73
[f] Time required per test (hours) [3]	4
Small manufacturer assumptions:	
[g] Cost per FER test (outsource) ($) [4] =	$2,000
[h] FER costs per model for Large Manufacturer ($) = [a]*[e]*[f]	$350
[i] FER costs per model for Small Manufacturer ($) = [a]*[g]	$4,000
Total Industry FER costs ($ millions) = [h]*[c] + [i]*[d]	$1.9
Total Industry FER costs rescaled to account for EF/MB and MH–EF/MB product classes ($ millions) [5]	$2.2

[1] AHRI Directory: Residential Furnaces.
[2] Bureau of Labor Statistics, 2012 mean hourly wage for all engineers.
[3] 2012–05–15 Test Procedures for Residential Furnace Fans; Notice of proposed rulemaking, section IV, part B.
[4] 2012–05–15 Test Procedures for Residential Furnace Fans; Notice of proposed rulemaking, section IV, part B.
[5] The AHRI residential furnaces database does not contain electric furnaces/modular blowers. In order to account for CC&E costs relates to these products (standard and MH), DOE rescaled the $1.9 value by 12%, which is the estimated proportion of shipments for these two categories combined. $2.2 is the value used in the GRIM.

TABLE IV.14—PRODUCT CONVERSION COSTS

	Baseline	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Total Number of Basic Models [1]	2,254	.....	.....	.....	.....	.....	.....
Average Testing and Certification Costs + R&D Costs per Basic Model ($)	853	8,449	10,577	11,356	11,434	12,157	13,182
Total Industry PCCs ($ millions)	2.2	18.8	23.6	25.3	25.5	27.1	29.4

[1] AHRI Directory: Residential Furnaces.

b. Cumulative Regulatory Burden

Interested parties expressed concern over the cumulative regulatory burden that would result from a residential furnace fan energy conservation standard. AHRI, Morrison, and Lennox commented that DOE did not account for the cumulative impacts of additional DOE regulations, including energy conservation standards or potential standards for commercial and industrial fans and blowers, commercial package air conditioners and heat pumps, and commercial warm air furnaces. The three stakeholders also asserted that DOE did not address testing burdens associated with the recently finalized test procedures for two-stage and modulating condensing furnaces and boilers, and potential updates to test procedures for residential furnaces and boilers. (AHRI, No. 98 at p. 8–9; Morrison, No. 108 at p. 6; Lennox, No. 100 at p. 8) Rheem argued that DOE failed to address cumulative burdens relating to regulations for water heaters, boilers, pool heaters, and commercial refrigeration equipment. (Rheem, No. 83 at p. 14)

DOE notes that the energy conservation standard rulemakings for commercial and industrial fans and blowers, commercial package air conditioners and heat pumps, commercial warm air furnaces, water heaters, residential boilers, commercial boilers, and pool heaters are all regulation currently in progress. No standards have been proposed, and no final regulations have been issued for these rulemakings. It is DOE's policy not to include the impacts of regulatory proposals until the analyses are complete and the standards are finalized. Until such rulemaking is complete, it is unclear what, if any, requirements will be adopted for the products in question. Consequently, it would be speculative to try to include incomplete regulatory actions in an assessment of cumulative regulatory burden. With regard to the test procedure final rule for residential furnaces and boilers published on July 10, 2013, the changes have a compliance date of January 6, 2014. 78 FR 41265. Because the regulation goes into effect before 2016, it is outside of the 3-year window set for consideration in the cumulative regulatory burden analysis. With regard to the commercial refrigeration equipment (CRE) energy conservation standard rulemaking, at the time of the residential furnace fan rulemaking NOPR publication, the final rule for CRE standards had not yet been published. The final rule for CRE standards was published on March 28, 2014 and is now included in the final rule cumulative regulatory burden review in section V.B.2.e. 79 FR 17725.

Johnson Controls commented that DOE should consider the cumulative impacts of State or local weatherization programs that may be restrictive on HVAC equipment selections, as well as building code standards at State, national, and international levels. In addition, JCI believes DOE should include the impact of commercial product energy efficiency standards,

alternate refrigeration requirements, and modifications to existing or the generation of new building performance standards, such as ASHRAE standards. (JCI, No. 95 at p. 7).

DOE considers cumulative regulatory burden pursuant to the directions in the Process Rule (10 CFR part 430, subpart C, appendix A). DOE notes that States and localities are generally preempted from requiring HVAC standards beyond the Federal minimum through building codes or other regulatory requirements. Once finalized, Federal commercial energy efficiency standards, alternative refrigeration requirements, and ASHRAE 90.1 standards that go into effect within 3 years of the effective date of today's standard are considered in the cumulative regulatory burden analysis.

AHRI and Morrison commented that DOE failed to provide quantitative estimates of the incremental burden imposed by the additional DOE standards impacting furnace fan manufacturers. As a result, both parties do not feel that such impacts were adequately reflected in the GRIM. (AHRI, No. 98 at p. 9, and Morrison, No. 108 at p. 7).

In the final rule cumulative regulatory burden section, DOE has provided an explicit review of the conversion costs associated with DOE energy conservation standards that impact the manufacturers covered under the residential furnace fan rulemaking. For more information, please see section V.B.2.e of this document.

c. Scope of MIA Coverage

AHRI and Rheem commented that impacts on motor manufacturers should be included in the manufacturing impact analysis. (AHRI, No. 43 at p. 151, and Rheem, No. 83 at p. 6)

DOE's manufacturer impact analysis focuses on the manufacturers that have the direct burden of complying with the energy conservation standard. In this rulemaking, the manufacturer of the residential furnace has the burden of certifying and labeling the furnace fan performance. Motors manufacturers are a component supplier but do not have a direct compliance burden associated with this rule.

d. Markups Analysis

AHRI provided comments relating to both markup scenarios used in the GRIM. With regards to the preservation of gross margin percentage markup scenario, AHRI commented that it is unreasonable for DOE to assume that, as manufacturer production costs increase in response to an energy conservation standard, manufacturers would be able to maintain the same gross margin percentage markup as the base case. (AHRI, No. 98 at p. 10) AHRI continued by commenting that the preservation of operating profit scenario is also inaccurate since it implies that manufacturer markups are set so that operating profit one year after the compliance date of the new energy conservation standards is the same as in the base case. AHRI believes that the one year time period is an extremely optimistic assumption and that a five-year time period would be a more realistic average for the industry. (AHRI, No. 98 at p. 10)

DOE intends for the preservation of gross margin percentage and preservation of per-unit operating profit markup scenarios to represent the upper and lower bounds for the performance of the industry as a result of new standards. The preservation of gross margin percentage scenario assumes that manufacturers are able to pass on all increases in MPC that result from standards to their first customers. Additionally, the scenario assumes manufacturers are able to maintain the existing markup on the incremental manufacturer production costs that result from the standard, thereby allowing manufacturers to recover portions of their conversion cost investments. The preservation of per-unit operating profit scenario assumes that manufacturers are not able to generate greater operating profit per unit sold in the standards case. Additionally, the scenario assumes that manufacturers are not able to recover any of their conversion cost investments. By applying these two scenarios, DOE models examine the range of potential industry impacts that reflect manufacturers' varying ability to pass costs on to customers and recover conversion costs. The scenario described by AHRI appears to relate to manufacturers' ability to recover conversion costs, which is likely not possible by one year following the standard year. However, the preservation of operating profit per-unit markup scenario assumes only that manufacturers will maintain the same annual operating profit as in the base case in the year after the standards go into effect. DOE believes that manufacturers' annual operating profit will be relatively constant in the years following the standard, and, accordingly, the choice between a one-year and five-year time horizon for this scenario is arbitrary.

e. Employment Impacts

AHRI and EEI commented that it is unrealistic to assume there would be no reductions in domestic production employment at TSLs 1 through 5. This is because labor costs will increase with higher design options, and, subsequently, manufacturers will try to compensate by reducing labor. (AHRI, No. 98 at p. 10 and EEI, No. 43 at p. 349) Additionally, AHRI commented that subsection 12.7.1 in the NOPR TSD accounts for line-supervisors as production workers who contribute towards the manufacture of furnace fans, but should also account for engineers and managers in supervisory roles who may not be involved in the day-to-day assembly line operations. (AHRI, No. 98 at p. 11)

At the NOPR stage, DOE's employment analysis only provided an upper bound to employment changes. These upper bound impacts were directly correlated to changes in shipments and changes in per-unit labor inputs. For the final rule, DOE uses the same employment model to determine the upper bound of employment impacts. At the lower bound, DOE models the scenario in which all production moves to lower production cost countries. In reference to AHRI's second comment, DOE does account for non-production workers in the GRIM and presents these results along with revised estimates of domestic production employment in chapter 12 of the final rule TSD.

f. Consumer Utility

Morrison commented in support of DOE's previously-stated concern relating to the use of multiple rating systems on a given product. Morrison emphasized that this would indeed lead to consumer confusion. (Morrison, No. 108 at p. 2)

DOE understands manufacturer concern relating to multiple ratings. However, DOE is required by legislation to set a separate standard and an associated metric for the covered product, furnace fans.

g. Small Businesses

In reference to the Regulatory Flexibility Analysis contained in the NOPR, Mortex expressed concern that DOE significantly underestimated capital and product conversion costs. According to Mortex, even at the underestimated level, the calculated impact to small businesses (conversion costs of 5.1 percent of annual revenues) would be highly detrimental. (Mortex, No. 104 at pp. 2–3)

DOE has revised its analysis of conversion costs for the final rule. The increase in conversion costs is reflected in the Final Regulatory Flexibility Analysis (FRFA), in section VI.B of this notice. To help portray the magnitude of

the conversion costs relative to the size of the average small business, the conversion costs (which are invested over a five-year period) are compared to the financial metric of a single year's operation.

K. Emissions Analysis

In the emissions analysis, DOE estimated the reduction in power sector emissions of carbon dioxide (CO_2), nitrogen oxides (NO_X), sulfur dioxide (SO_2), and mercury (Hg) from potential energy conservation standards for the considered products (here, furnace fans). In addition to estimating impacts of standards on power sector emissions, DOE estimated 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 51281 (August 18, 2011) as amended at 77 FR 49701 (August 17, 2012)), this FFC analysis also includes impacts on emissions of methane (CH_4) and nitrous oxide (N_2O), both of which are recognized as greenhouse gases.

DOE primarily conducted the emissions analysis using emissions factors for CO_2 and most of the other gases derived from data in *AEO 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 each ton of the greenhouse gas by the gas's global warming potential (GWP) over a 100-year time horizon. Based on the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,[49] 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 (DC). SO_2 emissions from 28 eastern States and DC were also limited under the Clean Air Interstate Rule (CAIR; 70 FR 25162 (May 12, 2005)), which created an allowance-based trading program. 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.[50] 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 (August 8, 2011). On August 21, 2012, the DC Circuit issued a decision to vacate CSAPR.[51] 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 in 2015, however, SO_2 emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants. 77 FR 9304 (Feb. 16, 2012). In the final MATS rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (HAP), and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions will be reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. *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 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 reduction using emissions factors based on *AEO 2013,* which incorporates the MATS.

JCI and EEI stated that DOE did not consider the impact of the EPA rulemakings on new and existing power plants, which likely will materially affect the projections of CO_2 emissions reductions on which the DOE's SCC benefit calculations are based. (JCI, No. 95 at p. 10–11; EEI, No. 87 at p. 9) Consistent with past practice, DOE has

[49] 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.

[50] 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).

[51] 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).

concluded that it would not be appropriate for its analysis to assume implementation of regulations that are not in effect at this time. The shape of any final EPA regulations is uncertain, as is the outcome of potential legal challenges to those regulations.

EEI stated that, to be consistent with other rulemakings, DOE should use modeling that calculates no emissions reductions as a result of efficiency standards where such emissions are capped by State, regional, or Federal regulations. In particular, DOE should eliminate any estimated CO_2 reductions in California and in the Northeastern/Mid-Atlantic states that participate in the Regional Greenhouse Gas Initiative (RGGI). (EEI, No. 87 at p. 10) Morrison stated that different agencies simultaneously addressing similar sources of CO_2 emissions should not double-count emissions reductions. (Morrison, No. 108 at p. 10)

As stated above, DOE based its emissions analysis on *AEO 2013,* which represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of December 31, 2012. *AEO 2013* accounts for the implementation of regional and State air emissions regulations, including those cited by EEI.[52] Its analysis also considers the impact of caps set by Federal regulations, as discussed above. Consequently, the emissions reductions estimated to result from today's standards are over and above any reductions attributable to other State, regional, or Federal regulations.

EEI stated that DOE's analysis significantly overestimates the future emissions from power plants, as coal-fired power plants are being retired and large amounts of wind and solar capacity are being added. It stated that due to these factors, along with EPA regulations, there will be a significant reduction in the baseline emissions from power plants and a reduced emissions impact from any efficiency standard. (EEI, No. 87 at p. 9)

DOE bases its emissions analysis on the latest projections from the *AEO,* which consider retirement of coal-fired power plants, addition of wind and solar capacity, and current EPA regulations. Decline in baseline emissions from power plants does not mean that there would be reduced impact from any efficiency standard, however. The impact of standards on electricity demand takes place at the margin, and DOE's analysis endeavors to reflect this marginal impact.

EEI stated that it is not clear how or why the power plant emissions factors would increase for any regulated emission (SO_2, NO_X, Hg, and CO_2) after 2025 or 2030, based on current trends and Federal and State regulations. (EEI, No. 87 at p. 10) DOE agrees that average power plant emissions factors for the Nation as a whole would likely not increase after 2025 or 2030. DOE's analysis uses marginal emissions factors, however, which depend on changes to the mix of generation capacity by fuel type induced by a marginal reduction in electricity demand for a particular end use (*e.g.,* residential heating). The behavior of marginal emissions factors can be significantly different from the behavior of average emissions factors. Marginal emissions factors are very sensitive to shifts in the capacity mix relative to the *AEO* reference case, whereas average emissions factors are not affected by these small shifts.

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 consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of equipment shipped in the forecast period for each TSL. This section summarizes the basis for the monetary values used for each of these emissions and presents the values considered in this 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.

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[53] 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.

[52] See Assumptions to *AEO 2013* (Available at: *http://www.eia.gov/forecasts/aeo/assumptions/*).

[53] National Research Council. *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use* (2009) National Academies Press: Washington, DC.

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.

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.

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 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,[54] although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table IV.15 presents the values in the 2010 interagency group report,[55] which is reproduced in appendix 14A of the DOE final rule TSD.

TABLE IV.15—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[2007$ per metric ton CO_2]

Year	Discount rate			
	5%	3%	2.5%	3%
	Average	Average	Average	95th percentile
2010	4.7	21.4	35.1	64.9
2015	5.7	23.8	38.4	72.8
2020	6.8	26.3	41.7	80.7
2025	8.2	29.6	45.9	90.4
2030	9.7	32.8	50.0	100.0
2035	11.2	36.0	54.2	109.7
2040	12.7	39.2	58.4	119.3
2045	14.2	42.1	61.7	127.8
2050	15.7	44.9	65.0	136.2

[54] 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.

[55] *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) (Available at: *www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf*).

The SCC values used for today's notice were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[56]

Table IV.16 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.16—ANNUAL SCC VALUES FROM 2013 INTERAGENCY REPORT, 2010–2050

[2007$ per metric ton CO_2]

Year	Discount rate			
	5%	3%	2.5%	3%
	Average	Average	Average	95th percentile
2010	11	32	51	89
2015	11	37	57	109
2020	12	43	64	128
2025	14	47	69	143
2030	16	52	75	159
2035	19	56	80	175
2040	21	61	86	191
2045	24	66	92	206
2050	26	71	97	220

It is important to recognize that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable because they will evolve with improved scientific and economic understanding. 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 analytical challenges that are being addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC. The interagency group intends to periodically review and reconsider those estimates to reflect increasing knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions, DOE used the values from the 2013 interagency report adjusted to 2013$ using the GDP price deflator. For each of the four sets of SCC values, the values for emissions in 2015 were $12.0, $40.5, $62.4, and $119 per metric ton avoided (values expressed in 2013$). DOE derived values after 2050 using the relevant growth rates for the 2040–2050 period in the interagency update.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SCC value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

In responding to the NOPR, many commenters questioned the scientific and economic basis of the SCC values.

A number of stakeholders stated that DOE should not use SCC values to establish monetary figures for emissions reductions until the SCC undergoes a more rigorous notice, review, and comment process. (Morrison, No. 108 at p. 9; JCI, No. 95 at p. 10; AHRI, No. 98 at pp. 12–13; The Associations, No. 99 at p. 2; NAM, No. 84 at p. 1–2; Cato Institute, No. 81 at p. 2) Ingersoll Rand agrees with AHRI's comments. (Ingersoll Rand, No. 107 at p. 11) Rheem stated that the Federal Interagency Working Group has failed to disclose and quantify key uncertainties to inform decision makers and the public about the effects and uncertainties of alternative regulatory actions, as required by OMB. (Rheem, No. 83 at p. 9) NAM stated that the SCC estimates were developed without sufficient transparency, inadequate supporting information related to assumptions and other data, and a failure to peer-review critical model inputs. (NAM, No. 84 at pp. 1–2) Morrison stated that the SCC estimates are the product of an opaque process and that any pretensions to their supposed accuracy are unsupportable. (Morrison, No. 108 at p. 9) JCI stated that the SCC has not been adequately noticed and reviewed before being used in this NOPR or any other rulemaking. JCI added that it is aware that the SCC process is undergoing a current review and comment process, which has the potential for significant changes in how those SCC calculations are used in any rulemakings. (JCI, No. 95 at p. 10) Rheem stated that even if the SCC estimate development process were transparent, rigorous, and peer-reviewed, the modeling conducted in this effort does not offer a reasonably acceptable range of accuracy for use in policymaking. (Rheem, No. 83 at p. 9)

In conducting the interagency process that developed the SCC values, 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. Key uncertainties and model differences transparently and consistently inform the range of SCC estimates. These uncertainties and model differences are discussed in the interagency working group's reports, which are reproduced in appendix 14A and 14B of the final rule TSD, as are the major assumptions. The 2010 SCC

[56] *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) (Available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf*).

values have been used in a number of Federal rulemakings in which the public had opportunity to comment. In November 2013, the OMB announced a new opportunity for public comment on the TSD underlying the revised SCC estimates. See 78 FR 70586 (Nov. 26, 2013). 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 members of the interagency working group on further review and revision of the SCC estimates as appropriate.

NAM stated that in using the SCC estimates, DOE fails to adhere to its own guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by the DOE. (NAM, No. 84 at pp. 1–2) DOE has sought to ensure that the data and research used to support its policy decisions—including the SCC values—are of high scientific and technical quality and objectivity, as called for by the Secretarial Policy Statement on Scientific Integrity.[57] See section VI.J for DOE's evaluation of today's final rule and supporting analyses under the DOE and OMB information quality guidelines.

Rheem stated that the modeling systems used for the SCC estimates and the subsequent analyses were not subject to peer review as appropriate. (Rheem, No. 83 at p. 9) The Cato Institute stated that the determination of the SCC is discordant with the best scientific literature on the equilibrium climate sensitivity and the fertilization effect of carbon dioxide—two critically important parameters for establishing the net externality of carbon dioxide emissions. (Cato Institute, No. 81 at p. 2)

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 final rule TSD). The revised estimates that were issued in November 2013 are based on the best available scientific information on the impacts of climate change. The issue of equilibrium climate sensitivity is addressed in section 14A.4 of appendix 14A in the final rule TSD. The EPA, in collaboration with other Federal agencies, continues to investigate potential improvements to the way in which economic damages associated with changes in CO_2 emissions are quantified.

Morrison stated that the CO_2 emissions reductions benefits are overestimated, because the SCC values do not account for any prior changes that impact the baseline emissions trends in previous years. According to the commenter, DOE fails to take into consideration EPA regulations of greenhouse gas emissions from power plants, which would affect the SCC values. (Morrison, No. 108 at p. 10)

The SCC values are based on projections of global GHG emissions over many decades. Such projections are influenced by many factors, particularly economic growth rates and prices of different energy sources. In the context of these projections, the proposed EPA regulations of greenhouse gas emissions from new power plants are a minor factor. In any case, it would not be appropriate for DOE to account for regulations that are not currently in effect, because whether such regulations will be adopted and their final form are matters of speculation at this time.

Miller stated that the Department appears to violate the directive in OMB Circular A–4, which states: ''The analysis should focus on benefits and costs that accrue to citizens and residents of the United States. Where the agency chooses to evaluate a regulation that is likely to have effects beyond the borders of the United States, these effects should be reported separately.'' Miller stated that instead of focusing on domestic benefits and separately reporting any international effects, the Department focused on much-larger global benefits in the text of the proposed rule and separately reported the (much smaller) domestic effects in a chapter of the TSD. (Miller, No. 79 at pp. 6–7) Similarly, Rheem stated that by presenting only global SCC estimates and downplaying domestic SCC estimates in 2013, the IWG has severely limited the utility of the SCC for use in benefit-cost analysis and policymaking. (Rheem, No. 83 at p. 9) Mercatus stated that OMB guidelines specifically require that benefit-cost analysis of Federal regulations be reported for domestic estimates, with global estimates being optional. Mercatus argued that by using the global estimate at a three-percent discount rate, DOE inflated the benefits of reducing carbon emissions by almost double compared to using a domestic SCC at five percent. (Mercatus, No. 82 at pp. 7–8) EEI stated that the use of global SCC values, which are estimates that are based on many global assumptions and are subject to a great deal of uncertainty, may be important in assessing the overall costs and benefits of particular regulations, but using these values in the context of setting energy conservation standards is problematic, as the geographic and temporal scales of the LCC and SCC values are very different. (EEI, No. 87 at p. 10–11)

Although the relevant analyses address both domestic and global impacts, the interagency group has determined that it is appropriate to focus on 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 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 final rule TSD.

NAM stated that under DOE's analysis, the cost-benefit results and the proposed rule are legally sufficient without the inclusion of the SCC estimate. (NAM, No. 84 at p. 3) In contrast, JCI stated that the monetary value of the CO_2 emissions reduction plays a significant role in DOE's justification to set the TSL 4 levels as the national standards. (JCI, No. 95 at p. 10)

DOE disagrees with NAM's assessment, which suggests that consideration of the SCC in the context of this rulemaking is somehow unnecessary or unimportant. When selecting a proposed standard level or adopting a final standard level, DOE considers and carefully weighs all relevant factors. Thus, the monetary value of the CO_2 emissions reduction did play a role in DOE's decision to propose TSL 4 (and to adopt TSL 4 in today's notice), as appropriate. DOE has determined that today's standards are expected to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified, with or without consideration of the economic benefits associated with reduced CO_2 emissions.

Morrison stated that DOE does not conduct the cost-benefit analysis for NPV and SCC values over the same time frame and within the same scope, an important principle of cost-benefit analysis. (Morrison, No. 108 at p. 9)

For the analysis of national impacts of standards, DOE considers 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

[57] See *https://www.directives.doe.gov/directives-documents/0411.2-APolicy.*

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.

M. Utility Impact Analysis

The utility impact analysis estimates several effects on the power generation industry that would result from the adoption of new or amended energy conservation standards. In the utility impact analysis, DOE analyzes the changes in electric installed capacity and generation that result for each trial standard level. The utility impact analysis uses a variant of NEMS, which is a public domain, multi-sectored, partial equilibrium model of the U.S. energy sector. DOE uses a variant of this model, referred to as NEMS–BT,[58] to account for selected utility impacts of new or amended energy conservation standards. DOE's analysis consists of a comparison between model results for the most recent *AEO* Reference Case and for cases in which energy use is decremented to reflect the impact of potential standards. The energy savings inputs associated with each TSL come from the NIA. Chapter 15 of the final rule TSD describes the utility impact analysis in further detail.

EEI stated that it is not possible under most operational scenarios to increase electric capacity and decrease the amount of electric generation, as is indicated by DOE's analysis. (EEI, No. 87 at p. 8) In response, it would appear that the commenter has misinterpreted Table 15.3.1 in the NOPR TSD. The figure shows the capacity reduction as a positive value; it is not an increase as it might appear at first glance.

EEI stated that it is ironic that DOE is showing that an estimated reduction of renewable power plants provides an economic benefit to the United States. (EEI, No. 87 at p. 9) DOE reports the projected changes in the installed capacity of different types of power plants resulting from potential standards. Since the change in demand occurs at the margin, it is not surprising that plant types with relatively high first cost (such as solar and wind power) would be affected by standards. When assessing the energy savings associated with energy conservation standards, DOE does not claim that any particular changes in installed capacity of different types of power plants provide an economic benefit to the Nation relative to other types of power plant facilities.

EEI stated that the analysis appears to ignore the impacts of renewable portfolio standards in 29 States and the District of Columbia (as well as the renewable power goals in 8 other States). (EEI, No. 87 at p. 9) DOE disagrees with EEI's assertion regarding DOE's consideration of renewable portfolio standards. In the utility impact analysis, DOE used the projections of electricity generation by plant type in *AEO 2013.* These projections account for the estimated impacts of all renewable portfolio standards that were in place at the end of 2012.

Several stakeholders stated that DOE did not adequately consider power quality issues, specifically that DOE did not account for the effect of such a large number of non-linear power supplies (constant-torque BPM motors and multi-staging controls) without power factor correction on the grid. Several of them stated that the non-linear loads produced by constant-torque and constant-airflow BPM motors tend to cause harmonic distortions in both voltage and current, and could potentially cause voltage control problems within a power grid system. (JCI, No. 95 at p. 9; Morrison, No. 108 at p. 7; AHRI, No. 98 at p. 11) JCI stated that the Electric Power Research Institute suggests that while harmonic emissions from a single system may not have a major impact on the grid, the cumulative impact of millions of furnaces could be significant on the grid systems within the U.S. (JCI, No. 95 at p. 9) Southern Company stated that the BPM motors considered in this rulemaking typically have poor power factors and emit strong 3rd and 5th order harmonics, which is likely to cause problems with utility systems at a future date when most of the older equipment has been retired and replaced by BPM motors. (Southern Company, No. 85 at p. 4) JCI, Morrison, and AHRI stated that the mitigation costs associated with harmonic distortions would have a significant impact on consumers, especially related to failure rates, maintenance and repair costs, and the overall economic analysis for life-cycle costs. (JCI, No. 95 at p. 9; Morrison, No. 108 at p. 7; AHRI, No. 98 at p. 11) Southern Company stated that, for furnace fans with BPM motors, DOE could assume a percentage of households would require wiring upgrades and some additional costs to either the utility or the homeowner for filtering of harmonics or power factor correction. (Southern Company, No. 85 at p. 4) APGA stated that DOE should include the cost of installation of harmonic filters in the LCC analysis and recalculate the economic justification of design options incorporating ECM motors. (APGA, No. 110 at p. 3)

Regarding these comments, DOE notes that a number of studies assume that output from BPM motors is constant at full load at time of use, similar to operation of PSC motors. However, BPM motors are specifically designed to accommodate reduced-load operation, and, therefore, most of the time, they will operate at part load (*i.e.,* at lower speeds and higher efficiency). The current of a BPM motor at lower-speed operation is significantly lower than a PSC motor at normal operation; therefore, total current contribution will not exceed the existing system grid capacity. In addition, the harmonic contribution is a small part of total circuit loading, at the lower current levels. For example, motor performance data from GE[59] shows an increase in power of 133 volt-amperes (VA) from a ⅓ HP PSC to BPM at full output. On average, 5 to 20 residential customers are served per distribution transformer, which are normally rated between 15 and 50 kVA.[60] [61] An increase of this current would result in an increase in loading less than 3 percent at the extreme case. (The extreme case is all HVAC at full load concurrently, served by the same distribution transformer.) The transformers are normally rated approximately 30 percent to 50 percent above predicted peak load.[62] In this case, the increased current draw (VA) would have negligible impact. Measured

[58] DOE/EIA approves use of the name NEMS to describe only an official version of the model without any modification to code or data. Because this analysis entails some minor code modifications and the model is run under various policy scenarios that are variations on DOE/EIA assumptions, DOE refers to it by the name ''NEMS–BT'' (''BT'' is DOE's Building Technologies Program, under whose aegis this work has been performed).

[59] GE Industrial Systems, GE ECM 2.3 Series motors datasheet (Available at: *http://www.columbiaheating.com/page_images/file/GET-8068.pdf*).

[60] Farmer, C., Hines, P., Dowds, J., Blumsack, S., *Modeling the Impact of Increasing PHEV Loads on the Distribution Infrastructure,* Proceedings of the 43rd International Conference on System Sciences (2010).

[61] NEMA. NEMA TP 1–2002: Guide for Determining Energy Efficiency for Distribution Transformers.

[62] NEMA Standards Publication TP 1–2002: Guide for Determining Energy Efficiency for Distribution Transformers (Available at: *https://www.nema.org/Standards/Pages/Guide-for-Determining-Energy-Efficiency-for-Distribution-Transformers.aspx?#download*).

performance data[63] show a decrease in current drawn for cooling functionality (152 VA) and an increase for heating functionality (32 VA) from PSC to equivalent BPM, confirming the small BPM loading impact. In addition, an evaluation of increased penetration of BPM motors in commercial buildings was presented at the ASHRAE 6 ECM Motor Workshop at the CEC, which reviewed California Utility Codes with regards to the BPM-specific issue.[64] It was stated in this study that while the power factor could be reduced to 50 percent, a BPM motor will have a lower current draw than a PSC motor at 100 percent power factor due to efficiency gains.

Regarding the EPRI study[65] referenced in the JCI comment, DOE noticed that the power factor impacts are associated with several types of loads becoming common in the modern household: Low power factor lighting, modern entertainment systems, and electric vehicle chargers, as well as HVAC with BPM motors. This reference indicates that the power quality issues caused by the BPM motors are a small contributor to the total harmonic distortion experienced at the utility level compared to all contributing loads. The study indicated that for devices with an existing 3rd harmonic resonance, the contribution of all new devices would require filtering; however, this correction is not attributed to the high penetration of EC motors alone. The BPM's third harmonic distortion contributed a 1.5-percent current increase to the circuit. The study showed the overall impact on the 3rd, 5th, 7th order and included in total harmonic distortion (THD) was within 0.1 percent of the original harmonic profile applied to the studied feeder. In summary, the impact of introducing BPM motors for HVAC under a high penetration scenario on a residential line was negligible.

With regards to household power quality, furnaces have a minimum basic electrical requirement for THD of 5 percent, and individual harmonic distortion of 3 percent.[66] [67] Furnaces supplied with voltages with harmonic distortion greater than 8 percent THD may not be operated.[68] The EPRI study, which simulates a harmonic spectrum of a large number of BPM-based HVAC, shows that the BPM-related harmonic distortions are within the 5 percent THD limit, and within the 3 percent individual harmonic limit. Therefore, DOE concludes the BPM-related harmonic distortions would not cause the problems cited by the commenters.

In addition to the analysis described above, DOE used NEMS–BT, along with EIA data on the capital cost of various power plant types, to estimate the reduction in national expenditures for electricity generating capacity due to potential residential furnace fan standards. The method used and the results are described in chapter 15 of the final rule TSD.

N. Employment Impact Analysis

Employment impacts from new or amended energy conservation standards include direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the products subject to standards; the MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more-efficient appliances. Indirect employment impacts from standards consist of the jobs created or eliminated in the national economy due to: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased consumer spending on the purchase of new products; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy.[69] There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment may increase because of shifts in economic activity resulting from energy conservation standards for residential furnace fans.

For the standard levels considered in today's document, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies version 3.1.1 (ImSET).[70] ImSET is a special-purpose version of the ''U.S. Benchmark National Input-Output'' (I–O) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among the 187 sectors. ImSET's national economic I–O structure is based on a 2002 U.S. benchmark table, specially aggregated to the 187 sectors most relevant to industrial, commercial, and residential building energy use. DOE notes that ImSET is not a general equilibrium forecasting model, and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET

[63] Gusdorf, J., M. Swinton, C. Simpson, E. Enchev, S. Hayden, D. Furdas, and B. Castellan, *Saving Electricity and Reducing GHG Emissions with ECM Furnace Motors: Results from the CCHT and Projections to Various Houses and Locations* (2004) ACEEE Proceedings (Available at: *http://aceee.org/files/proceedings/2004/data/papers/SS04_Panel1_Paper12.pdf*).

[64] Taylor Engineering LLC, *ASHRAE 6 ECM Motors, August 17th CEC Workshop* (2011) California Statewide Utility Code and Standard Program (Available at: *http://www.energy.ca.gov/title24/2013standards/prerulemaking/documents/2011-08-17_workshop/presentations/08%20EC%20Motors.pdf*).

[65] Sharma, H. M. Rylander, and D. Dorr, *Grid Impacts due to Increased Penetration of Newer Harmonic Sources,* Proceedings of IEEE Rural Electric Power Conference (April 2013) pp. B5–1—B5–5 (Available at: *http://ieeexplore.ieee.org/stamp/stamp.jsp?tp=&arnumber=6681854*).

[66] IEEE Standard 519–1992—IEEE Recommended Practices and Requirements for Harmonic Control in Electric Power Systems (April 9 1993) pp. 1–112 (Available at: *http://ieeexplore.ieee.org/stamp/stamp.jsp?tp=&arnumber=210894*).

[67] Fluke Corporation, *Generator power quality and furnaces: The effects of harmonic distortion* (2009) (Available at: *http://support.fluke.com/find-sales/Download/Asset/3497420_6112_ENG_A_W.PDF*).

[68] *Id.*

[69] *See* Bureau of Economic Analysis, ''Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II),'' U.S. Department of Commerce (1992).

[70] J. M. Roop, M. J. Scott, and R. W. Schultz, *ImSET 3.1: Impact of Sector Energy Technologies,* PNNL–18412, Pacific Northwest National Laboratory (2009) (Available at: *www.pnl.gov/main/publications/external/technical_reports/PNNL-18412.pdf*).

may over-estimate actual job impacts over the long run. For the final rule, DOE used ImSET only to estimate short-term (2019 and 2024) employment impacts.

For more details on the employment impact analysis, see chapter 16 of the final rule TSD.

O. Comments on Proposed Standards

NEEP, CA IOUs, and the Joint Advocates support the selection of DOE's proposed trial standard level, given the limited impact on furnace fan manufacturers, positive benefits to consumers, and substantial energy savings. (NEEP, No. 109 at p. 2; CA IOUs, No. 106 at p. 2; Joint Advocates, No. 105 at p. 1)

A number of stakeholders disagreed with the proposed selection of TSL 4. Rheem argued that TSL 4 is not economically justified. (Rheem, No. 83 at p. 7) Lennox stated that because TSL 4 likely has costs that are understated, and overly optimistic efficiency projections, DOE should not pursue TSL 4, and instead adopt standards based on a less-stringent, less-costly technology. (Lennox, No. 100 at p. 2) EEI suggested the adoption of TSL 1 or TSL 2 to conserve energy, minimize economic harm to consumers, and minimize the possible negative impacts on the electric grid from the motors that would be able to meet the proposed standard. (EEI, No. 87 at p. 2)

DOE has addressed specific issues regarding costs, efficiency projections, and possible negative impacts on the electric grid in previous parts of section IV of this document. DOE addresses the economic justification for today's standards in section V.C of this document.

Southern Company believes that under TSL 4, too large a proportion of consumers have net costs. Southern Company would prefer that a substantial majority of consumers derive benefits from a proposed rule. (Southern Company, No. 85 at p. 3) EEI also stated that a much higher percentages of consumers will experience a net cost than is the case with many other DOE energy conservation standards. (EEI, No. 87 at p. 2) The Mercatus Center stated that the proposed rule will confer net benefits on a majority of the consumers for only one product class (*i.e.,* non-weatherized, non-condensing gas furnace fans). It added that the aggregate financial benefits to consumers are not spread uniformly over the population, but instead are mostly concentrated in a minority of households. (Mercatus Center, No. 82 at p. 7)

As shown in Table V.31 of today's final rule, more consumers would have a net benefit from standards at TSL 4 than would have a net cost for all of the considered product classes. For the two largest product classes (non-weatherized non-condensing gas furnace fans and non-weatherized condensing gas furnace fans), nearly twice as many consumers would have a net benefit from standards at TSL 4 as would have a net cost.

The Mercatus Center stated that seven out of eight proposed standards at TSL 4 fail the rebuttable payback period benchmark, thereby making it difficult for DOE to demonstrate economic justification for the proposed rule. (Mercatus Center, No. 82 at p. 6) In response, the commenter has misinterpreted the role of the rebuttable payback period presumption. As discussed in section III.E.2, EPCA provides that a rebuttable presumption is established that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. (42 U.S.C. 6295(o)(2)(B)(iii)) To determine economic justification, DOE routinely conducts an analysis that considers the full range of impacts, including those to consumers, manufacturers, the Nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level, thereby supporting or rebutting the results of any preliminary determination of economic justification.

Rheem and Miller stated that the proposed standard may act as a transfer payment from lower-income households, who are more likely to bear net costs as a result of this rule, to higher-income households; and that higher-priced furnace fans resulting from this rule will be out of reach for some consumers. They stated that these distributive impacts necessitate close scrutiny from the Department in order to determine whether the proposed standards will actually improve social welfare. (Rheem, No. 83 at p. 14; Miller, No. 79 at p. 14)

DOE's consumer subgroup analysis indicates that, for non-weatherized gas furnace fans, lower-income households would have positive average LCC savings and median PBPs less than five years (see section V.B.1). Furthermore, many lower-income households rent rather than own their dwelling, and are responsible for utility bills but not for purchase of a furnace. To the extent that there is delay in the landlords' passing of extra costs into the rent, consumers that rent will benefit more those who own, all else being equal.

Ingersoll Rand stated that promulgating a rule at TSL4 would force the future generation of furnaces sold in the U.S. to be less reliable than many of those on the market today as a result of eliminating PSC motors from the market. (Ingersoll Rand, No. 107 at p. 7) DOE notes that furnace fans meeting today's standards are already widely available as a substitute for units with baseline motors. DOE evaluated issues related to reliability, as discussed in section IV.F.2, and concluded that the benefits to consumers outweigh any costs related to reliability that may be associated with products meeting the standards.

V. Analytical Results and Conclusions

This section addresses the results from DOE's analyses with respect to potential energy conservation standards for residential furnace fans. It addresses the TSLs examined by DOE, the projected impacts of each of these levels if adopted as energy conservation standards for furnace fans, and the standard levels ultimately adopted by DOE in today's final rule. Additional details regarding DOE's analyses are contained in the TSD supporting this document.

A. Trial Standard Levels

DOE developed trial standard levels (TSLs) that combine efficiency levels for each product class of residential furnace fans. Table V.1 presents the efficiency levels for each product class in each TSL. TSL 6 consists of the max-tech efficiency levels. TSL 5 consists of those efficiency levels that provide the maximum NPV using a 7-percent discount rate (see section V.B.3 for NPV results). TSL 4 consists of those efficiency levels that provide the highest NPV using a 7-percent discount rate, and that also result in a higher percentage of consumers that receive an LCC benefit than experience an LCC loss (see section V.B.1 for LCC results). TSL 3 uses efficiency level 3 for all product classes. TSL 2 consists of efficiency levels that are the same as TSL 3 for non-weatherized gas furnace fans, weatherized gas furnace fans, and electric furnace fans, but are at efficiency level 1 for oil-fired furnace fans and mobile home furnace fans. TSL 1 consists of the most common efficiency levels in the current market. In summary, Table V.1 presents the six TSLs which DOE has identified for residential furnace fans, including the efficiency level associated with each

TSL, the technology options anticipated to achieve those levels, and the expected resulting percentage reduction in FER from the baseline corresponding to each efficiency level.

TABLE V.1—TRIAL STANDARD LEVELS FOR RESIDENTIAL FURNACE FANS

Product class	Trial standard levels (Efficiency level) *					
	1	2	3	4	5	6
Non-Weatherized, Non-Condensing Gas Furnace Fan	1	3	3	4	4	6
Non-Weatherized, Condensing Gas Furnace Fan	1	3	3	4	4	6
Weatherized Non-Condensing Gas Furnace Fan	1	3	3	4	4	6
Non-Weatherized, Non-Condensing Oil Furnace Fan	1	1	3	1	3	6
Non-Weatherized Electric Furnace/Modular Blower Fan	1	3	3	4	4	6
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan	1	1	3	1	3	6
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	1	1	3	1	3	6
Mobile Home Electric Furnace/Modular Blower Fan	1	1	3	4	4	6

* Efficiency level (EL) 1 = Improved PSC (12 percent). (For each EL, the percentages given refer to percent reduction in FER from the baseline level.) EL 2 = Inverter-driven PSC (25 percent). EL 3 = Constant-torque BPM motor (38 percent). EL 4 = Constant-torque BPM motor + Multi-Staging (51 percent). EL 5 = Constant-airflow BPM motor (57 percent). EL 6 = Constant-airflow BPM motor + Multi-Staging (61 percent).

B. Economic Justification and Energy Savings

1. Economic Impacts on Consumers

Life-Cycle Cost and Payback Period

To evaluate the economic impact of the considered efficiency levels on consumers, DOE conducted an LCC analysis for each efficiency level. More-efficient residential furnace fans would affect these consumers in two ways: (1) Annual operating expense would decrease; and (2) purchase price would increase. Inputs used for calculating the LCC include total installed costs (*i.e.,* equipment price plus installation costs), operating expenses (*i.e.,* energy costs, repair costs, and maintenance costs), product lifetime, and discount rates.

The output of the LCC model is a mean LCC savings (or cost) for each product class, relative to the base-case efficiency distribution for residential furnace fans. The LCC analysis also provides information on the percentage of consumers for whom an increase in the minimum efficiency standard would have a positive impact (net benefit), a negative impact (net cost), or no impact.

DOE also performed a PBP analysis as part of the LCC analysis. The PBP is the number of years it would take for the consumer to recover the increased costs of higher-efficiency products as a result of energy savings based on the operating cost savings. The PBP is an economic benefit-cost measure that uses benefits and costs without discounting. Chapter 8 of the final rule TSD provides detailed information on the LCC and PBP analyses.

DOE's LCC and PBP analyses provide five key outputs for each efficiency level above the baseline, as reported in Table V.2 through Table V.9 for the considered TSLs. (Results for all efficiency levels are reported in chapter 8 of the final rule TSD.) These outputs include the proportion of residential furnace fan purchases in which the purchase of a furnace fan compliant with the new energy conservation standard creates a net LCC increase, no impact, or a net LCC savings for the consumer. Another output is the average LCC savings from standards-compliant products, as well as the median PBP for the consumer investment in standards-compliant products. Savings are measured relative to the base-case efficiency distribution (see section IV.F.4), not the baseline efficiency level.

TABLE V.2—LCC AND PBP RESULTS FOR NON-WEATHERIZED, NON-CONDENSING GAS FURNACE FANS

Efficiency level	TSL	Life-cycle cost 2013$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Average savings 2013$	Percent of consumers that experience			
						Net cost	No impact	Net benefit	
Baseline		$347	$2,194	$2,541	$0	0	100	0	
1	1	359	1,933	2,292	85	1	68	30	1.1
2		408	1,655	2,063	263	25	25	50	3.8
3	2, 3	423	1,367	1,791	471	17	25	58	2.6
4	4, 5	501	1,249	1,750	506	30	14	56	5.4
5		658	1,244	1,902	373	47	12	41	10.6
6	6	694	1,150	1,844	431	50	0	50	10.2

TABLE V.3—LCC AND PBP RESULTS FOR NON-WEATHERIZED, CONDENSING GAS FURNACE FANS

Efficiency level	TSL	Life-cycle cost 2013$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Average savings 2013$	Percent of consumers that experience			
						Net cost	No impact	Net benefit	
Baseline	.....	$343	$2,134	$2,478	$0	0	100	0	.....
1	1	355	1,909	2,264	58	1	75	24	1.2
2	.....	403	1,666	2,070	182	21	41	38	4.2
3	2, 3	416	1,402	1,818	335	11	41	48	2.9
4	4, 5	493	1,319	1,812	341	23	34	43	5.8
5	.....	652	1,334	1,987	219	42	29	30	12.0
6	6	687	1,250	1,937	268	51	0	49	11.0

TABLE V.4—LCC AND PBP RESULTS FOR WEATHERIZED, NON-CONDENSING GAS FURNACE FANS

Efficiency level	TSL	Life-cycle cost 2013$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Average savings 2013$	Percent of consumers that experience			
						Net cost	No Impact	Net benefit	
Baseline	.....	$333	$2,667	$3,000	$0	0	100	0	.....
1	1	345	2,329	2,674	67	0	81	19	0.7
2	.....	393	2,025	2,418	189	8	56	36	3.2
3	2, 3	406	1,609	2,015	378	3	56	41	1.8
4	4, 5	481	1,434	1,914	447	16	33	51	4.4
5	.....	633	1,476	2,109	304	38	27	35	10.3
6	6	668	1,354	2,022	391	41	0	59	8.2

TABLE V.5—LCC AND PBP RESULTS FOR NON-WEATHERIZED, NON-CONDENSING OIL FURNACE FANS

Efficiency level	TSL	Life-cycle cost 2013$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Average savings 2013$	Percent of consumers that experience			
						Net cost	No impact	Net benefit	
Baseline	.....	$417	$2,510	$2,927	$0	0	100	0	.....
1	1, 2, 4	427	2,356	2,783	46	13	71	17	1.7
2	.....	501	2,090	2,592	181	46	28	26	10.3
3	3, 5	507	1,979	2,486	259	44	28	28	4.6
4	.....	589	1,920	2,509	244	48	28	24	8.1
5	.....	813	1,922	2,736	80	56	28	16	18.3
6	6	863	1,873	2,736	80	78	0	22	18.6

TABLE V.6—LCC AND PBP RESULTS FOR NON-WEATHERIZED ELECTRIC FURNACE/MODULAR BLOWER FANS

Efficiency level	TSL	Life-cycle cost 2013$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Average savings 2013$	Percent of consumers that experience			
						Net cost	No impact	Net benefit	
Baseline	.....	$244	$1,211	$1,455	$0	0	100	0	.....
1	1	255	1,079	1,335	29	4	73	22	1.9
2	.....	299	941	1,241	88	27	37	36	6.2
3	2, 3	292	797	1,089	181	17	37	45	2.6
4	4, 5	309	747	1,055	204	23	25	51	3.2
5	.....	444	796	1,240	66	48	25	27	12.0
6	6	477	748	1,225	81	60	0	39	11.5

TABLE V.7—LCC AND PBP RESULTS FOR MOBILE HOME NON-WEATHERIZED, NON-CONDENSING GAS FURNACE FANS

Efficiency level	TSL	Life-cycle cost 2013$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Average savings 2013$	Percent of consumers that experience			
						Net cost	No impact	Net benefit	
Baseline		$256	$1,118	$1,374	$0	0	100	0	
1	1, 2, 4	268	1,026	1,293	36	10	56	34	2.7
2		313	930	1,243	87	62	0	38	10.2
3	3, 5	318	867	1,185	144	55	0	45	6.8
4		390	831	1,222	108	67	0	33	12.7
5		530	853	1,383	(54)	81	0	19	24.3
6	6	563	824	1,388	(58)	80	0	20	24.4

* Parentheses indicate negative values.

TABLE V.8—LCC AND PBP RESULTS FOR MOBILE HOME NON-WEATHERIZED, CONDENSING GAS FURNACE FANS

Efficiency level	TSL	Life-cycle cost 2013$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Average savings 2013$	Percent of consumers that experience			
						Net cost	No impact	Net benefit	
Baseline		$274	$1,283	$1,556	$0	0	100	0	
1	1, 2, 4	285	1,170	1,454	35	5	68	27	2.3
2		330	1,061	1,391	79	43	29	28	9.7
3	3, 5	339	977	1,316	133	37	29	33	6.6
4		411	936	1,347	103	66	4	29	15.8
5		558	953	1,510	(53)	80	4	16	33.3
6	6	591	917	1,508	(51)	82	0	18	31.3

* Parentheses indicate negative values.

TABLE V.9—LCC AND PBP RESULTS FOR MOBILE HOME ELECTRIC FURNACE/MODULAR BLOWER FAN

Efficiency level	TSL	Life-cycle cost 2013$			Life-cycle cost savings				Median payback period years
		Installed cost	Discounted operating cost	LCC	Average savings 2013$	Percent of consumers that experience			
						Net cost	No impact	Net benefit	
Baseline		$194	$643	$837	$0	0	100	0	
1	1, 2	204	575	778	19	7	71	22	2.1
2		245	531	777	20	36	38	26	8.9
3	3	237	466	702	70	26	38	37	3.6
4	4, 5	251	433	685	85	32	26	43	4.1
5		375	487	862	(48)	57	26	18	15.0
6	6	406	462	868	(54)	75	0	25	14.9

* Parentheses indicate negative values.

Consumer Subgroup Analysis

DOE estimated the impacts of the considered efficiency levels (TSLs) on the following consumer subgroups: (1) Senior-only households; and (2) low-income households. The results of the consumer subgroup analysis indicate that for residential furnace fans, senior-only households and low-income households experience lower average LCC savings and longer payback periods than consumers overall, with the difference being larger for low-income households. The difference between the two subgroups and all consumers is larger for non-weatherized, non-condensing gas furnace fans (see Table V.10) than for non-weatherized, condensing gas furnace fans (see Table V.11). Chapter 11 of the final rule TSD provides more detailed discussion on the consumer subgroup analysis and results for the other product classes.

TABLE V.10—COMPARISON OF IMPACTS FOR CONSUMER SUBGROUPS WITH ALL CONSUMERS, NON-WEATHERIZED, NON-CONDENSING GAS FURNACE FANS

Efficiency level		Average life-cycle cost savings (2013$)			Median payback period (years)		
	TSL	Senior-only	Low-income	All consumers	Senior-only	Low-income	All consumers
1	1	$65	$48	$85	1.6	1.7	1.1
2		209	133	263	5.2	6.3	3.8
3	2, 3	366	251	471	3.7	3.6	2.6
4	4, 5	373	234	506	7.6	7.8	5.4
5		226	77	373	14.5	15.9	10.6
6	6	264	96	431	13.7	15.3	10.2

TABLE V.11—COMPARISON OF IMPACTS FOR CONSUMER SUBGROUPS WITH ALL CONSUMERS, NON-WEATHERIZED, CONDENSING GAS FURNACE FANS

Efficiency level		Average life-cycle cost savings (2013$)			Median payback period (years)		
	TSL	Senior-only	Low-income	All consumers	Senior-only	Low-income	All consumers
1	1	$49	$38	$58	1.5	2.0	1.2
2		155	121	182	5.5	7.1	4.2
3	2, 3	288	230	335	3.7	4.4	2.9
4	4, 5	275	202	341	7.5	9.7	5.8
5		141	66	219	15.4	19.5	12.0
6	6	178	90	268	12.2	17.0	11.0

Rebuttable Presumption Payback

As discussed in section III.E.2, EPCA provides a rebuttable presumption that, in essence, an energy conservation standard is economically justified if the increased purchase cost for a product that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. However, DOE routinely conducts a full economic analysis that considers the full range of impacts, including those to the consumer, manufacturer, Nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level, thereby supporting or rebutting the results of any preliminary determination of economic justification. For comparison with the more detailed analytical results, DOE calculated a rebuttable presumption payback period for each TSL. Table V.12 shows the rebuttable presumption payback results to determine whether any of them meet the rebuttable presumption conditions for the residential furnace fans product classes.

TABLE V.12—REBUTTABLE PRESUMPTION PAYBACK PERIODS FOR RESIDENTIAL FURNACE FAN PRODUCT CLASSES

Product class	Rebuttable presumption payback (years)					
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Non-Weatherized, Non-Condensing Gas Furnace Fan	3.3	5.3	5.3	10.3	10.3	19.4
Non-Weatherized, Condensing Gas Furnace Fan	3.1	4.9	4.9	9.6	9.6	18.2
Weatherized Non-Condensing Gas Furnace Fan	3.0	4.8	4.8	9.4	9.4	17.6
Non-Weatherized, Non-Condensing Oil Furnace Fan	2.3	2.3	5.9	2.3	5.9	19.8
Non-Weatherized Electric Furnace/Modular Blower Fan	3.2	5.1	5.1	5.8	5.8	15.4
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan	3.8	3.8	6.1	3.8	6.1	22.1
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	3.5	3.5	5.7	3.5	5.7	20.9
Mobile Home Electric Furnace/Modular Blower Fan	4.3	4.3	6.8	7.7	7.7	20.2

2. Economic Impact on Manufacturers

As noted above, DOE performed an MIA to estimate the impact of new energy conservation standards on manufacturers of residential furnace fans. The following section describes the expected impacts on manufacturers at each considered TSL. Chapter 12 of the final rule TSD explains the analysis in further detail.

Industry Cash-Flow Analysis Results

Table V.13 and Table V.14 depict the financial impacts (represented by changes in INPV) of new energy standards on manufacturers of residential furnace fans, as well as the conversion costs that DOE expects manufacturers would incur for all product classes at each TSL. To evaluate the range of cash flow impacts on the residential furnace fans industry, DOE modeled two different mark-up scenarios using different assumptions that correspond to the range of anticipated market responses to potential new energy conservation standards: (1) The preservation of gross

margin percentage; and (2) the preservation of per-unit operating profit. Each of these scenarios is discussed immediately below.

To assess the lower (less severe) end of the range of potential impacts, DOE modeled a preservation of gross margin percentage markup scenario, in which a uniform ''gross margin percentage'' markup is applied across all potential efficiency levels. In this scenario, DOE assumed that a manufacturer's absolute dollar markup would increase as production costs increase in the standards case.

To assess the higher (more severe) end of the range of potential impacts, DOE modeled the preservation of per-unit operating profit markup scenario, which assumes that manufacturers would be able to earn the same operating margin in absolute dollars per-unit in the standards case as in the base case. In this scenario, while manufacturers make the necessary investments required to convert their facilities to produce new standards-compliant products, operating profit does not change in absolute dollars per unit and decreases as a percentage of revenue.

The set of results below shows potential INPV impacts for residential furnace fan manufacturers; Table V.13 reflects the lower bound of impacts, and Table V.14 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 standards case that results from the sum of discounted cash flows from the base year 2014 through 2048, 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 new standards would take effect. This figure provides an understanding of the magnitude of the required conversion costs relative to the cash flow generated by the industry in the base case.

TABLE V.13—MANUFACTURER IMPACT ANALYSIS FOR RESIDENTIAL FURNACE FANS—PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO *

	Units	Base case	Trial standard level					
			1	2	3	4	5	6
INPV	$M	349.6	336.6	360.0	359.1	397.8	397.6	422.4
Change in INPV	$M	.....	(13.0)	10.4	9.4	48.2	48.0	72.8
	(%)	.....	(3.7)	3.0	2.7	13.8	13.7	20.8
Product Conversion Costs	$M	2.2	18.8	23.6	25.3	25.5	27.1	29.4
Capital Conversion Costs	$M	.....	8.8	11.1	11.8	15.1	15.7	134.7
Total Conversion Costs	$M	2.2	27.7	34.7	37.1	40.6	42.8	164.2
Free Cash Flow (2018)	$M	20.3	11.3	8.8	8.0	6.4	5.6	(48.6)
Free Cash Flow (change from Base Case) (2018).	%	0.0	(44.5)	(56.7)	(60.8)	(68.3)	(72.2)	(339.8)

* Values in parentheses are negative values. All values have been rounded to the nearest tenth.
M = millions.

TABLE V.14—MANUFACTURER IMPACT ANALYSIS FOR RESIDENTIAL FURNACE FANS—PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO *

	Units	Base case	Trial standard level					
			1	2	3	4	5	6
INPV	$M	349.6	332.3	313.2	311.0	290.6	288.8	147.2
Change in INPV	$M	.....	(17.3)	(36.4)	(38.6)	(59.0)	(60.8)	(202.5)
	(%)	.....	(5.0)	(10.4)	(11.0)	(16.9)	(17.4)	(57.9)
Product Conversion Costs	$M	2.2	18.8	23.6	25.3	25.5	27.1	29.4
Capital Conversion Costs	$M	.....	8.8	11.1	11.8	15.1	15.7	134.7
Total Conversion Costs	$M	2.2	27.7	34.7	37.1	40.6	42.8	164.2
Free Cash Flow	$M	20.3	11.3	8.8	8.0	6.4	5.6	(48.6)
Free Cash Flow (change from Base Case)	%	0.0	(44.5)	(56.7)	(60.8)	(68.3)	(72.2)	(339.8)

* Values in parentheses are negative values. All values have been rounded to the nearest tenth.
M = millions.

TSL 1 represents the most common efficiency levels in the current market for all product classes. At TSL 1, DOE estimates impacts on INPV for residential furnace fan manufacturers to range from −$17.3 million to −$13.0 million, or a change in INPV of −5.0 percent to −3.7 percent. At this potential standard level, industry free cash flow is estimated to decrease by as much as 44.5 percent to $11.3 million, compared to the base-case value of $20.3 million in the year before the compliance date (2018). DOE anticipates industry conversion costs totaling $27.7 million at TSL 1.

TSL 2 represents EL 1 for the oil and mobile home product classes, and EL 3 for all other product classes. At TSL 2, DOE estimates impacts on INPV for residential furnace fan manufacturers to range from −$36.4 million to $10.4 million, or a change in INPV of −10.4 percent to 3.0 percent. At this potential standard level, industry free cash flow is estimated to decrease by as much as 56.7 percent to $8.8 million, compared to the base-case value of $20.3 million in the year before the compliance date (2018). DOE anticipates industry conversion costs of $34.7 million at TSL 2.

TSL 3 represents EL 3 for all product classes. At TSL 3, DOE estimates impacts on INPV for residential furnace fan manufacturers to range from −$38.6 million to $9.4 million, or a change in INPV of −11.0 percent to 2.7 percent. At this potential standard level,

industry free cash flow is estimated to decrease by as much as 60.8 percent to $8.0 million, compared to the base-case value of $20.3 million in the year before the compliance date (2018). DOE anticipates industry conversion costs of $37.1 million at TSL 3.

TSL 4 represents the efficiency levels that provide the highest NPV using a 7-percent discount rate, and that also result in a higher percentage of consumers receiving an LCC benefit rather than an LCC loss. At TSL 4, DOE estimates impacts on INPV for residential furnace fan manufacturers to range from −$59.0 million to $48.2 million, or a change in INPV of −16.9 percent to 13.8 percent. At this potential standard level, industry free cash flow is estimated to decrease by as much as 68.3 percent to $6.4 million, compared to the base-case value of $20.3 million in the year before the compliance date (2018). DOE anticipates industry conversion costs totaling $40.6 million at TSL 4.

TSL 5 represents the efficiency levels that provide the maximum NPV using a 7-percent discount rate. At TSL 5, DOE estimates impacts on INPV for residential furnace fan manufacturers to range from −$60.8 million to $48.0 million, or a change in INPV of −17.4 percent to 13.7 percent. At this potential standard level, industry free cash flow is estimated to decrease by as much as 72.2 percent to $5.6 million, compared to the base-case value of $20.3 million in the year before the compliance date (2018). DOE anticipates industry conversion costs of $42.8 million at TSL 5.

TSL 6 represents the max-tech efficiency level for all product classes. At TSL 6, DOE estimates impacts on INPV for residential furnace fan manufacturers to range from −$202.5 million to $72.8 million, or a change in INPV of −57.9 percent to 20.8 percent. At this potential standard level, industry free cash flow is estimated to decrease by as much as 339.8 percent to −$48.6 million, compared to the base-case value of $20.3 million in the year before the compliance date (2018). DOE anticipates industry conversion costs totaling $164.2 million at TSL 6.

DOE anticipates very high capital conversion costs at TSL 6 because manufacturers would need to make significant changes to their manufacturing equipment and production processes in order to accommodate the use of backward-inclined impellers. This design option would require modifying, or potentially eliminating, current fan housings. DOE also anticipates high product conversion costs to develop new designs with backward-inclined impellers for all their products. Some manufacturers may also have stranded assets from specialized machines for building fan housing that can no longer be used.

Impacts on Employment

To quantitatively assess the impacts of energy conservation standards on direct employment in the residential furnace fan industry, DOE used the GRIM to estimate the domestic labor expenditures and number of employees in the base case and at each TSL from 2014 through 2048. DOE used statistical data from the U.S. Census Bureau's 2011 Annual Survey of Manufacturers (ASM),[71] the results of the engineering analysis, and interviews with manufacturers to determine the inputs necessary to calculate industry-wide labor expenditures and domestic employment levels. Labor expenditures 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 manufacturing 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.

The total direct employment impacts calculated in the GRIM are the sum of the changes in the number of production workers resulting from the new energy conservation standards for residential furnace fans, as compared to the base case.

TABLE V.15—POTENTIAL CHANGES IN THE NUMBER OF FURNACE FAN INDUSTRY EMPLOYMENT IN 2019

	Trial standard level *						
	Base case	1	2	3	4	5	6
Total Number of Domestic Production Workers in 2019 (assuming no changes in production locations).	303	303	303	303	301	301	349.
Total Number of Domestic Non-Production Workers in 2019.	107	107	107	107	106	106	123.
Range of Potential Changes in Domestic Workers in 2019 **.		(410) to 0	(410) to 0	(410) to 0	(410) to (3)	(410) to (3)	(410) to 62.

* Numbers in parentheses represent negative values.
** 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.15 represent the potential production and non-production employment changes that could result following the compliance date of a new energy conservation standard for residential furnace fans. The upper end of the results in the table estimates the maximum increase in the number of production and non-production workers after the implementation of new energy conservation standards, and it assumes

[71] "Annual Survey of Manufactures (ASM)," U.S. Census Bureau (2011) (Available at: *http://www.census.gov/manufacturing/asm/*).

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 and non-production workers in the industry who could lose their jobs if all existing production were moved outside of the United States or if companies exited the market. This scenario is highly conservative. Even if all production was relocated overseas, manufacturers would likely maintain large portions of domestic non-production staff (*e.g.,* sales, marketing, technical, and management employees). The industry did not provide sufficient information for DOE fully quantify the percentage of the non-production workers that would leave the country or be eliminated at each evaluated standard level.

For residential furnace fans, DOE does not expect significant changes in domestic employment levels from baseline to TSL 5. Based on the engineering analysis, DOE has concluded that most product lines could be converted to meet the standard with changes in motor technology and the application of multi-staging designs. While such designs require more controls and have more complex assembly, DOE does not believe the per-unit labor requirements for the furnace fan assembly would change significantly.

The only standard level at which significant changes in employment would be expected is at TSL 6, the max-tech level. At TSL 6, DOE estimates increases in labor costs because backwards-inclined impeller assemblies are heavier and require more robust mounting approaches than are currently used for forward-curved impeller assemblies. Backward-inclined impeller assemblies could require manufacturers to adjust their assembly processes, with the potential for increases in per-unit labor requirements. However, DOE received limited feedback from manufacturers regarding the labor required to produce furnace fans with backward-curved impellers, because they generally do not have any experience in working with this design option.

DOE notes that the employment impacts discussed here are independent of the indirect employment impacts to the broader U.S. economy, which are documented in chapter 15 of the final rule TSD.

Impacts on Manufacturing Capacity

According to the residential furnace fan manufacturers interviewed, the new energy conservation standards being adopted in today's final rule would not significantly affect manufacturers' production capacity, or throughput levels. Some manufacturers noted in interviews that testing resources could potentially be a bottleneck to the conversion process and cited the potential need for adding in-house testing capacity. However, in written comments, stakeholders generally agreed that a five-year lead time between the publication date and compliance date is appropriate for this rulemaking.

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 developed for an industry cash-flow estimate is inadequate to assess differential impacts among manufacturer subgroups.

For the residential furnace fans industry, DOE identified and evaluated the impact of new energy conservation standards on one subgroup, specifically 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 15 manufacturers in the residential furnace fans industry that qualify as small businesses. For a discussion of the impacts on the small manufacturer subgroup, see the regulatory flexibility analysis in section VI.B of this notice and chapter 12 of the final rule TSD.

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.

During previous stages of this rulemaking, DOE identified a number of requirements in addition to new energy conservation standards for residential furnace fans. The following section briefly summarizes those identified regulatory requirements and addresses comments DOE received with respect to cumulative regulatory burden, as well as other key related concerns that manufacturers raised during interviews.

While the cumulative regulatory burden analysis contained in the NOPR reflects manufacturers' concerns regarding CC&E costs, DOE has decided to exclude CC&E costs from the cumulative burden analysis for the final rule. The furnace fan test procedure changed from the NOPR to the final rule. Much of the concern relating to CC&E costs expressed by stakeholders, and summarized in the NOPR, had to do with the old test procedure. The new test procedure reduces burden substantially. Also, for the final rule, CC&E costs have been explicitly incorporated into product conversion costs inputted into the GRIM, so they are no longer considered separately in the cumulative regulatory burdens section.

DOE Energy Conservation Standards

Companies that produce a wide range of regulated products and equipment may face more capital and product development expenditures than competitors with a narrower scope of products and equipment. Many furnace fan manufacturers also produce other residential and commercial equipment. In addition to the amended energy conservation standards for furnace fans, these manufacturers contend with several other Federal regulations and pending regulations that apply to other products and equipment. DOE recognizes that each regulation can significantly affect a manufacturer's financial operations. Multiple regulations affecting the same manufacturer can quickly strain manufacturers' profits and possibly cause an exit from the market. Table V.16 lists the other DOE energy conservation standards that could also affect manufacturers of furnace fans in the 3 years leading up to and after the compliance date of the new energy conservation standards for this equipment. Additionally, at the request of stakeholders, DOE has listed several DOE rulemakings in the table below that are currently in process but that have not been finalized.

TABLE V.16—OTHER DOE REGULATIONS IMPACTING FURNACE FAN MANUFACTURERS

Regulation	Compliance year	Number of impacted companies	Estimated total industry conversion costs
Commercial Refrigeration Equipment	2017	4	$184.0 million (2012$).
Commercial Packaged Air-Conditioning and Heating Equipment	*2018	24	N/A.**
Commercial/Industrial Fans and Blowers	*2019	29	N/A.**
Residential Boilers	*2019	9	N/A.**
Residential Non-Weatherized Gas Furnaces	n/a	38	N/A.**

*The dates listed are an approximation. The exact dates are pending final DOE action.
**For energy conservation standards that have not been issued, DOE does not have finalized industry conversion cost data available.

EPA ENERGY STAR

During interviews, some manufacturers stated that ENERGY STAR specifications for residential furnaces, central air conditioners, and heat pumps would be a source of cumulative regulatory burden. ENERGY STAR specifications are as follows:

TABLE V.17—ENERGY STAR SPECIFICATIONS FOR HVAC PRODUCTS THAT USE FURNACE FANS

Gas Furnaces	Rating of 90% AFUE or greater for U.S. South gas furnaces. Rating of 95% AFUE or greater for U.S. North gas furnaces. Less than or equal to 2.0% furnace fan efficiency.*
Oil Furnaces	Rating of 85% AFUE or greater. Less than or equal to 2.0% furnace fan efficiency.*
Air-Source Heat Pumps	>= 8.2 HSPF/>= 14.5 SEER/>= 12 EER for split systems. >= 8.0 HSPF/>= 14 SEER/>=11 EER for single-package equipment.
Central Air Conditioners	>= 14.5 SEER/>= 12 EER for split systems. >= 14 SEER/>=11 EER for single-package equipment.

*Furnace fan efficiency in this context is furnace fan electrical consumption as a percentage of total furnace energy consumption in heating mode.

DOE realizes that the cumulative effect of several regulations on an industry may significantly increase the burden faced by manufacturers that need to comply with multiple regulations and certification programs from different organizations and levels of government. However, DOE notes that certain standards, such as ENERGY STAR, are optional for manufacturers. As they are voluntary standards, they are not considered by DOE to be part of manufacturers' cumulative regulatory burden.

DOE discusses these and other requirements (*e.g.,* Canadian Energy Efficiency Regulations, California Title 24, Low NO_X requirements), and includes the full details of the cumulative regulatory burden analysis, in chapter 12 of the final rule TSD. DOE also discusses the impacts on the small manufacturer subgroup in the regulatory flexibility analysis in section VI.B of this final rule.

3. National Impact Analysis

Significance of Energy Savings

For each TSL, DOE projected energy savings for residential furnace fans purchased in the 30-year period that begins in the first full year of compliance with amended standards (2019–2048). The savings are measured over the entire lifetime of products purchased in the 30-year period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. Table V.18 presents the estimated primary energy savings for each considered TSL, and Table V.19 presents the estimated FFC energy savings for each considered TSL. The energy savings in the tables below are net savings that reflect the subtraction of the additional gas or oil used by the furnace associated with higher-efficiency furnace fans. The approach for estimating national energy savings is further described in section IV.H.1.

The difference between primary energy savings and FFC energy savings for all TSLs is small (less than 1 percent), because the upstream energy savings associated with the electricity savings are partially or fully offset by the upstream energy use from the additional gas or oil used by the furnace due to higher-efficiency furnace fans.

TABLE V.18—CUMULATIVE NATIONAL PRIMARY ENERGY SAVINGS FOR TRIAL STANDARD LEVELS FOR RESIDENTIAL FURNACE FANS SOLD IN 2019–2048

Product class	Trial standard level					
	1	2	3	4	5	6
	quads					
Non-Weatherized, Non-Condensing Gas Furnace Fan	0.296	1.341	1.341	1.796	1.796	2.426
Non-Weatherized, Condensing Gas Furnace Fan	0.278	1.188	1.188	1.614	1.614	2.324
Weatherized Non-Condensing Gas Furnace Fan	0.048	0.224	0.224	0.330	0.330	0.462
Non-Weatherized, Non-Condensing Oil Furnace Fan	0.006	0.006	0.022	0.006	0.022	0.046
Non-Weatherized Electric Furnace/Modular Blower Fan	0.032	0.143	0.143	0.193	0.193	0.264
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan	0.009	0.009	0.023	0.009	0.023	0.053

TABLE V.18—CUMULATIVE NATIONAL PRIMARY ENERGY SAVINGS FOR TRIAL STANDARD LEVELS FOR RESIDENTIAL FURNACE FANS SOLD IN 2019–2048—Continued

Product class	Trial standard level					
	1	2	3	4	5	6
	quads					
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	0.001	0.001	0.003	0.001	0.003	0.008
Mobile Home Electric Furnace/Modular Blower Fan	0.009	0.009	0.030	0.044	0.044	0.055
Total—All Classes	0.679	2.922	2.974	3.994	4.024	5.639

Note: Components may not sum to total due to rounding.

TABLE V.19—CUMULATIVE NATIONAL FULL-FUEL-CYCLE ENERGY SAVINGS FOR TRIAL STANDARD LEVELS FOR RESIDENTIAL FURNACE FANS SOLD IN 2019–2048

Product class	Trial standard level					
	1	2	3	4	5	6
	quads					
Non-Weatherized, Non-Condensing Gas Furnace Fan	0.297	1.338	1.338	1.793	1.793	2.428
Non-Weatherized, Condensing Gas Furnace Fan	0.278	1.176	1.176	1.604	1.604	2.314
Weatherized Non-Condensing Gas Furnace Fan	0.048	0.225	0.225	0.331	0.331	0.463
Non-Weatherized, Non-Condensing Oil Furnace Fan	0.006	0.006	0.020	0.006	0.020	0.044
Non-Weatherized Electric Furnace/Modular Blower Fan	0.032	0.145	0.145	0.196	0.196	0.268
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan	0.009	0.009	0.022	0.009	0.022	0.052
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	0.001	0.001	0.003	0.001	0.003	0.008
Mobile Home Electric Furnace/Modular Blower Fan	0.010	0.010	0.030	0.045	0.045	0.056
Total—All Classes	0.680	2.909	2.958	3.986	4.014	5.635

Note: Components may not sum to total due to rounding.

OMB Circular A–4 [72] 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 nin-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.[73] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to residential furnace fans. Thus, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology. The NES results based on a 9-year analytical period are presented in Table V.20. The impacts are counted over the lifetime of products purchased in 2019–2027.

TABLE V.20—CUMULATIVE NATIONAL PRIMARY ENERGY SAVINGS FOR TRIAL STANDARD LEVELS FOR RESIDENTIAL FURNACE FANS SOLD IN 2019–2027

Product class	Trial standard level					
	1	2	3	4	5	6
	quads					
Non-Weatherized, Non-Condensing Gas Furnace Fan	0.099	0.454	0.454	0.611	0.611	0.838
Non-Weatherized, Condensing Gas Furnace Fan	0.075	0.316	0.316	0.429	0.429	0.612
Weatherized Non-Condensing Gas Furnace Fan	0.016	0.075	0.075	0.108	0.108	0.150
Non-Weatherized, Non-Condensing Oil Furnace Fan	0.002	0.002	0.009	0.002	0.009	0.020
Non-Weatherized Electric Furnace/Modular Blower Fan	0.009	0.043	0.043	0.058	0.058	0.080

[72] U.S. Office of Management and Budget, ''Circular A–4: Regulatory Analysis'' (Sept. 17, 2003) (Last accessed September 17, 2013 from *http://www.whitehouse.gov/omb/circulars_a004_a-4/.)*

[73] Section 325(m) of EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6-year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some consumer products, the compliance period is 5 years rather than 3 years.

TABLE V.20—CUMULATIVE NATIONAL PRIMARY ENERGY SAVINGS FOR TRIAL STANDARD LEVELS FOR RESIDENTIAL FURNACE FANS SOLD IN 2019–2027—Continued

Product class	Trial standard level					
	1	2	3	4	5	6
	quads					
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan	0.003	0.003	0.007	0.003	0.007	0.018
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	0.000	0.000	0.001	0.000	0.001	0.002
Mobile Home Electric Furnace/Modular Blower Fan	0.003	0.003	0.009	0.013	0.013	0.017
Total—All Classes	0.207	0.897	0.914	1.225	1.236	1.737

Note: Components may not sum to total due to rounding.

Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for consumers that would result from the TSLs considered for residential furnace fans. In accordance with OMB's guidelines on regulatory analysis,[74] DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. Table V.21 shows the consumer NPV results for each TSL considered for residential furnace fans. In each case, the impacts cover the lifetime of products purchased in 2019–2048.

TABLE V.21—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFIT FOR TRIAL STANDARD LEVELS FOR RESIDENTIAL FURNACE FANS SOLD IN 2019–2048

Product class	Discount rate %	Trial standard level					
		1	2	3	4	5	6
		*billion 2013$**					
Non-Weatherized, Non-Condensing Gas Furnace Fan	3	2.150	12.031	12.031	13.309	13.309	11.943
Non-Weatherized, Condensing Gas Furnace Fan		1.842	10.769	10.769	11.444	11.444	10.156
Weatherized Non-Condensing Gas Furnace Fan		0.335	1.849	1.849	2.288	2.288	2.082
Non-Weatherized, Non-Condensing Oil Furnace Fan		0.028	0.028	0.154	0.028	0.154	0.078
Non-Weatherized Electric Furnace/Modular Blower Fan		0.215	1.237	1.237	1.480	1.480	0.615
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan		0.045	0.045	0.171	0.045	0.171	(0.039)
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan		0.007	0.007	0.025	0.007	0.025	(0.005)
Mobile Home Electric Furnace/Modular Blower Fan		0.047	0.047	0.168	0.209	0.209	(0.099)
Total—All Classes		4.668	26.013	26.403	28.810	29.079	24.731
Non-Weatherized, Non-Condensing Gas Furnace Fan	7	0.823	4.502	4.502	4.713	4.713	3.381
Non-Weatherized, Condensing Gas Furnace Fan		0.677	3.856	3.856	3.876	3.876	2.686
Weatherized Non-Condensing Gas Furnace Fan		0.129	0.702	0.702	0.825	0.825	0.604
Non-Weatherized, Non-Condensing Oil Furnace Fan		0.012	0.012	0.061	0.012	0.061	0.006
Non-Weatherized Electric Furnace/Modular Blower Fan		0.078	0.438	0.438	0.515	0.515	0.014
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan		0.017	0.017	0.058	0.017	0.058	(0.071)
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan		0.003	0.003	0.008	0.003	0.008	(0.010)
Mobile Home Electric Furnace/Modular Blower Fan		0.017	0.017	0.054	0.065	0.065	(0.102)

[74] OMB Circular A–4, section E (Sept. 17, 2003) (Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4*).

TABLE V.21—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFIT FOR TRIAL STANDARD LEVELS FOR RESIDENTIAL FURNACE FANS SOLD IN 2019–2048—Continued

Product class	Discount rate %	Trial standard level					
		1	2	3	4	5	6
		*billion 2013$**					
Total—All Classes		1.754	9.545	9.679	10.024	10.120	6.509

* Numbers in parentheses indicate negative NPV.

The NPV results based on the aforementioned 9-year analytical period are presented in Table V.22. The impacts are counted over the lifetime of products purchased in 2019–2027. 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.22—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFIT FOR TRIAL STANDARD LEVELS FOR RESIDENTIAL FURNACE FANS SOLD IN 2019–2027

Product class	Discount rate %	Trial standard level					
		1	2	3	4	5	6
		*billion 2013$**					
Non-Weatherized, Non-Condensing Gas Furnace Fan	3	0.893	5.028	5.028	5.527	5.527	4.908
Non-Weatherized, Condensing Gas Furnace Fan		0.652	3.784	3.784	4.005	4.005	3.550
Weatherized Non-Condensing Gas Furnace Fan		0.139	0.777	0.777	0.945	0.945	0.864
Non-Weatherized, Non-Condensing Oil Furnace Fan		0.015	0.015	0.082	0.015	0.082	0.064
Non-Weatherized Electric Furnace/Modular Blower Fan		0.080	0.463	0.463	0.549	0.549	0.217
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan		0.019	0.019	0.073	0.019	0.073	(0.012)
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan		0.003	0.003	0.010	0.003	0.010	(0.001)
Mobile Home Electric Furnace/Modular Blower Fan		0.017	0.017	0.061	0.074	0.074	(0.052)
Total—All Classes		1.819	10.106	10.278	11.137	11.266	9.537
Non-Weatherized, Non-Condensing Gas Furnace Fan	7	0.444	2.433	2.433	2.531	2.531	1.799
Non-Weatherized, Condensing Gas Furnace Fan		0.325	1.840	1.840	1.845	1.845	1.290
Weatherized Non-Condensing Gas Furnace Fan		0.070	0.384	0.384	0.446	0.446	0.333
Non-Weatherized, Non-Condensing Oil Furnace Fan		0.008	0.008	0.040	0.008	0.040	0.015
Non-Weatherized Electric Furnace/Modular Blower Fan		0.039	0.220	0.220	0.257	0.257	0.001
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan		0.009	0.009	0.033	0.009	0.033	(0.037)
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan		0.001	0.001	0.004	0.001	0.004	(0.005)
Mobile Home Electric Furnace/Modular Blower Fan		0.008	0.008	0.026	0.031	0.031	(0.059)
Total—All Classes		0.905	4.904	4.980	5.128	5.186	3.338

* Numbers in parentheses indicate negative NPV.

As noted in section IV.H.2, DOE assumed no change in residential furnace fan prices over the 2019–2048 period. In addition, DOE conducted a sensitivity analysis using alternative price trends: One in which prices decline over time, and one in which prices increase over time. These price trends, and the NPV results from the associated sensitivity cases, are described in appendix 10–C of the final rule TSD.

Indirect Impacts on Employment

DOE expects energy conservation standards for residential furnace fans to reduce energy costs for consumers, with the resulting net savings being redirected to other forms of economic

activity. Those shifts in spending and economic activity could affect the demand for labor. As described in section IV.N, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered in this rulemaking. DOE understands that there are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term time frames (2019 and 2024), where these uncertainties are reduced.

The results suggest that today's standards would be likely to have negligible impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the final rule TSD presents more detailed results about anticipated indirect employment impacts.

4. Impact on Product Utility or Performance

DOE has concluded that the standards it is adopting in this final rule would not lessen the utility or performance of residential furnace fans.

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 in writing to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (ii))

To assist the Attorney General in making such a determination for today's standards, DOE provided the Department of Justice (DOJ) with copies of the NOPR and the TSD for review. In its assessment letter responding to DOE, DOJ concluded that the proposed energy conservation standards for residential furnace fans are unlikely to have a significant adverse impact on competition. DOE is publishing the Attorney General's assessment at the end of this final rule.

6. Need of the Nation To Conserve Energy

An improvement in the energy efficiency of the products subject to this rule is likely to improve the security of the nation's energy system by reducing overall demand for energy. Reduction in the growth of electricity demand resulting from energy conservation standards may also improve the reliability of the electricity system. Reductions in national electric generating capacity estimated for each considered TSL are reported in chapter 15 of the final rule TSD.

Energy savings from standards for the residential furnace fan products covered in today's final rule could also produce environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with electricity production. Table V.23 provides DOE's estimate of cumulative emissions reductions projected to result from the TSLs considered in this rulemaking. The table includes both power sector emissions and upstream emissions. The emissions were calculated using the multipliers discussed in section IV.K. DOE reports annual emissions reductions for each TSL in chapter 13 of the final rule TSD.

As discussed in section IV.K, DOE did not include NO_X emissions reduction from power plants in States subject to CAIR, because an energy conservation standard would not affect the overall level of NO_X emissions in those States due to the emissions caps mandated by CAIR. For SO_2, under the MATS, projected emissions will be far below the cap established by CAIR, so it is unlikely that excess SO_2 emissions allowances resulting from lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by any regulated EGU. Therefore, DOE believes that efficiency standards will reduce SO_2 emissions.

TABLE V.23—CUMULATIVE EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR RESIDENTIAL FURNACE FANS

	TSL					
	1	2	3	4	5	6
Primary Energy Emissions *						
CO_2 (million metric tons)	29.3	124.5	126.3	171.1	172.0	241.5
SO_2 (thousand tons)	38.1	174.3	178.0	232.5	235.2	323.5
NO_X (thousand tons)	(5.2)	(32.4)	(33.8)	(38.7)	(40.2)	(51.1)
Hg (tons)	0.1	0.3	0.3	0.4	0.4	0.5
N_2O (thousand tons)	1.0	4.5	4.6	6.0	6.1	8.4
CH_4 (thousand tons)	5.2	23.4	23.9	31.3	31.6	43.7
Upstream Emissions						
CO_2 (million metric tons)	1.7	6.7	6.7	9.6	9.5	13.7
SO_2 (thousand tons)	0.5	2.4	2.4	3.2	3.2	4.4
NO_X (thousand tons)	22.5	84.9	85.0	122.8	122.0	177.5
Hg (tons)	0.0	0.0	0.0	0.0	0.0	0.0
N_2O (thousand tons)	0.0	0.1	0.1	0.1	0.1	0.2
CH_4 (thousand tons)	127.0	447.7	455.4	663.7	666.1	984.3
Total FFC Emissions						
CO_2 (million metric tons)	31.0	131.2	133.1	180.6	181.5	255.2
SO_2 (thousand tons)	38.6	176.7	180.4	235.7	238.4	327.9
NO_X (thousand tons)	17.2	52.6	51.2	84.0	81.8	126.4
Hg (tons)	0.1	0.3	0.3	0.4	0.4	0.5
N_2O (thousand tons)	1.0	4.6	4.7	6.2	6.2	8.6
N_2O *thousand tons* CO_2eq **	302.2	1378.9	1402.4	1843.7	1859.3	2569.2
CH_4 (thousand tons)	132.1	471.1	479.3	695.0	697.7	1028.0

TABLE V.23—CUMULATIVE EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR RESIDENTIAL FURNACE FANS—Continued

	TSL					
	1	2	3	4	5	6
CH_4 *million tons* CO_2*eq* **	3303.3	11778	11982	17375	17442	25700

* Includes emissions from additional gas use associated with more-efficient furnace fans.
** CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).
Note: Parentheses indicate negative values.

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 estimated for each of the TSLs considered for residential furnace fans. As discussed in section IV.L, for CO_2, DOE used four sets of values for the SCC developed by an interagency process. Three sets of values are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent, 3 percent, and 5 percent. The fourth set represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate. The SCC values for CO_2 emissions reductions in 2015, expressed in 2013$, are $12.0/ton, $40.5/ton, $62.4/ton, and $119/ton. The values for later years are higher due to increasing damages as the magnitude of projected climate change increases. Table V.24 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.24—GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR RESIDENTIAL FURNACE FANS

TSL	SCC Case *			
	5% discount rate, average	3% discount rate, average	2.5% discount rate, average	3% discount rate, 95th percentile
	million 2013$			
Primary Energy Emissions **				
1	184	880	1,409	2,722
2	785	3,755	6,007	11,612
3	797	3,811	6,096	11,784
4	1,077	5,152	8,245	15,934
5	1,083	5,181	8,291	16,023
6	1,517	7,265	11,628	22,467
Upstream Emissions				
1	10.2	50.1	81	155
2	40.0	196	315	607
3	40.0	196	316	608
4	57.0	279	449	866
5	56.6	278	447	861
6	81.7	401	644	1,241
Total FFC Emissions				
1	194	930	1,489	2,878
2	825	3,951	6,323	12,219
3	837	4,007	6,412	12,392
4	1,134	5,432	8,694	16,799
5	1,140	5,459	8,737	16,884
6	1,599	7,666	12,272	23,709

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $12.0, $40.5, $62.4, and $119 per metric ton (2013$). The values are for CO_2 only (*i.e.,* not CO_2eq of other greenhouse gases).
** Includes site emissions from additional use of natural gas associated with more-efficient furnace fans.

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other greenhouse gas (GHG) emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed in this rulemaking 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 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 interagency review process.

DOE also estimated a range for the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from standards for the residential furnace fan products that are the subject of this final rule. The dollar-per-ton values that DOE used are discussed in section IV.L. Table V.25 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.25—PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR RESIDENTIAL FURNACE FANS

TSL	3% Discount rate	7% Discount rate
	million 2013$	
Power Sector and Site Emissions *		
1	(3.8)	0.0
2	(27.1)	(3.7)
3	(28.6)	(4.1)
4	(31.0)	(2.8)
5	(32.5)	(3.3)
6	(39.4)	(2.1)
Upstream Emissions		
1	25.9	10.2
2	98.1	38.7
3	98.3	38.8
4	141.8	55.9
5	140.9	55.6
6	205.5	81.4
Total FFC Emissions **		
1	22.1	10.2
2	71.0	35.1
3	69.7	34.7
4	110.8	53.1
5	108.4	52.3
6	166.1	79.3

* Includes site emissions from additional use of natural gas associated with more-efficient furnace fans.
** Components may not sum to total due to rounding.
Note: Parentheses indicate negative values.

The NPV of the monetized benefits associated with emissions reductions can be viewed as a complement to the NPV of the consumer savings calculated for each TSL considered in this rulemaking. Table V.26 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced full-fuel-cycle CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of consumer savings calculated for each TSL considered in this rulemaking, at both a 7-percent and a 3-percent discount rate. The CO_2 values used in the columns of each table correspond to the four scenarios for the valuation of CO_2 emission reductions discussed above.

TABLE V.26—POTENTIAL STANDARDS FOR RESIDENTIAL FURNACE FANS: NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

TSL	Consumer NPV at 3% Discount Rate added with:			
	SCC Case $12.0/ metric ton CO_2* and low value for NO_X**	SCC Case $40.5/ metric ton CO_2* and medium value for NO_X**	SCC Case $62.4/ metric ton CO_2* and medium value for NO_X**	SCC Case $119/ metric ton CO_2* and high value for NO_X**
	billion 2013$			
1	4.9	5.6	6.2	7.6
2	26.9	30.0	32.4	38.3
3	27.3	30.5	32.9	38.9
4	30.1	34.4	37.6	45.7
5	30.3	34.6	37.9	46.1
6	26.5	32.6	37.2	48.6

TSL	Consumer NPV at 7% Discount Rate added with:			
	SCC Case $12.0/ metric ton CO_2* and low value for NO_X**	SCC Case $40.5/ metric ton CO_2* and medium value for NO_X**	SCC Case $62.4/ metric ton CO_2* and medium value for NO_X**	SCC Case $119/ metric ton CO_2* and high value for NO_X**
	billion 2013$			
1	2.0	2.7	3.3	4.6
2	10.4	13.5	15.9	21.8
3	10.6	13.7	16.1	22.1
4	11.2	15.5	18.8	26.9
5	11.3	15.6	18.9	27.1
6	8.2	14.3	18.9	30.3

* These label values represent the global SCC in 2015, in 2013$.
** Low Value corresponds to $476 per ton of NO_X emissions. Medium Value corresponds to $2,684 per ton, and High Value corresponds to $4,893 per ton.

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use quite different time frames for analysis. The national operating cost savings is measured for the lifetime of products shipped in 2019–2048. 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. Because of the long residence time of CO_2 in the atmosphere, these impacts continue well beyond 2100.

7. Other Factors

The Secretary of Energy, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VI)) No other factors were considered in this analysis.

C. Conclusions

When considering proposed standards, the new or amended energy conservation standard that DOE adopts for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

For today's final rule, DOE considered the impacts of standards at each TSL, beginning with the maximum technologically feasible level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is 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 V.A. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard, and impacts on employment. Section V.B.1.b presents the estimated impacts of each TSL for these subgroups. DOE discusses the impacts on direct employment in residential furnace fan manufacturing in section V.B.2.b, and discusses the indirect employment impacts in section V.B.3.c.

DOE also notes that the economics literature provides a wide-ranging discussion of how consumers trade off upfront costs and energy savings in the absence of government intervention. Much of this literature attempts to explain why consumers appear to undervalue energy efficiency improvements. There is evidence that consumers undervalue future energy savings as a result of: (1) A lack of information; (2) a lack of sufficient salience of the long-term or aggregate benefits; (3) a lack of sufficient savings to warrant delaying or altering purchases; (4) excessive focus on the short term, in the form of inconsistent weighting of future energy cost savings relative to available returns on other investments; (5) computational or other difficulties associated with the evaluation of relevant tradeoffs; and (6) a divergence in incentives (for example, renter versus owner or builder versus purchaser). Other literature indicates that with less than perfect foresight and a high degree of uncertainty about the future, consumers may trade off at a higher than expected rate between current consumption and uncertain future energy cost savings. This undervaluation suggests that regulation that promotes energy efficiency can produce significant net private gains (as well as producing social gains by, for example, reducing pollution).

In DOE's current regulatory analysis, potential changes in the benefits and costs of a regulation due to changes in consumer purchase decisions are included in two ways. First, if consumers forego a purchase of a product in the standards case, this decreases sales for product manufacturers and the cost to manufacturers is included in the MIA. Second, DOE accounts for energy savings attributable only to products actually used by consumers in the standards case; if a standard decreases the number of products purchased by consumers, this decreases the potential energy savings from an energy conservation standard. DOE provides estimates of changes in the volume of product purchases in chapter 9 of the final rule TSD. DOE's current analysis does not explicitly control for heterogeneity in consumer preferences, preferences across subcategories of products or specific features, or

consumer price sensitivity variation according to household income.[75]

While DOE is not prepared at present to provide a fuller quantifiable framework for estimating the benefits and costs of changes in consumer purchase decisions due to an energy conservation standard, DOE is committed to developing a framework that can support empirical quantitative tools for improved assessment of the consumer welfare impacts of appliance standards. DOE has posted a paper that discusses the issue of consumer welfare impacts of appliance standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[76] DOE welcomes comments on how to more fully assess the potential impact of energy conservation standards on consumer choice and how to quantify this impact in its regulatory analysis.

1. Benefits and Burdens of Trial Standard Levels Considered for Residential Furnace Fans

Table V.27 through Table V.29 summarize the quantitative impacts estimated for each TSL for residential furnace fans. The national impacts are measured over the lifetime of furnace fans purchased in the 30-year period that begins in the first full year of compliance with amended standards (2019–2048). The energy savings, emissions reductions, and value of emissions reductions refer to full-fuel-cycle results. Results that refer to primary energy savings are presented in chapter 10 of the final rule TSD.

TABLE V.27—SUMMARY OF ANALYTICAL RESULTS FOR RESIDENTIAL FURNACE FAN STANDARDS: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
National Full-Fuel-Cycle Energy Savings *quads*						
	0.680	2.909	2.958	3.986	4.014	5.635
NPV of Consumer Benefits *2013$ billion*						
3% discount rate	4.668	26.013	26.403	28.810	29.079	24.731
7% discount rate	1.754	9.545	9.679	10.024	10.120	6.509
Cumulative Emissions Reduction (FFC Emissions)						
CO_2 *million metric tons*	31.0	131.2	133.1	180.6	181.5	255.2
SO_2 *thousand tons*	38.6	176.7	180.4	235.7	238.4	327.9
NO_X *thousand tons*	17.2	52.6	51.2	84.0	81.8	126.4
Hg *tons*	0.1	0.3	0.3	0.4	0.4	0.5
N_2O *thousand tons*	1.0	4.6	4.7	6.2	6.2	8.6
N_2O *thousand tons* CO_2eq*	302.2	1378.9	1402.4	1843.7	1859.3	2569.2
CH_4 *thousand tons*	132.1	471.1	479.3	695.0	697.7	1028.0
CH_4 *million tons* CO_2eq*	3303	11778	11982	17375	17442	25700
Value of Emissions Reduction (FFC Emissions) *2013$ billion*						
CO_2**	0.194 to 2.878	0.825 to 12.219	0.837 to 12.392	1.134 to 16.799	1.140 to 16.884	1.599 to 23.709
NO_X—3% discount rate	0.0221	0.0710	0.0697	0.1108	0.1084	0.1661
NO_X—7% discount rate	0.0102	0.0351	0.0347	0.0531	0.0523	0.0793

* 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 interagency estimates of the global benefit of reduced CO_2 emissions.

TABLE V.28—SUMMARY OF ANALYTICAL RESULTS FOR RESIDENTIAL FURNACE FAN STANDARDS: MANUFACTURER AND AVERAGE OR MEDIAN CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Manufacturer Impacts						
Industry NPV (baseline value is 349.6) (2013*$ in millions)*	332.3 to 336.6	313.2 to 360.0	311.0 to 359.1	290.6 to 397.8	288.8 to 397.6	147.2 to 422.4
Change in Industry NPV (*% change)*	(5.0) to (3.7)	(10.4) to 3.0	(11.0) to 2.7	(16.9) to 13.8	(17.4) to 13.7	(57.9) to 20.8
Consumer Average LCC Savings (*2013$*)						
Non-Weatherized, Non-condensing Gas Furnace Fan	$85	$471	$471	$506	$506	$431
Non-Weatherized, Condensing Gas Furnace Fan	$58	$335	$335	$341	$341	$268
Weatherized Non-Condensing Gas Furnace Fan	$67	$378	$378	$447	$447	$391
Non-Weatherized, Non-Condensing Oil Furnace Fan	$46	$46	$259	$46	$259	$80
Non-Weatherized Electric Furnace/Modular Blower Fan	$29	$181	$181	$204	$204	$81
Mobile Home Non-Weatherized, Non-condensing Gas Furnace Fan	$36	$36	$144	$36	$144	($58)
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	$35	$35	$133	$35	$133	($51)

[75] P.C. Reiss and M.W. White, Household Electricity Demand, Revisited, *Review of Economic Studies* (2005) 72, 853–883.

[76] Alan Sanstad, Notes on the Economics of Household Energy Consumption and Technology Choice. Lawrence Berkeley National Laboratory (2010) (Available at: *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/consumer_ee_theory.pdf* (Last accessed May 3, 2013).

TABLE V.28—SUMMARY OF ANALYTICAL RESULTS FOR RESIDENTIAL FURNACE FAN STANDARDS: MANUFACTURER AND AVERAGE OR MEDIAN CONSUMER IMPACTS—Continued

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Mobile Home Electric Furnace/Modular Blower Fan	$19	$19	$70	$85	$85	($54)
Consumer Median PBP (*years*)						
Non-Weatherized, Non-condensing Gas Furnace Fan	1.12	2.60	2.60	5.41	5.41	10.16
Non-Weatherized, Condensing Gas Furnace Fan	1.18	2.87	2.87	5.78	5.78	11.01
Weatherized Non-Condensing Gas Furnace Fan	0.73	1.79	1.79	4.42	4.42	8.19
Non-Weatherized, Non-Condensing Oil Furnace Fan	1.70	1.70	4.65	1.70	4.65	18.56
Non-Weatherized Electric Furnace/Modular Blower Fan	1.94	2.64	2.64	3.21	3.21	11.45
Mobile Home Non-Weatherized, Non-condensing Gas Furnace Fan	2.72	2.72	6.84	2.72	6.84	24.38
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	2.31	2.31	6.65	2.31	6.65	31.27
Mobile Home Electric Furnace/Modular Blower Fan	2.07	2.07	3.58	4.09	4.09	14.90

Note: Parentheses indicate negative values.

TABLE V.29—SUMMARY OF ANALYTICAL RESULTS FOR RESIDENTIAL FURNACE FAN STANDARDS: DISTRIBUTION OF CONSUMER LCC IMPACTS

Product Class	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	TSL 6
Non-Weatherized, Non-Condensing Gas Furnace Fan:						
Net Cost	1%	17%	17%	30%	30%	50%
No Impact	68%	25%	25%	14%	14%	0%
Net Benefit	30%	58%	58%	56%	56%	50%
Non-Weatherized, Condensing Gas Furnace Fan:						
Net Cost	1%	11%	11%	23%	23%	51%
No Impact	75%	41%	41%	34%	34%	0%
Net Benefit	24%	48%	48%	43%	43%	49%
Weatherized Non-Condensing Gas Furnace Fan:						
Net Cost	0%	3%	3%	16%	16%	41%
No Impact	81%	56%	56%	33%	33%	0%
Net Benefit	19%	41%	41%	51%	51%	59%
Non-Weatherized, Non-Condensing Oil Furnace Fan:						
Net Cost	13%	13%	44%	13%	44%	78%
No Impact	71%	71%	28%	71%	28%	0%
Net Benefit	17%	17%	28%	17%	28%	22%
Non-Weatherized Electric Furnace/Modular Blower Fan:						
Net Cost	4%	17%	17%	23%	23%	60%
No Impact	73%	37%	37%	25%	25%	0%
Net Benefit	22%	45%	45%	51%	51%	39%
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan:						
Net Cost	10%	10%	55%	10%	55%	80%
No Impact	56%	56%	0%	56%	0%	0%
Net Benefit	34%	34%	45%	34%	45%	20%
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan:						
Net Cost	5%	5%	37%	5%	37%	82%
No Impact	68%	68%	29%	68%	29%	0%
Net Benefit	27%	27%	33%	27%	33%	18%
Mobile Home Electric Furnace/Modular Blower Fan:						
Net Cost	7%	7%	26%	32%	32%	75%
No Impact	71%	71%	38%	26%	26%	0%
Net Benefit	22%	22%	37%	43%	43%	25%

Note: Components may not sum to total due to rounding.

First, DOE considered TSL 6, which would save an estimated total of 5.63 quads of energy, an amount DOE considers significant. TSL 6 has an estimated NPV of consumer benefit of $6.51 billion using a 7-percent discount rate, and $24.7 billion using a 3-percent discount rate.

The cumulative CO_2 emissions reduction at TSL 6 is 255.2 million metric tons. The estimated monetary value of the CO_2 emissions reductions ranges from $1.60 billion to $23.71 billion. The other emissions reductions are 327.9 thousand tons of SO_2, 126.4 thousand tons of NO_X, 0.5 tons of Hg, 8.6 thousand tons of N_2O, and 1,028.0 thousand tons of CH_4.

At TSL 6, the average LCC savings are positive for: (1) Non-weatherized, non-condensing gas furnace fans; (2) non-weatherized, condensing gas furnace fans; (3) weatherized non-condensing gas furnace fans; (4) non-weatherized, non-condensing oil furnace fans; and (5) non-weatherized electric furnace/modular blower fans. The LCC savings are negative for: (1) Mobile home non-weatherized, non-condensing gas furnace fans; (2) mobile home non-weatherized, condensing gas furnace fans; and (3) mobile home electric furnace/modular blower fans. The median payback period is lower than the median product lifetime (which is 21.2 years for gas and electric furnace

fans) for all of the product classes except for: (1) Mobile home non-weatherized, non-condensing gas furnace fans, and (2) mobile home non-weatherized, condensing. The share of consumers experiencing an LCC cost (increase in LCC) is higher than the share experiencing an LCC benefit (decrease in LCC) for all of the product classes except for weatherized non-condensing gas furnace fans.

At TSL 6, manufacturers may expect diminished profitability due to increases in product costs, stranded assets, capital investments in equipment and tooling, decreases in unit shipments, and expenditures related to engineering and testing. The projected change in INPV ranges from a decrease of $202.5 million to an increase of $72.8 million based on DOE's manufacturer markup scenarios. The upper bound of $72.8 million is considered an optimistic scenario for manufacturers because it assumes manufacturers can fully pass on substantial increases in product costs and maintain existing mark ups. DOE recognizes the risk of large negative impacts on industry if manufacturers' expectations concerning reduced profit margins are realized. TSL 6 could reduce INPV in the residential furnace fan industry by up to 57.9 percent if impacts reach the lower bound of the range.

Accordingly, the Secretary concludes that at TSL 6 for residential furnace fans, the benefits of significant energy savings, positive NPV of consumer benefit, emission reductions and the estimated monetary value of the CO_2 emissions reductions, as well as positive average LCC savings for most product classes would be outweighed by the high percentage of consumers that would experience an LCC cost in all of the product classes, and the substantial reduction in INPV for manufacturers. Consequently, DOE has concluded that TSL 6 is not economically justified.

Next, DOE considered TSL 5, which would save an estimated total of 4.01 quads of energy, an amount DOE considers significant. TSL 5 has an estimated NPV of consumer benefit of $10.1 billion using a 7-percent discount rate, and $29.1 billion using a 3-percent discount rate.

The cumulative CO_2 emissions reduction at TSL 5 is 181.5 million metric tons. The estimated monetary value of the CO_2 emissions reductions ranges from $1.14 billion to $16.88 billion. The other emissions reductions are 238.4 thousand tons of SO_2, 81.8 thousand tons of NO_X, 0.4 tons of Hg, 6.2 thousand tons of N_2O, and 697.7 thousand tons of CH_4.

At TSL 5, the average LCC savings are positive for all of the product classes. The median payback period is lower than the average product lifetime for all of the product classes. The share of consumers experiencing an LCC benefit (decrease in LCC) is higher than the share experiencing an LCC cost (increase in LCC) for five of the product classes (non-weatherized, non-condensing gas furnace fans; non-weatherized, condensing gas furnace fans; weatherized non-condensing gas furnace fans; non-weatherized electric furnace/modular blower fans; and mobile home electric furnace/modular blower fans), but lower for the other three product classes.

At TSL 5, the projected change in INPV ranges from a decrease of $60.8 million to an increase of $48.0 million. At TSL 5, 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 5 could result in a net loss of 17.4 percent in INPV for residential furnace fan manufacturers.

Accordingly, the Secretary concludes that at TSL 5 for residential furnace fans, the benefits of significant energy savings, positive NPV of consumer benefit, positive average LCC savings for all of the product classes, emission reductions and the estimated monetary value of the CO_2 emissions reductions, would be outweighed by the high percentage of consumers that would be negatively impacted for some of the product classes, and the substantial reduction in INPV for manufacturers. Consequently, DOE has concluded that TSL 5 is not economically justified.

Next, DOE considered TSL 4, which would save an estimated total of 3.99 quads of energy, an amount DOE considers significant. TSL 4 has an estimated NPV of consumer benefit of $10.0 billion using a 7-percent discount rate, and $28.8 billion using a 3-percent discount rate.

The cumulative CO_2 emissions reduction at TSL 4 is 180.6 million metric tons. The estimated monetary value of the CO_2 emissions reductions ranges from $1.13 billion to $16.8 billion. The other emissions reductions are 235.7 thousand tons of SO_2, 84.0 thousand tons of NO_X, 0.4 tons of Hg, 6.2 thousand tons of N_2O, and 695.0 thousand tons of CH_4.

At TSL 4, the average LCC savings are positive for all of the product classes. The median payback period is lower than the average product lifetime for all of the product classes. The share of consumers experiencing an LCC benefit (decrease in LCC) is higher than the share experiencing an LCC cost (increase in LCC) for all of the product classes.

At TSL 4, the projected change in INPV ranges from a decrease of $59.0 million to an increase of $48.2 million. At TSL 4, 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 4 could result in a net loss of 16.9 percent in INPV for residential furnace fan manufacturers.

After considering the analysis and weighing the benefits and the burdens, the Secretary concludes that at TSL 4 for residential furnace fans, the benefits of significant energy savings, positive NPV of consumer benefit, positive average LCC savings for all of the product classes, emission reductions and the estimated monetary value of the CO_2 emissions reductions would outweigh the reduction in INPV for manufacturers. The Secretary has concluded that TSL 4 would save a significant amount of energy and is technologically feasible and economically justified. Therefore, DOE today is adopting the energy conservation standards for residential furnace fans at TSL 4. Table V.30 presents the energy conservation standards for residential furnace fans.

TABLE V.30—ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL FURNACE FANS

Product class	Standard: FER* (W/1000 cfm)
Non-Weatherized, Non-Condensing Gas Furnace Fan	FER = 0.044 × Q_{Max} + 182
Non-Weatherized, Condensing Gas Furnace Fan	FER = 0.044 × Q_{Max} + 195
Weatherized Non-Condensing Gas Furnace Fan	FER = 0.044 × Q_{Max} + 199
Non-Weatherized, Non-Condensing Oil Furnace Fan	FER = 0.071 × Q_{Max} + 382
Non-Weatherized Electric Furnace/Modular Blower Fan	FER = 0.044 × Q_{Max} + 165
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan	FER = 0.071 × Q_{Max} + 222
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan	FER = 0.071 × Q_{Max} + 240

TABLE V.30—ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL FURNACE FANS—Continued

Product class	Standard: FER * (W/1000 cfm)
Mobile Home Electric Furnace/Modular Blower Fan	FER = 0.044 × Q_{Max} + 101
Mobile Home Weatherized Non-Condensing Gas Furnace Fan	Reserved
Mobile Home Non-Weatherized Non-Condensing Oil Furnace Fan	Reserved

* Q_{Max} is the airflow, in cfm, at the maximum airflow-control setting measured using the final DOE test procedure. 79 FR 500, 524 (Jan. 3, 2014).

2. Summary of Benefits and Costs (Annualized) of Today's Standards

The benefits and costs of today's standards can also be expressed in terms of annualized values. The annualized monetary values are the sum of: (1) The annualized national economic value, expressed in 2013$, of the benefits from operating products that meet the standards (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase costs, which is another way of representing consumer NPV), and (2) the monetary value of the benefits of emission reductions, including CO_2 emission reductions.[77] The value of the CO_2 reductions, otherwise known as the Social Cost of Carbon (SCC), is calculated using a range of values per metric ton of CO_2 developed by a recent interagency process.

Although combining the values of operating savings and CO_2 reductions provides a useful perspective, two issues should be considered. First, the national operating savings are domestic U.S. consumer monetary savings that occur as a result of market transactions while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and SCC are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of products shipped in 2019–2048. 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 over a very long period.

Table V.31 shows the annualized values for today's standards for residential furnace fans. The results under the primary estimate are as follows. (All monetary values below are expressed in 2013$.) Using a 7-percent discount rate for benefits and costs other than CO_2 reduction (for which DOE used a 3-percent discount rate along with the SCC series corresponding to a value of $40.5/ton in 2015), the cost of the residential furnace fan standards in today's rule is $358 million per year in increased equipment costs, while the benefits are $1,416 million per year in reduced equipment operating costs, $312 million in CO_2 reductions, and $5.61 million in reduced NO_X emissions. In this case, the net benefit amounts to $1,376 million per year.

Using a 3-percent discount rate for all benefits and costs and the SCC series corresponding to a value of $40.5/ton in 2015, Table V.31 shows the cost of the residential furnace fans standards in today's rule is $355 million per year in increased equipment costs, while the benefits are $2010 million per year in reduced operating costs, $312 million in CO_2 reductions, and $6.36 million in reduced NO_X emissions. In this case, the net benefit amounts to $1,973 million per year.

TABLE V.31—ANNUALIZED BENEFITS AND COSTS OF STANDARDS (TSL 4) FOR RESIDENTIAL FURNACE FANS

	Discount rate	Primary estimate *	Low net benefits estimate	High net benefits estimate
		million 2013$/year		
Benefits:				
Consumer Operating Cost Savings	7%	1416	1167	1718
	3%	2010	1626	2467
CO_2 Reduction Monetized Value ($12.0/t case) **	5%	90	77	108
CO_2 Reduction Monetized Value ($40.5/t case) **	3%	312	268	377
CO_2 Reduction Monetized Value ($62.4/t case) **	2.5%	459	393	555
CO_2 Reduction Monetized Value ($119/t case) **	3%	965	828	1166
NO_X Reduction Monetized Value (at $2,684/ton) **	7%	5.61	4.80	6.82
	3%	6.36	5.35	7.86
Total Benefits †	7% plus CO_2 range	1,512 to 2,387	1,249 to 2,000	1,833 to 2,891
	7%	1,734	1,439	2,102
	3% plus CO_2 range	2,106 to 2,981	1,708 to 2,459	2,583 to 3,641
	3%	2,328	1,899	2,852
Costs:				
Consumer Incremental Product Costs	7%	358	314	410
	3%	355	304	419
Net Benefits:				
Total †	7% plus CO_2 range	1,154 to 2,029	935 to 1,685	1,423 to 2,481
	7%	1,376	1,125	1,692

[77] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2013, the year used for discounting the NPV of total consumer costs and savings, for the time-series of costs and benefits using discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates. From the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in 2013, that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined would be a steady stream of payments.

TABLE V.31—ANNUALIZED BENEFITS AND COSTS OF STANDARDS (TSL 4) FOR RESIDENTIAL FURNACE FANS—Continued

	Discount rate	Primary estimate *	Low net benefits estimate	High net benefits estimate
		million 2013$/year		
	3% plus CO_2 range 3%	1,750 to 2,625 1,973	1,404 to 2,155 1,595	2,164 to 3,222 2,433

* This table presents the annualized costs and benefits associated with residential furnace fans shipped in 2019–2048. These results include benefits to consumers which accrue after 2048 from the products purchased in 2019–2048. Costs incurred by manufacturers, some of which may be incurred in preparation for the rule, are not directly included, but are indirectly included as part of incremental equipment costs. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices and housing starts from the *AEO 2013* Reference case, Low Estimate, and High Estimate, respectively. Incremental product costs reflect a constant product price trend in the Primary Estimate, an increasing price trend in the Low Benefits Estimate, and a decreasing price trend in the High Benefits Estimate.

** The CO_2 values represent global values of the SCC, in 2013$, in 2015 under several scenarios. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC values increase over time. The value for NO_X (in 2013$) is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to the SCC value of $40.5/t in 2015. In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that today's standards address, are as follows:

(1) There is a lack of consumer information and/or information processing capability about energy efficiency opportunities in the home appliance market.

(2) There is asymmetric information (one party to a transaction has more and better information than the other) and/or high transactions costs (costs of gathering information and effecting exchanges of goods and services).

(3) There are external benefits resulting from improved energy efficiency of residential furnace fans that are not captured by the users of such equipment. These benefits include externalities related to environmental protection and energy security that are not reflected in energy prices, such as reduced emissions of greenhouse gases.

In addition, DOE has determined that today's regulatory action is an "economically significant regulatory action" under section 3(f) of Executive Order 12866. Accordingly, section 6(a)(3) of the Executive Order requires that DOE prepare a regulatory impact analysis (RIA) for this rule and that the Office of Information and Regulatory Affairs (OIRA) in the OMB review this rule. DOE presented to OIRA for review the draft rule and other documents prepared for this rulemaking, including the RIA, and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011. 76 FR 3281 (Jan. 21, 2011). Executive Order 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 a 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*). DOE has prepared the following FRFA for the products that are the subject of this rulemaking.

1. Description and Estimated Number of Small Entities Regulated

Methodology for Estimating the Number of Small Entities

For the manufacturers of residential furnace fans, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by NAICS code and industry description and are available at: *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.* Residential furnace fan 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.

To estimate the number of companies that could be small business manufacturers of products covered by this rulemaking, DOE conducted a market survey using available public information to identify potential small manufacturers. DOE's research involved public databases (*e.g.,* AHRI Directory,[78] the SBA Database [79]), individual company Web sites, and market research tools (*e.g.,* Hoovers Web site [80]) 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 residential furnace fans. 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 and operated.

DOE initially identified 38 manufacturers of residential furnace fan products sold in the U.S. DOE then determined that 23 were large manufacturers or manufacturers that are foreign owned and operated. DOE was able to determine that 15 domestic manufacturers meet the SBA's definition of a ''small business'' and manufacture products covered by this rulemaking.

Manufacturer Participation

Before issuing this Notice, DOE attempted to contact all the small business manufacturers of residential furnace fans it had identified. One of the small businesses consented to being interviewed during the MIA interviews. DOE also obtained information about small business impacts while interviewing large manufacturers.

Industry Structure

The 15 identified domestic manufacturers of residential furnace fans that qualify as small businesses under the SBA size standard account for a small fraction of industry shipments. Generally, manufacturers of furnaces are also manufacturers of furnace fan products. The market for residential gas furnaces is almost completely held by seven large manufacturers, and small manufacturers in total account for only 1 percent of unit sales in the market. These seven large manufacturers also control 97 percent of the market for central air conditioners. The market for mobile home furnaces is primarily held by one large manufacturer. In contrast, the market for domestic oil furnaces is almost entirely comprised of small manufacturers.

Comparison Between Large and Small Entities

Today's standards for residential furnace fans could cause small manufacturers to be at a disadvantage relative to large manufacturers. One way in which small manufacturers could be at a disadvantage is that they may be disproportionately affected by product conversion costs. Product redesign, testing, and certification costs tend to be fixed per basic model and do not scale with sales volume. For each model, small businesses must make investments in research and development to redesign their products, but because they have lower sales volumes, they must spread these costs across fewer units. In addition, because small manufacturers have fewer engineers than large manufacturers, they would need to allocate a greater portion of their available resources to meet a standard. Since engineers may need to spend more time redesigning and testing existing models as a result of the new standard, they may have less time to develop new products.

Furthermore, smaller manufacturers may lack the purchasing power of larger manufacturers. For example, since motor suppliers give discounts to manufacturers based on the number of motors they purchase, larger manufacturers may have a pricing advantage because they have higher volume purchases. This purchasing power differential between high-volume and low-volume orders applies to other furnace fan components as well, including the impeller fan blade, transformer, and capacitor.

2. Description and Estimate of Compliance Requirements

Since the standard in today's final rule for residential furnace fans could cause small manufacturers to be at a disadvantage relative to large manufacturers, DOE cannot certify that today's standards would not have a significant impact on a significant number of small businesses, and consequently, DOE has prepared this FRFA.

At TSL 4, the level adopted in today's document, DOE estimates capital conversion costs of $0.14 million and product conversion costs of $0.23 million over a five-year conversion period for a typical small manufacturer. This is compared to capital conversion costs of $0.59 and product conversion costs of $1.00 million over a five-year conversion period for a typical large manufacturer. These costs and their impacts are described in detail below.

To estimate how small manufacturers would be potentially impacted, DOE used the market share of small manufacturers to estimate the annual revenue, earnings before interest and tax (EBIT), and research and development (R&D) expense for a typical small manufacturer. DOE then compared these costs to the required product conversion costs at each TSL for both an average small manufacturer and an average large manufacturer. Table VI.1 and VI.2 show the capital and product conversion costs for a typical small manufacturer versus those of a typical large manufacturer. Tables VI.3 and VI.4 report the total conversion costs as a percentage of annual R&D expense, annual revenue, and EBIT for a typical small and large manufacturer, respectively. In the following tables, TSL 4 represents the adopted standard.

[78] See *https://www.ahridirectory.org/ahriDirectory/pages/home.aspx.*

[79] See *http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm.*

[80] See Hoovers: *http://www.hoovers.com./.*

TABLE VI.1—COMPARISON OF TYPICAL SMALL AND LARGE MANUFACTURER'S CAPITAL CONVERSION COSTS

	Capital conversion costs for typical small manufacturer (in 2013$ millions)	Capital conversion costs for typical large manufacturer (in 2013$ millions)
TSL 1	0.08	0.35
TSL 2	0.10	0.44
TSL 3	0.11	0.46
TSL 4	0.14	0.59
TSL 5	0.14	0.62
TSL 6	1.24	5.28

TABLE VI.2:—COMPARISON OF TYPICAL SMALL AND LARGE MANUFACTURER'S PRODUCT CONVERSION COSTS

	Product conversion costs for typical small manufacturer (in 2013$ millions)	Product conversion costs for typical large manufacturer (in 2013$ millions)
TSL 1	0.17	0.74
TSL 2	0.22	0.93
TSL 3	0.23	0.99
TSL 4	0.23	1.00
TSL 5	0.25	1.06
TSL 6	0.27	1.15

TABLE VI.3—IMPACTS OF CONVERSION COSTS ON A SMALL MANUFACTURER

	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	69%	185%	5%	72%
TSL 2	86%	232%	6%	90%
TSL 3	92%	249%	7%	96%
TSL 4	117%	250%	8%	105%
TSL 5	122%	266%	8%	111%
TSL 6	1048%	289%	31%	427%

TABLE VI.4—IMPACTS OF CONVERSION COSTS ON A LARGE MANUFACTURER

	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%	8%	0%	3%
TSL 2	4%	10%	0%	4%
TSL 3	4%	11%	0%	4%
TSL 4	5%	11%	0%	5%
TSL 5	5%	11%	0%	5%
TSL 6	45%	12%	1%	18%

Based on the results in Table VI.1 and Table VI.2, DOE understands that the potential conversions costs faced by small manufacturers may be proportionally greater than those faced by larger manufacturers. Small manufacturers have less engineering staff and lower R&D budgets. They also have lower capital expenditures annually. As a result, the conversion costs incurred by a small manufacturer would likely be a larger percentage of its annual capital expenditures, R&D expenses, revenue, and EBIT, than those for a large manufacturer.

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 the other TSLs DOE considered. Although TSLs lower than the proposed TSLs would be expected to reduce the impacts on small entities, DOE is required by EPCA to establish standards that achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified, and result in a significant conservation of energy. Thus, DOE rejected the lower TSLs.

In addition to the other TSLs being considered, the NOPR TSD includes a regulatory impact analysis in chapter 17. For residential furnace fans, this report discusses the following policy alternatives: (1) No standard, (2) consumer rebates, (3) consumer tax credits, (4) manufacturer tax credits, and (5) early replacement. DOE does not intend to consider these alternatives further because they are either not feasible to implement without authority and funding from Congress, or are expected to result in energy savings that are much smaller (ranging from less than 1 percent to less than 31 percent) than those that would be achieved by the considered energy conservation standards.

C. Review Under the Paperwork Reduction Act

Manufacturers of furnace fans, or their third party representatives, must certify to DOE that their products comply with any applicable energy conservation standard. In certifying compliance, manufacturers or their third-party representatives must test their equipment according to the DOE test procedure for furnace fans, including any amendments adopted for that test procedure. Manufacturers or their third-party representatives must then submit certification reports and compliance statements using DOE's electronic Web-based tool, the Compliance and Certification Management System (CCMS), regarding product characteristics and energy consumption information regarding basic models of furnace fans distributed in commerce in the U.S. CCMS uses product-specific templates that manufacturers are required to use when submitting certification data to DOE. See *http://www.regulations.doe.gov/ccms*.

The collection-of-information requirement for furnace fan certification is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for the certification is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Note that the certification and recordkeeping requirements for certain consumer products in 10 CFR part 430 have previously been approved by OMB and assigned OMB control number 1910–1400; the certification requirement for furnace fans will be included in this collection once approved by OMB. DOE will notify the public of OMB approval through a **Federal Register** notice.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the DOE program official listed in the **ADDRESSES** section above, and email to *Chad_S._Whiteman@omb.eop.gov*.

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 this 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 (August 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. DOE has examined this final rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of 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; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), 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 a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''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 them. 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/sites/prod/files/gcprod/documents/umra_97.pdf*.

Although today's final rule, which adopts new energy conservation standards for residential furnace fans, does not contain a Federal intergovernmental mandate, it may require annual expenditures of $100 million or more by the private sector. Specifically, the final rule could require expenditures of $100 million or more, including: (1) Investment in research and development and in capital expenditures by residential furnace fans 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 residential furnace fans, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the final rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of this final rule and the ''Regulatory Impact Analysis'' section of the 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(f) and (o), today's final rule establishes energy conservation standards for residential furnace fans that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the TSD for this 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

Pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), DOE has determined 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 information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that today's regulatory action, which sets forth energy conservation standards for residential furnace fans, is not a significant energy action because the

new standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the final rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.*

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Commercial equipment, Confidential business information, Energy conservation, Household appliances, Imports, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on June 25, 2014.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE amends parts 429 and 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

§ 429.12 [Amended]

■ 2. Section 429.12 is amended by:

■ a. Removing in paragraph (b)(13) ''429.54'' and adding in its place ''429.58'';

■ b. Removing in paragraph (d) table, first column, second row (*i.e.,* for products with a submission deadline of May 1st) the word ''and'' and adding ''and Residential furnace fans'' at the end of the listed products.

■ 3. Section 429.58 is amended by:

■ a. Adding in paragraph (a)(2) introductory text ''within the scope of appendix AA of subpart B of part 430'' after ''basic model of furnace fan''; and

■ b. Adding paragraph (b).

The addition reads as follows:

§ 429.58 Furnace fans.

* * * * *

(b) *Certification reports.* (1) The requirements of § 429.12 are applicable to residential furnace fans; and

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: The fan energy rating (FER) in watts per thousand cubic feet per minute (W/1000 cfm); the calculated maximum airflow at the reference system external static pressure (ESP) in cubic feet per minute (cfm); the control system configuration for achieving the heating and constant-circulation airflow-control settings required for determining FER as specified in the furnace fan test procedure (10 CFR part 430, subpart B, appendix AA); the measured steady-state gas, oil, or electric heat input rate (Q_{IN}) in the heating setting required for determining FER; and for modular blowers, the manufacturer and model number of the electric heat resistance kit with which it is equipped for certification testing.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 4. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 5. Section 430.2 is amended by adding definitions for ''small-duct high-velocity (SDHV) electric furnace'' and ''small-duct high-velocity (SDHV) modular blower'' in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Small-duct high-velocity (SDHV) electric furnace means an electric furnace that:

(1) Is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling in the highest default cooling airflow-control setting; and

(2) When applied in the field, uses high velocity room outlets generally greater than 1,000 fpm that have less than 6.0 square inches of free area.

Small-duct high-velocity (SDHV) modular blower means a modular blower that:

(1) Is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling in the highest default cooling airflow-controls setting; and

(2) When applied in the field, uses high velocity room outlets generally greater than 1,000 fpm that have less than 6.0 square inches of free area.

* * * * *

■ 6. Section 430.32 is amended by adding paragraph (y) to read as follows:

§ 430.32 Energy and water conservation standards and their effective dates.

* * * * *

(y) *Residential furnace fans.* Residential furnace fans incorporated in the products listed in Table 1 of this paragraph and manufactured on and after July 3, 2019, shall have a fan energy rating (FER) value that meets or is less than the following values:

TABLE 1—ENERGY CONSERVATION STANDARDS FOR COVERED RESIDENTIAL FURNACE FANS*

Product class	FER ** (Watts/cfm)
Non-Weatherized, Non-Condensing Gas Furnace Fan (NWG–NC)	FER = 0.044 × Q_{Max} + 182
Non-Weatherized, Condensing Gas Furnace Fan (NWG–C)	FER = 0.044 × Q_{Max} + 195
Weatherized Non-Condensing Gas Furnace Fan (WG–NC)	FER = 0.044 × Q_{Max} + 199
Non-Weatherized, Non-Condensing Oil Furnace Fan (NWO–NC)	FER = 0.071 × Q_{Max} + 382
Non-Weatherized Electric Furnace/Modular Blower Fan (NWEF/NWMB)	FER = 0.044 × Q_{Max} + 165
Mobile Home Non-Weatherized, Non-Condensing Gas Furnace Fan (MH–NWG–NC)	FER = 0.071 × Q_{Max} + 222
Mobile Home Non-Weatherized, Condensing Gas Furnace Fan (MH–NWG–C)	FER = 0.071 × Q_{Max} + 240
Mobile Home Electric Furnace/Modular Blower Fan (MH–EF/MB)	FER = 0.044 × Q_{Max} + 101
Mobile Home Non-Weatherized Oil Furnace Fan (MH–NWO)	Reserved
Mobile Home Weatherized Gas Furnace Fan (MH–WG) **	Reserved

* Furnace fans incorporated into hydronic air handlers, SDHV modular blowers, SDHV electric furnaces, and CAC/HP indoor units are not subject to the standards listed in this table.

** Q_{Max} is the airflow, in cfm, at the maximum airflow-control setting measured using the final DOE test procedure at 10 CFR part 430, subpart B, appendix AA.

Note: The following will not appear in the Code of Federal Regulations.

U.S. DEPARTMENT OF JUSTICE
Antitrust Division

WILLIAM J. BAER
Assistant Attorney General

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950 Pennsylvania Avenue, N.W.
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(202)514-2401 / (202)616-2645 (Fax)

December 20, 2013

Eric J. Fygi
Deputy General Counsel
Department of Energy
Washington, DC 20585

Dear Deputy General Counsel Fygi:

I am responding to your October 23, 2013 letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for products that use electricity for purposes of circulating air through duct work in residences (also referred to as "residential furnace fans"). Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (ECPA), 42 U.S.C. 6295(o)(2)(B)(i)(V), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR § 0.40(g).

In conducting its analysis the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice, by placing certain manufacturers at an unjustified competitive disadvantage, or by inducing avoidable inefficiencies in production or distribution of particular products. A lessening of competition could result in higher prices to manufacturers and consumers, and perhaps thwart the intent of the revised standards by inducing substitution to less efficient products.

We have reviewed the proposed standards contained in the Notice of Proposed Rulemaking (78 Fed. Reg. 207, October 25, 2013) (NOPR). We have also reviewed supplementary information submitted to the Attorney General by the Department of Energy, including the technical support document. Based on this review, our conclusion

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is that the proposed energy conservation standards for residential furnace fans are unlikely to have a significant adverse impact on competition.

Sincerely,

William J. Baer

Enclosure

[FR Doc. 2014–15387 Filed 7–2–14; 8:45 am]
BILLING CODE 6450–01–P

FEDERAL REGISTER

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

Endangered and Threatened Wildlife and Plants; Threatened and Endangered Status for Distinct Population Segments of Scalloped Hammerhead Sharks; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 111025652–4523–03]

RIN 0648–XA798

Endangered and Threatened Wildlife and Plants; Threatened and Endangered Status for Distinct Population Segments of Scalloped Hammerhead Sharks

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

ACTION: Final rule.

SUMMARY: In response to a petition submitted by WildEarth Guardians and Friends of Animals, we, NMFS, are issuing a final determination to list the Central and Southwest (SW) Atlantic Distinct Population Segment (DPS) and the Indo-West Pacific DPS of scalloped hammerhead shark (*Sphyrna lewini*) as threatened species under the Endangered Species Act (ESA). We are also issuing a final determination to list the Eastern Atlantic DPS and Eastern Pacific DPS of scalloped hammerhead sharks as endangered species under the ESA. We intend to consider critical habitat for the Central & SW Atlantic, Indo-West Pacific, and Eastern Pacific DPSs in a separate rulemaking.

DATES: This final rule is effective on September 2, 2014.

ADDRESSES: Information concerning this final rule may be obtained by contacting NMFS, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910. The final rule, list of references and other materials relating to this determination can be found on our Web site at *http://www.nmfs.noaa.gov/pr/species/fish/scallopedhammerheadshark.htm.*

FOR FURTHER INFORMATION CONTACT: Maggie Miller, NMFS, Office of Protected Resources, (301) 427–8403.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 2011, we received a petition from WildEarth Guardians and Friends of Animals to list the scalloped hammerhead shark (*Sphyrna lewini*) as threatened or endangered under the ESA throughout its entire range, or, as an alternative, to delineate the species into five DPSs (Eastern Central and Southeast Pacific, Eastern Central Atlantic, Northwest and Western Central Atlantic, Southwest Atlantic, and Western Indian Ocean) and list any or all of these DPSs as threatened or endangered. The petitioners also requested that critical habitat be designated for the scalloped hammerhead under the ESA. On November 28, 2011, we published a positive 90-day finding (76 FR 72891) announcing that the petition presented substantial scientific or commercial information indicating the petitioned action of listing the species may be warranted and explained the basis for that finding. On April 5, 2013, after completing a comprehensive status review of the species (Miller *et al.* 2013; hereafter referred to as the ''Status Review Report'' available at *http://www.nmfs.noaa.gov/pr/species/fish/scallopedhammerheadshark.htm*), we identified six DPSs of scalloped hammerhead sharks: Northwest Atlantic and Gulf of Mexico (NW Atlantic & GOM) DPS, Central and Southwest (SW) Atlantic DPS, Eastern Atlantic DPS, Indo-West Pacific DPS, Central Pacific DPS, and Eastern Pacific DPS. On April 5, 2013, we published a 12-month determination in the **Federal Register** announcing that listing was not warranted at this time for the NW Atlantic & GOM DPS and the Central Pacific DPS (see 78 FR 20718, conclusion that listing is not warranted in Proposed Determinations). As part of the same action, we proposed a rule to list the Central & SW Atlantic DPS and Indo-West Pacific DPS as threatened species under the ESA, and the Eastern Atlantic DPS and Eastern Pacific DPS as endangered species under the ESA (see 78 FR 20718, proposal to list DPSs in Proposed Determinations). We solicited comments from all interested parties including the public, other governmental agencies, the scientific community, industry, and environmental groups on the Proposed Rule. Specifically, we requested information regarding: (1) The proposed scalloped hammerhead DPS delineations; (2) the population structure of scalloped hammerhead sharks; (3) habitat within the range of the DPSs proposed for listing that was present in the past, but may have been lost over time; (4) biological or other relevant data concerning any threats to the scalloped hammerhead shark DPSs we proposed for listing; (5) the range, distribution, and abundance of these scalloped hammerhead shark DPSs; (6) current or planned activities within the range of the scalloped hammerhead shark DPSs we proposed for listing and their possible impact on these DPSs; (7) recent observations or sampling of the scalloped hammerhead shark DPSs we proposed for listing; (8) efforts being made to protect the scalloped hammerhead shark DPSs we proposed to list; and (9) information regarding the Indo-West Pacific DPS, mainly the population structure, range, distribution, and recent observations or sampling of scalloped hammerhead sharks around the Western Pacific Islands. We received 670 comments in response to the Proposed Rule during the public comment period. Summaries of these comments are included below.

Listing Species Under the Endangered Species Act

We are responsible for determining whether scalloped hammerhead sharks are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*) To make this determination, we first consider whether a group of organisms constitutes a ''species'' under Section 3 of the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered under Section 4 of the Act. Section 3 of the ESA defines species to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' On February 7, 1996, NMFS and the U.S. Fish and Wildlife Service (USFWS; together, the Services) adopted a policy describing what constitutes a DPS of a taxonomic species (61 FR 4722). The joint DPS policy identified two elements that must be considered when identifying a DPS: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the remainder of the species (or subspecies) to which it belongs. As stated in the joint DPS policy, Congress expressed its expectation that the Services would exercise authority with regard to DPSs sparingly and only when the biological evidence indicates such action is warranted. We evaluated whether scalloped hammerhead population segments met the DPS Policy criteria and described the delineations of six scalloped hammerhead DPSs in detail in the 12-month ''not warranted'' determination and Proposed Rule. Comments regarding the delineation are addressed in the section ''Summary of Peer Review and Public Comments Received'' below.

Section 3 of the ESA defines an endangered species as ''any species which is in danger of extinction throughout all or a significant portion of its range'' and a threatened species as one ''which is likely to become an

endangered species within the foreseeable future throughout all or a significant portion of its range.'' Thus, in the context of the ESA, the Services interpret an ''endangered species'' to be one that is presently at risk of extinction. A ''threatened species,'' on the other hand, is not currently at risk of extinction, but is likely to become so in the foreseeable future. In other words, a key statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either now (endangered) or in the foreseeable future (threatened). The statute also requires us to determine whether any species is endangered or threatened as a result of any one or a combination of the following five factors: the present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence (ESA, section 4(a)(1)(A)–(E)). Section 4(b)(1)(A) of the ESA requires us to make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and after taking into account efforts being made by any State or foreign nation or political subdivision thereof to protect the species. In evaluating the efficacy of existing protective efforts, we rely on the Services' joint *Policy on Evaluation of Conservation Efforts When Making Listing Decisions* (''PECE''; 68 FR 15100; March 28, 2003). The PECE provides direction for consideration of conservation efforts that have not been implemented, or have been implemented but not yet demonstrated effectiveness.

Summary of Peer Review and Public Comments Received

On July 1, 1994, the NMFS and USFWS published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. Pursuant to our 1994 policy on peer review, we solicited technical review of the 12-month ''not warranted'' determination and the Proposed Rule from six qualified specialists. Comments were received from two of the independent experts and those substantive comments are addressed below.

In addition, on April 5, 2013, we solicited public comments on the Proposed Rule for a total of 90 days (78 FR 20718). We received comments on the 12-month ''not warranted'' determination and the Proposed Rule from 3,618 commenters; 2,948 commenters were in the form of signatures on a form letter. We also received over 190 comments that were variations of another form letter. Summaries of only the substantive public comments received, and our responses, are provided below, organized by topic.

Peer Reviewer Comments

Comment 1: A peer reviewer noted that, in general, the 5-factor threats assessment was accurately done, but expressed concern over the proposed ''threatened'' listing for the population found off southern Brazil, believing that this population may be ''endangered.'' The peer reviewer referenced studies that reported increases in catches and decreases in hammerhead populations off Brazil that were cited and considered in the Proposed Rule and Status Review Report (including Amorim *et al.,* 1998; Kotas *et al.,* 2008; and CITES, 2010). The peer reviewer also noted that embryonic development of *S. lewini* occurs in the oceanic area off southern Brazil. For 296 embryos collected during 1988–93, average lengths were 24.3 cm in May, 29.7 cm in June, 32.9 cm in July, 42.0 cm in September, 46.5 cm in October, and 47.4 cm in November. The peer reviewer noted that birth occurs probably inshore from October to December.

Response: We accept the additional information about embryonic development of *S. lewini* specifically in Brazilian waters and have updated the Status Review Report accordingly (see Miller *et al.* 2014). It is important to note that the ''threatened'' listing status was proposed for the Central & SW Atlantic DPS, which includes scalloped hammerhead populations found in the Caribbean as well as off the coast of Brazil. The Extinction Risk Analysis (ERA) team, a team of biologists and shark experts that were tasked with conducting the extinction risk analysis for the scalloped hammerhead shark DPSs, considered the references that were mentioned by the peer reviewer, in addition to a number of other studies within this DPS' range, when it evaluated the extinction risk of the Central and SW Atlantic DPS (see Status Review Report). With no new information to indicate an increase in extinction risk for this DPS, we do not find reason to reevaluate the analysis in the Status Review Report or reconsider the listing status of the Central & SW Atlantic DPS.

Comment 2: A peer reviewer commented that gene flow likely occurs between the Atlantic west and east populations. On the African coast, only a few samples were used (N = 6) to differentiate populations (Duncan *et al.,* 2006). This does not prove that there is a strong population differentiation between the east and west coast of the Atlantic Ocean. Furthermore, Daly-Engel *et al.* (2012) found no difference between the samples from the African coast and the samples from South Carolina; there was differentiation only between the samples from the Gulf of Mexico and African coast. In addition, only one study (Duncan *et al.,* 2006) had samples from the southwestern Atlantic, but the number of these samples (N=3) used for comparison to samples from the west African coast was likely insufficient. Therefore, the genetic differentiation between the African coast compared to the American coast may require further study. Additionally, there is probably no barrier to overcome for the scalloped hammerhead sharks in the Atlantic Ocean and so there must be genetic exchange across the ocean. The scalloped hammerhead is considered a circumtropical species and is capable of traveling long distances (1,941 km, Bessudo *et al.,* 2011). Scalloped hammerhead sharks found in larger areas, such as the Pacific and Indian Oceans, have been considered as one population. Also, evidence suggests *S. lewini* travels from the Atlantic to the Indo-Pacific, via southern Africa (Duncan *et al.,* 2006).

Response: Although scalloped hammerhead sharks are highly mobile, this species rarely conducts trans-oceanic migrations (Kohler and Turner, 2001; Duncan and Holland, 2006; Duncan *et al.,* 2006; Chapman *et al.,* 2009; Diemer *et al.,* 2011). Genetics analyses for scalloped hammerhead sharks using mitochondrial DNA (mtDNA), which is maternally inherited, and microsatellite loci data, which reflects the genetics of both parents, have consistently shown that scalloped hammerhead subpopulations are genetically diverse and that individual subpopulations can be differentiated, especially those populations separated by ocean basins (Duncan *et al.,* 2006; Chapman *et al.,* 2009; Ovenden *et al.,* 2011; Daly-Engel *et al.,* 2012). In the Atlantic, both mitochondrial and microsatellite data indicate genetic discontinuity within this ocean basin, with distinct populations of scalloped hammerhead sharks defined by their respective coasts. Although only a few samples (N=6) were taken from the coast

of west Africa in the Dudley *et al.* (2006) study, in the Daly-Engel *et al.* (2012) study, the authors analyzed 28 samples from the coast of west Africa and corroborated the finding of genetic structure between the western and eastern Atlantic *S. lewini* populations. Using biparentally-inherited DNA, Daly-Engel *et al.* (2012) found scalloped hammerhead samples from West Africa were weakly differentiated from South Carolina samples (which is not the same as ''no difference''; in fact, $0.01 \leq P \leq 0.05$, indicating statistical significance) and significantly differentiated from Gulf of Mexico samples ($P \leq 0.001$). Additionally, the Daly-Engel *et al.* (2012) study found the West African scalloped hammerhead samples to be significantly differentiated from the South African samples ($P \leq 0.01$). Since differences in genetic composition can sometimes be explained by the behavior of a species, we also reviewed tagging data to learn more about the movements of the scalloped hammerhead populations. We found that the available data corroborate the genetic findings that populations of scalloped hammerhead sharks rarely travel long distances over oceanic barriers, such as deep water (see discussion in Status Review Report and the Proposed Rule). While we acknowledge that further genetic study is likely warranted, we must rely on the best available information at the time of listing in order to make our determinations. As such, with no new data provided or available to suggest otherwise, we rely on these genetic and behavioral studies which support the finding that there is isolation between the eastern and western Atlantic scalloped hammerhead populations, and conclude that these populations should be treated as separate and discrete.

Comment 3: A peer reviewer commented that aside from the NW Atlantic & GOM DPS, there was no quantitative data supporting the listing status determinations. Neither was there data that represented the status of the species throughout an entire DPS. Thus, for some of the more extensive and complex DPSs (e.g., Indo-West Pacific) there are likely to be multiple patterns of decline occurring. For example, in Australia, where there is adequate management of sharks, there are likely to be smaller declines in these populations than in the more heavily fished parts of the DPS. However, the information on scalloped hammerhead sharks in Australian waters was missing from the ''threat of overutilization'' section for the Indo-West Pacific DPS. There has been a significant amount of work on scalloped hammerhead sharks in Australia, and the lack of this information in the decision means that this variability has been under-estimated. This is particularly important because Australia has some of the best shark management practices in the world, and so scalloped hammerhead sharks likely have a much higher probability of not going extinct in this part of the DPS.

Response: While we acknowledge that, with the exception of the NW Atlantic & GOM DPS, there is a limited amount of quantitative data available on the other DPSs, we are required to use the best scientific and commercial data available to determine whether the DPSs should be listed under the ESA because of any of the following five factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or man-made factors affecting its continued existence. The best available information, including both qualitative and quantitative data, indicates that the Indo-West Pacific and Central & SW Atlantic DPSs are likely to become in danger of extinction in the foreseeable future and that the Eastern Atlantic and Eastern Pacific DPSs are currently in danger of extinction based on threats that are ongoing and not being adequately addressed. While it may be true that there are differing levels of population decline and adequacy of management regulations throughout the range of a specific DPS, we must evaluate threats to the entire DPS when making a listing determination.

We disagree with the peer reviewer that the information on scalloped hammerhead sharks in Australian waters was not considered in our decision. The proposed determination was largely based on the Status Review Report, which included substantial information on the status of scalloped hammerhead sharks found in Australian waters. In fact, much of the quantitative data on abundance trends that were considered in the demographic risks section for the Indo-West Pacific DPS came from studies conducted in Australian waters (which were also referenced by the peer reviewer, including Harry *et al.,* 2011a; Harry *et al.,* 2011b; and Reid and Krogh, 1992). As the Proposed Rule notes (see 78 FR 20718, discussion of Evaluation of Demographic Risks, Indo-West Pacific DPS), estimates of the decline in Australian hammerhead abundance range from 58–85 percent (Heupel and McAuley, 2007; CITES, 2010). Catch per unit effort (CPUE) data from the northern Australian shark fishery indicate declines of 58–76 percent in hammerhead abundance in Australia's northwest marine region from 1996–2005 (Heupel and McAuley, 2007). Data from protective shark meshing programs off beaches in New South Wales (NSW) and Queensland also suggest significant declines in hammerhead populations off the east coast of Australia. From 1973 to 2008, the number of hammerheads caught per year in NSW beach nets decreased by more than 90 percent, from over 300 individuals to fewer than 30 (Reid and Krogh, 1992; Williamson, 2011). Similarly, data from the Queensland shark control program indicate declines of around 82 percent in hammerhead shark abundance between the years of 1985 and 2012, with *S. lewini* abundance fluctuating over the years but showing a steady decline since 2004. Between 2004 and 2012, the number of *S. lewini* shark caught in the Queensland shark control program nets has decreased by 80 percent (QLD DEEDI, 2013). These shark control programs were assessed to have at least a medium causative impact on the localized depletions of scalloped hammerhead sharks (Reid and Krogh, 1992).

We also agree with the reviewer that Australia has adequate fisheries management regulations in place that would minimize the risk of overutilization of scalloped hammerhead sharks found in Australian waters. As the Proposed Rule and Status Review Report documents, Australia has a number of measures to sustainably manage shark populations, prevent the waste of shark parts, and discourage finning (see 78 FR 20718, discussion of Inadequacy of Existing Regulatory Mechanisms, Indo-West Pacific DPS). For example, sharks must be landed with fins naturally attached in Commonwealth, NSW and Victorian waters, and must be landed with corresponding fins in a set fin to carcass ratio in Tasmanian, Western Australian, Northern Territory and Queensland waters. In May 2012, the state of New South Wales (NSW) listed *S. lewini* as an endangered species, thus protecting the shark form recreational and commercial fisheries in NSW state waters. In Australia's northern shark fisheries (Joint Authority Northern Shark Fishery (JANSF) and Western Australia North Coast Shark Fishery (WANCSF)), hammerhead catches saw a significant decline from their peak in 2004/05 following the implementation of stricter management regulations in

2005 (including area closures and longline and gillnet restrictions in WANCSF). In 2008, the JANSF's export approval was revoked over concerns about the ecological sustainability of the fishery. In 2009, the WANCSF export approval expired. As such, no product from either fishery can currently be legally exported. As the northern shark fisheries rely upon shark fin exports for the majority of their income, these export losses have effectively shut down the fisheries, and, consequently, from 2009–2011 there was no reported activity in the northern shark fisheries (McAuley and Rowland, 2012).

The adequacy of these numerous fisheries management and shark conservation regulations in Australia is reflected by the fact that scalloped hammerhead sharks are still fairly abundant off the east coast of Australia. For example, in a 3-year study of commercial gillnet catch of the Queensland East Coast Inshore Finfish Fishery, *S. lewini* was the 4th most abundant elasmobranch (making up 8.8 percent of the total catch) (Harry *et al.,* 2011b). Similarly, data from a Queensland banana prawn trawl fishery revealed that *S. lewini* was the most frequently caught shark species (based on 184 net trawls) but only represented 0.055 percent of the total bycatch (Shark Advisory Group, 2004). Given the available information, we did not find overutilization by Australian fisheries, or the inadequacy of Australian fisheries management regulations, as significant threats to the Indo-West Pacific DPS, which is why they were not discussed at length in the threats sections of the Proposed Rule.

However, in addition to waters off Australia's coast, the Indo-West Pacific DPS range extends throughout the entire Indian Ocean and western Pacific. As described in the DPS analysis section of the Proposed Rule (see 78 FR 20718, discussion of the Identification of Distinct Populations Segments), genetic and tagging data suggest that the scalloped hammerhead sharks in the Indo-West Pacific frequently mix with one another (Daly-Engel *et al.,* 2012). For example, one study found there to be no genetic subdivision of S. *lewini* between Indonesia and the eastern or northern coasts of Australia, indicating this species moves widely between the connecting habitats of Australia and Indonesia (Ovenden *et al.,* 2009; Ovenden *et al.,* 2011). In other words, the sharks found in Australian waters are not discrete or separate from other sharks found in the DPS range and thus are affected by threats outside of the Australian exclusive economic zone (EEZ). As such, although management regulations may be adequate within Australian waters, in other parts of its range the Indo-West Pacific DPS still faces threats of overutilization by fisheries, is subject to high levels of illegal fishing (although this occurs in Australia's EEZ as well), and lacks adequate regulatory protection. Using the best available scientific and commercial information, as found in the Status Review Report and discussed in the Proposed Rule, we determined that these threats warrant listing the Indo-West Pacific DPS as threatened, as it is likely to become in danger of extinction in the foreseeable future throughout its entire range.

Comment 4: A peer reviewer commented that the designated DPSs were largely in line with what would be expected but was a little surprised from a biological stand-point by the separation between the NW Atlantic & GOM DPS and the Central & SW Atlantic DPS. Given the agency's DPS policy that takes account of not only the biological evidence, but also the management arrangements, this conforms to the DPS policy. However, the peer reviewer expressed concern regarding the inclusion of the entire Gulf of Mexico range within this DPS. Specifically, the peer reviewer noted that there is likely to be greater pressure on the NW Atlantic & GOM DPS as the sharks swim across U.S. jurisdictional boundaries within the Gulf of Mexico (but also noted the boundaries by Cuba and Bahamas), and may be at an elevated risk of capture in these less regulated fisheries, a risk that was not fully accounted for in the listing decision.

Response: As the peer reviewer notes, the DPS designations conform to the DPS Policy. As discussed in the Proposed Rule, we used evidence of genetic diversity, geographic isolation, and differences in international regulatory mechanisms for identifying the NW Atlantic & GOM DPS as discrete from the other scalloped hammerhead shark DPSs (see 78 FR 20718, discussion of the Identification of Distinct Populations Segments). Significance is evaluated in terms of the importance of the population segment to the overall welfare of the species. We used evidence that loss of the NW Atlantic & GOM population segment would result in a significant gap in the range of the taxon, as *S. lewini* from other DPSs are unlikely to repopulate the NW Atlantic & GOM DPS. Available data show that gene flow is low between this DPS and neighboring population segments (Duncan *et al.,* 2006; Chapman *et al.,* 2009; Daly-Engel *et al.,* 2012) and tagging studies show limited distance movements by individuals (Duncan and Holland, 2006; Bessudo *et al.,* 2011; Diemer *et al.,* 2011), including along the western Atlantic coast (Kohler and Turner, 2001).

Although the peer reviewer did not present any new information on the risk of capture in fisheries outside of U.S. jurisdiction, we acknowledge in the Proposed Rule that the ERA team had concerns about the level of illegal fishing of the NW Atlantic & GOM DPS by Mexican fishing vessels (see 78 FR 20718, discussion of Inadequacy of Existing Regulatory Mechanisms, NW Atlantic & GOM DPS). Based on data from 2000–2005, Brewster-Geisz and Eytcheson (2005) estimated that Mexican fishers are illegally catching anywhere from 3 to 56 percent of the total U.S. Atlantic commercial shark quota, and between 6 and 108 percent of the Gulf of Mexico regional commercial quota. However, the large range of these estimates indicates a high degree of uncertainty, indicating that the extent of illegal fishing on the scalloped hammerhead sharks in the Gulf of Mexico is largely unknown. Updated data that include years 2006 through 2009 also suggest that the risk of this threat may be diminishing. In fact, since 2005, there has been a 46 percent decrease in the number of detected incursions (Brewster-Geisz *et al.,* 2010). Also, in 2012, Mexico established an annual shark fishing prohibition in its jurisdictional Gulf of Mexico waters (from May 1 to June 30) (DOF, 2012), which will help protect *S. lewini* from capture during parturition and also deter future illegal fishing by its fishers, at least during the prohibitive period. We disagree that the increased risk of capture from fisheries operating in Mexican waters was not fully accounted for in the listing decision as the above information, as well as the analysis of it and other threats by the ERA team, was taken into consideration when we made our listing determination that the NW Atlantic & GOM DPS is not in danger of extinction now or in the foreseeable future.

Public Comments

Below we summarize and address the substantive public comments that were received during the public comment period for the Proposed Rule. Many of the commenters presented general information on threats or provided data that were already cited, discussed, and considered in the Status Review Report or the 12-month ''not warranted'' determination and Proposed Rule (78 FR 20718). We briefly summarize these comments and respond below with references to our prior documents where

relevant. Substantive comments and our responses are organized by relevant topic.

''Not Warranted'' Final Determination for the NW Atlantic & GOM DPS and Central Pacific DPS

The **Federal Register** notice solicited public comments on the Proposed Rule to list the Eastern Atlantic DPS and Eastern Pacific DPS as endangered species and to list the Central & SW Atlantic DPS and the Indo-West Pacific DPS as threatened species. However, the vast majority of the comments concerned the 12-month ''not warranted'' determination for the NW Atlantic & GOM DPS and the Central Pacific DPS. Although not presented for public comment, we reviewed the comments on the 12-month ''not warranted'' determination and provide the following responses:

A few commenters expressed concern that Draft Amendment 5 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) is not yet implemented (proposed on November 26, 2012; 77 FR 70552) or likely to be effective in addressing threats, such as bycatch mortality, illegal fishing, recreational catch data quality, and species identification problems, to the NW Atlantic & GOM DPS. Amendment 5 proposed measures that were designed to reduce fishing mortality and effort in order to rebuild various overfished Atlantic shark species, including scalloped hammerhead sharks, while ensuring that a limited sustainable shark fishery for certain species could be maintained. In the 12-month ''not warranted'' determination, we addressed these concerns in our assessment of threats to the NW Atlantic & GOM DPS (78 FR 20718, discussion of Summary of Factors Affecting the Six DPSs of Scalloped Hammerhead Sharks) and evaluated the likelihood of implementation and effectiveness of the proposed Draft Amendment 5 in our discussion of ''Efforts Being Made to Protect Scalloped Hammerhead Sharks'' (78 FR 20718, discussion of U.S. Fishery Management: Amendment 5 to the Consolidated HMS FMP) pursuant to the joint USFWS and NMFS *Policy on Evaluation of Conservation Efforts When Making Listing Decisions* (''PECE'', 68 FR 15100; March 28, 2003). In addition, since publication of the 12-month ''not warranted'' determination, these conservation efforts have been implemented. These measures were finalized in July 2013 with publication of Amendment 5a to the Consolidated HMS FMP (78 FR 40318; July 3, 2013). After considering the public comments on Draft Amendment 5, the HMS Management Division split Amendment 5 into two rulemakings: Amendment 5a (which addressed scalloped hammerhead, sandbar, blacknose, and Gulf of Mexico blacktip sharks) and Amendment 5b (which addressed dusky sharks). The implemented management measures include separating the commercial hammerhead shark quotas from the aggregated large coastal shark (LCS) management group quotas, linking the Atlantic hammerhead shark quota to the Atlantic aggregated LCS quotas, and linking the Gulf of Mexico hammerhead shark quota to the Gulf of Mexico aggregated LCS quotas. In other words, if either the aggregated LCS or hammerhead shark quota is reached, then both the aggregated LCS and hammerhead shark management groups will close. These quota linkages were implemented as an added conservation benefit for the hammerhead shark complex due to the concern of hammerhead shark bycatch and additional mortality from fishermen targeting other sharks within the LCS complex. The separation of the hammerhead species for quota monitoring purposes from other sharks within the LCS management unit will allow us to better manage the specific utilization of the hammerhead shark complex, which includes scalloped hammerhead sharks, thus further minimizing the threat of overutilization and promoting sustainable fishing.

For the recreational fisheries, Amendment 5a increased the minimum size limit for hammerheads from 54 inches fork length (FL) (4.5 feet; 137 cm) to 78 inches FL (6.5 feet; 198 cm) to ensure that primarily mature individuals are retained, which will help with rebuilding efforts. Furthermore, since January 1, 2007, the HMS Management Division has required all U.S. Atlantic pelagic longline, bottom longline, and gillnet vessel owners who hold shark permits and operators of those vessels to attend a Protected Species Safe Handling, Release, and Identification Workshop; and all Federally permitted shark dealers are required to attend Atlantic Shark Identification workshops. In addition, to help with increased accuracy in reporting shark catches down to the species level, many RFMOs and national and international fishery managers have started distributing shark and fin guides to fishermen.

To address the concern regarding illegal fishing, see the discussion in the 12-month ''not warranted'' determination (78 FR 20718, discussion of Inadequacy of Existing Regulatory Mechanisms, NW Atlantic & GOM DPS). As that action notes, the extent of illegal fishing on the NW Atlantic & GOM DPS remains unknown. There is a high degree of uncertainty surrounding the available estimates of illegal catch of the NW Atlantic & GOM DPS, and we have not received any new data since publication of the 12-month ''not warranted'' determination. However, as mentioned in that action, updated data since 2005 show a decrease in the number of detected incursions by Mexican fishers into U.S. waters (Brewster-Geisz *et al.,* 2010), indicating a possible decline in illegal fishing on the NW Atlantic & GOM DPS.

Bycatch from vessels targeting tuna and swordfish was also suggested as a threat to the NW Atlantic & GOM DPS during the public comment period. In 2010, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted Recommendation 10–08 prohibiting the retention of hammerheads caught in association with ICCAT-managed fisheries. In 2011, the NMFS HMS Management Division implemented this recommendation, prohibiting the retention, transshipping, landing, storing, or selling of hammerhead sharks in the family *Sphyrnidae* (except for *Sphyrna tiburo*) caught in association with ICCAT fisheries (76 FR 53652; August 29, 2011). This rule affects the commercial HMS pelagic longline (PLL) fishery and recreational fisheries for tunas, swordfish, and billfish in the Atlantic Ocean, including the Caribbean Sea and Gulf of Mexico (76 FR 53652; August 29, 2011). In addition, based on new data that we received and reviewed since publication of the 12-month ''not warranted'' determination, it appears that scalloped hammerhead sharks have a low risk of vulnerability to overexploitation by these PLL fisheries (Cortés *et al.,* 2012).

Using an Ecological Risk Assessment, Cortés et al. (2012) assessed 20 shark stocks caught in association with ICCAT fisheries. Ecological Risk Assessments are popular modeling tools that take into account a stock's biological productivity (evaluated based on life history characteristics) and susceptibility to a fishery (evaluated based on availability of the species within the fishery's area or operation, encounterability, post capture mortality and selectivity of the gear) in order to determine its overall vulnerability to overexploitation (Cortés *et al.,* 2012; Kiska, 2012). For the assessment, scalloped hammerhead sharks were separated into two Atlantic stocks, a northern *S. lewini* stock and a southern *S. lewini* stock. Out of the 20 shark stocks, the northern *S. lewini* stock

ranked 15th in terms of its susceptibility to PLL fisheries in the Atlantic Ocean, and the southern stock ranked 19th (indicating low susceptibility, which the authors attribute to reduced interactions with PLL gear) (Cortés *et al.,* 2012). In terms of productivity, the southern stock ranked 7th in highest productivity values (r = 0.121) and the northern stock ranked 9th (r = 0.096). The authors then calculated overall vulnerability scores using three methods: the Euclidean distance, a multiplicative index, and the arithmetic mean of the productivity and susceptibility ranks. Using the Euclidean distance method, the northern Atlantic *S. lewini* stock ranked 16th in terms of its overall vulnerability to the PLL fisheries in the Atlantic Ocean, and the southern Atlantic *S. lewini* stock ranked 19th (note: higher numerical rankings indicate lower vulnerability). For the multiplicative method, their vulnerability rankings were a little lower (with a rank of 12 for northern stock and 15 for the southern stock). Using the arithmetic mean to calculate vulnerability scores resulted in the same scores as the Euclidean distance method. Overall, the authors concluded that the northern and southern Atlantic scalloped hammerhead sharks, along with the smooth hammerhead (*Sphyrna zygaena*) and pelagic sting ray (*Pteroplatytrygon violacea*), have the lowest vulnerabilities to ICCAT fisheries. In other words, out of the 20 assessed shark stocks, these species are the least vulnerable to overfishing by ICCAT fisheries.

One commenter noted that human-made threats, such as sport-fishing and commercial catch or bycatch mortality, should have been considered under Factor E (''Other natural or manmade factors affecting its continued existence'') of Section (4)(a)(1) of the ESA. We did consider at-vessel fishing mortality under this factor; however, we assessed the other threats of recreational and commercial fishing morality under Factor B ''Overutilization for commercial, recreational, scientific, or educational purposes.'' Information regarding the threats assessment can be found in the Status Review Report and also discussed in the 12-month ''not warranted'' determination and Proposed Rule (78 FR 20718, discussion of Summary of Factors Affecting the Six DPSs of Scalloped Hammerhead Sharks).

Another commenter noted that significant weight for the delineation of the NW Atlantic & GOM DPS from the Central & SW Atlantic DPS was based on a personal communication (''Kohler personal communication, 2012'') made to the ERA team that is not available for the public to review. In this personal communication, discussed in the 12-month ''not warranted'' determination and Proposed Rule (78 FR 20718, discussion of Identification of Distinct Population Segments, Discreteness, Atlantic Ocean Population Segments), Kohler noted that no tagged scalloped hammerhead sharks from the northwest Atlantic have been tracked moving south to Brazil or even Central America. We referenced this personal communication as evidence of a potential separation of the northwest Atlantic and Gulf of Mexico population from the Central and South American population based on movement behavior. The information within the personal communication is based on results from the NMFS Cooperative Shark Tagging Program, which has tagged scalloped hammerhead sharks off the east coast of the United States and within the Gulf of Mexico. Kohler *et al.* (1998) presents results from this program during the years of 1962 to 1993. Out of the 2,131 tagged scalloped hammerhead sharks, 34 were recaptured with no shark recaptured south of Cuba (Kohler *et al.,* 1998). Although these findings support our delineation; we wanted to check if more recent data were available. We contacted the primary author, Dr. Nancy Kohler (who is still associated with the NMFS Cooperative Shark Tagging Program), to find out if any scalloped hammerhead sharks have been recaptured further south since publication of the Kohler *et al.* (1998) paper. As this data from the program is currently unpublished, we had to rely on personal communication from the primary author. This discussion should have cited to the 1998 publication and we now direct the public to that document, Kohler *et al.* (1998), for more information.

Finally, many commenters provided additional suggestions for how to conserve the species, such as funding more research on at-vessel mortality, improving monitoring, developing stock assessments, closing fisheries, and adopting precautionary management measures. While we appreciate public input on these issues, these suggestions are beyond the scope of our 12-month ''not warranted'' determination and the Proposed Rule.

Global Listing

Comment 5: Several commenters requested a global listing of the species, rather than splitting the species into DPSs, or requested that all DPSs should be listed. For support, the commenters provided general statements regarding threats to the species, such as overfishing and inadequate regulatory measures. The commenters state that the shark is overfished because it is targeted in fisheries, caught as bycatch, its fins are traded in the shark fin trade, there is poor species identification by fishermen, and there are current enforcement issues, particularly on the international scale, which have contributed directly to overfishing.

Response: The threats mentioned above have already been discussed at length in the Status Review Report and 12-month ''not warranted'' determination and Proposed Rule (see 78 FR 20718, discussion of Summary of Factors Affecting the Six DPSs of Scalloped Hammerhead Sharks). In fact, the commenters use the 12-month ''not warranted'' determination and Proposed Rule as a reference of support for many of their statements. We agree that overutilization, inadequate regulatory measures, and other natural or manmade factors are threats to the Central & SW Atlantic DPS, Eastern Pacific DPS, Eastern Atlantic DPS, and Indo-West Pacific DPS, and have discussed their effects on the extinction risk of these four DPSs in the Proposed Rule and Status Review Report.

Comment 6: One commenter stated that the species is under severe stress from climate change, but did not provide a reference or data to support this statement.

Response: Although the Status Review Report did not find evidence of global climate change as a current threat to the scalloped hammerhead shark, we received new information since publication of the Proposed Rule that specifically investigated this threat for scalloped hammerhead sharks on Australia's Great Barrier Reef (GBR) (Chin *et al.,* 2010). Chin *et al.* (2010) conducted an integrated risk assessment for climate change to assess the vulnerability of scalloped hammerhead sharks, as well as a number of other chondrichthyan species, to climate change on the GBR. The assessment examined individual species but also lumped species together in ecological groups (such as freshwater and estuarine, coastal and inshore, reef, shelf, etc.) to determine which groups may be most vulnerable to climate change. The assessment took into account the *in situ* changes and effects that are predicted to occur over the next 100 years in the GBR and assessed each species' exposure, sensitivity, and adaptive capacity to a number of climate change factors including: water and air temperature, ocean acidification, freshwater input, ocean circulation, sea level rise, severe weather, light, and ultraviolet radiation. Of the 133 GBR

shark and ray species, the assessment identified 30 as being moderately or highly vulnerable to climate change. The scalloped hammerhead shark, however, was not one of these species. In fact, the scalloped hammerhead shark was ranked as having a low overall vulnerability to climate change, with low vulnerability to each of the assessed climate change factors. Given the available information, we do not find evidence that global climate change is a current threat to the scalloped hammerhead shark.

Threats to the Four Listed DPSs

Comment 7: The commenters agreed with the proposed listing status of the Eastern Atlantic DPS and Eastern Pacific DPS as endangered, noting the threats of juvenile mortality from artisanal fisheries, overutilization by artisanal fisheries, poorly regulated fisheries, and evidence of significant declines in abundance. The commenters frequently cited to the Proposed Rule as support for their statements.

Response: We agree that the Eastern Atlantic DPS and Eastern Pacific DPS are currently in danger of extinction from threats of overutilization, inadequacy of existing regulatory mechanisms, and other natural and manmade factors, and thus are listing these two DPSs as endangered under the ESA.

Comment 8: Several commenters agreed with our findings for, and proposal to list, the Central & SW Atlantic DPS as threatened; however, they urged NMFS to closely monitor fishing trends and encourage gear research and mitigation.

Response: We agree that the Central & SW Atlantic DPS warrants listing as threatened. We will monitor the status of the Central & SW Atlantic DPS during our periodic reviews of listed species. Under Section 4(c)(2) of the ESA, we are required to conduct a review of the status of listed species at least once every five years to determine whether the species should be removed from the list or requires a change in its status. We have no response to conducting further research on gear effects as that is beyond the scope of the Proposed Rule.

Proposed Boundaries of the Indo-West Pacific DPS and Inclusion of U.S. Flag Pacific Islands

Comment 9: One commenter mentioned that NMFS may need to further consider the differing regional management capabilities and challenges to recovery and suggested further sub-dividing the Indo-West Pacific DPS to assure adequate protection to the most vulnerable areas.

Response: DPS identifications are based on the best available information relevant to the discreteness and significance criteria of the DPS policy. Although policy considerations are important when determining whether a population is discrete from other conspecific populations and significant to the taxon to which it belongs, we also rely on the available science to support these determinations. In terms of the Indo-West Pacific DPS, the best available scientific data, which included both genetic data and tagging studies, indicated a population where males of the species readily mix within the connecting habitats of the Indo-West Pacific range. While we agree that there are differing regional management capabilities and challenges within the Indo-West Pacific, the species is highly migratory within the region (with indications of long-shore dispersal and panmixia; Ovenden *et al.*, 2011) and, as such, we do not see a conservation benefit that will be gained from further dividing the DPS into smaller units.

Comment 10: Several commenters stated that the Indo-West Pacific DPS encompasses an extremely large area, with geographic boundary lines that have been drawn based on relatively little supporting biological information. The genetic study cited as support for the DPS only includes samples from Taiwan, the Philippines, and Hawaii, but none from any locations in between the Western and Central Pacific range. The referenced tagging studies are similarly limited in scope.

Response: As the comment mentions, the tagging information and genetic studies are limited in scope; however, in identifying DPSs, we must work with the best available scientific information relevant to the discreteness and significance criteria of the DPS policy. We are not aware of any study comparing genetics from locations between the Western and Central Pacific regions, nor did the commenter provide such information. In addition, we are not aware of any tagging information for scalloped hammerhead sharks offshore around the Hawaiian Archipelago, surrounding high seas, or other U.S. possessions in the Pacific, nor has this information been provided. As such, we must work with the best available information, and we used tagging studies in combination with DNA studies to come to the determination that scalloped hammerhead sharks do not commonly make oceanic migrations, are a coastal pelagic species with evidence of regional residential populations, and can be delineated into DPSs based on their behavior, geophysical boundaries, and genetic characteristics (see discussion in 12-month ''not warranted'' determination at 78 FR 20718, discussion of Identification of Distinct Population Segments, and the Status Review Report for more information).

We disagree that the geographic boundary lines were drawn with little supporting biological information. In fact, we based the coordinates of the boundary lines on the conclusions from the DPS analysis discussed within the Status Review Report but acknowledge that this may not have been fully explained in the 12-month ''not warranted'' determination and Proposed Rule. The Indo-West Pacific DPS is bounded to the south by 36° S. latitude (lat) and to the north by 40° N. lat. These boundary lines are based on the known geographic range of the species (Compagno, 1984; Baum *et al.*, 2007; Bester, 2011). The Indo-West Pacific DPS is bounded to the west by 20° E. longitude (long). This boundary line provides the separation from the Eastern Atlantic DPS as evidenced by the available genetic information that suggests that members of the Eastern Atlantic DPS rarely conduct long distance southern migrations into the Indo-West Pacific to mix with other *S. lewini* individuals (Daly-Engel *et al.,* 2012). In the east, the southern Indo-West Pacific boundary line extends to 130° W. long, then moves due north to 4° S. lat., then due west to 150° W. long., then due north to 10° N. lat. These boundary lines coincide with the Western and Central Pacific Fisheries Commission (WCPFC) convention area boundaries within the Eastern Pacific.

As differences in *S. lewini* exploitation coinciding with international boundary lines were cited as support for the DPS delineation, we determined that the most effective way to conserve the DPS was to delineate it by relevant Regional Fishery Management Organization (RFMO) boundary lines, the implication being that any conservation measures passed by the RFMO (in this case, the WCPFC) would be applicable to the entire DPS, not just a portion of it. From the 10° N. lat., the boundary for the Indo-West Pacific DPS extends due west to 175° E. long. and then due north to 40° N. lat. These boundary lines were primarily a consequence of the Central Pacific DPS delineation, in order to encompass all open ocean areas (and, hence, extending to the border of the Central Pacific DPS boundary line). More information on the delineation of the Central Pacific DPS boundary lines can be found in our responses to the comments below.

Comment 11: A commenter noted that NMFS has included Johnston Atoll in

the Central Pacific DPS due to its proximity to the Hawaiian archipelago, but has not provided sufficient evidence to show why the remaining areas of the Pacific Remote Island Areas (PRIA) are not sufficiently close to the Hawaiian Archipelago. In other words, it is unclear why other areas of the PRIA are not included in the Central Pacific DPS.

Response: The PRIA includes seven islands, atolls, and reefs located in the Central Pacific that are under the jurisdiction of the United States: Baker, Howland, Wake and Jarvis Islands, Johnston Atoll, Kingman Reef, and Palmyra Atoll (Rose Atoll and Midway Atoll are also sometimes included among the PRIAs). There is deep water separating the Hawaiian Archipelago and Johnson Atoll in the Central Pacific from the other PRIAs, including Kingman Reef (the closest PRIA) and Palmyra Atoll. In addition, the distance between Johnston Atoll and Kingman reef is approximately 1,350 to 1,400 km. As stated in the 12-month ''not warranted'' determination, the bathymetric barrier and the long distance between Johnston Atoll and the adjacent PRIAs are the primary reasons for the delineation between these areas (see 78 FR 20718, discussion of Identification of Distinct Population Segments, Discreteness, Pacific Ocean Population Segments and discussion of Proposed Determinations). Although the 12-month ''not warranted'' determination references the scalloped hammerhead's ability to travel long distances (1,941 km, Bessudo *et al.*, 2011; 1,671 km, Kohler and Turner, 2001; Hearn *et al.*, 2010; see 78 FR 20718, discussion of Life History, Biology, and Status of the Petitioned Species, Movement and Habitat Use), it is important to note that these migrations occurred along continental margins or coastlines (Northwest Atlantic coast: 1,671 km), or between islands with similar oceanographic conditions (1,941 km—however this was not a direct migration. The scalloped hammerhead shark migrated to and around islands, separated by distances of up to 710 km, and the total trip was estimated at 1,941 km). This species has been known to disperse into pelagic waters off seamounts and islands, usually for limited durations (at night; Klimley and Nelson 1984; Hearn *et al.*, 2010; Bessudo *et al.*, 2011) and distances (<10 km; Klimley and Nelson 1984; Hearn *et al.*, 2010). The assumption is that they are foraging in the open waters at night and returning to the seamounts during the day, with evidence of seasonal site residence and fidelity. There is currently no tagging evidence of adult scalloped hammerhead sharks that would suggest they traverse long distances (>1000 km) over open water where no submarine features exist to interrupt the migration. Thus, based on the best available information above and presented in the Status Review Report, we decided on a 10° N. lat. southern boundary line for the Central Pacific DPS, which coincides with the discreteness and significance findings from the DPS analysis.

Comment 12: A few commenters state that the U.S. Flag Pacific Islands (American Samoa, Guam, and Commonwealth of the Northern Mariana Islands (CNMI)) and the PRIA should either be included in the Central Pacific DPS or constitute a separate DPS. They argue that these islands satisfy the discreteness criteria under the DPS policy because they are delimited by international governmental boundaries within which significant differences in control of exploitation and regulatory mechanisms exist compared to the surrounding areas in the Indo-West Pacific DPS.

Response: As previously stated, some of the PRIAs were not included in the Central Pacific DPS due to the significant bathymetric barriers and distance between the islands. The U.S. Flag Pacific Islands are located even farther away from the Central Pacific DPS, and thus the same rationale would apply to these territories. There is currently no tagging evidence that shows or would suggest frequent migrations between the scalloped hammerhead sharks around the U.S. Flag Pacific Islands and the Central Pacific DPS. The best available data indicate these two populations are separate. As such, we identify the scalloped hammerhead sharks around the U.S. Flag Pacific Islands as part of the Indo-West Pacific and not as part of the Central Pacific DPS.

We also do not agree that the scalloped hammerhead sharks found in the U.S. Flag Pacific Islands and other PRIAs should be a separate DPS. The joint DPS policy identifies two elements that must be considered when identifying a DPS: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the remainder of the species (or subspecies) to which it belongs. When the discreteness criterion is met for a potential DPS, as the commenter contends, then we must consider the significance criterion next. Significance is evaluated in terms of the importance of the population segment to the overall welfare of the species. Some of the considerations that can be used to determine a discrete population segment's significance to the taxon as a whole include: (1) Persistence of the population segment in an unusual or unique ecological setting; (2) evidence that loss of the population segment would result in a significant gap in the range of the taxon; and (3) evidence that the population segment differs markedly from other populations of the species in its genetic characteristics.

The scalloped hammerhead sharks found around the U.S. Pacific Flag Islands are not in an unusual or unique ecological setting. Scalloped hammerhead sharks are found in coastal warm temperate and tropical seas worldwide, frequently observed in aggregations over seamounts and near islands. Similar ecological conditions as those found around the U.S. Pacific Flag Islands are also observed within the Central Pacific DPS (e.g., Johnston Atoll, Hawaiian archipelago) and other neighboring islands of the Indo-West Pacific DPS (e.g., Palau, Micronesia, Fiji, Philippines, New Caledonia). We do not have any information, nor was any provided, that would suggest the ecological conditions surrounding the U.S. Pacific Flag Islands are unusual or unique compared to the other areas where scalloped hammerhead sharks have been observed.

Currently, we do not have any evidence that would suggest that loss of the scalloped hammerhead sharks around the U.S. Pacific Flag Islands and other PRIAs would result in a significant gap in the range of the taxon. The waters surrounding the U.S. Pacific Flag Islands and PRIAs constitute only a very small portion of the range of the scalloped hammerhead within the Indo-West Pacific. In the event of a loss, these areas would likely be repopulated by scalloped hammerhead sharks from neighboring locations, such as the Marshall Islands, Micronesia, Palau, the Philippines, Indonesia, Papua New Guinea, New Caledonia, and Tokelau. The data support this assumption as this species commonly disperses along continuous coastlines, continental margins, and submarine features, such as chains of seamounts, commonly associated with scalloped hammerhead shark ''hotspots'' (Holland *et al.*, 1993; Kohler and Turner, 2001; Duncan and Holland, 2006; Hearn *et al.*, 2010; Bessudo *et al.*, 2011; Diemer *et al.*, 2011). This is true even for island populations, with tagged *S. lewini* individuals frequently migrating to nearby islands and mainlands with similar oceanographic conditions and no bathymetric barriers (Duncan and

Holland, 2006; Hearn *et al.*, 2010; Bessudo *et al.*, 2011). In other words, loss of scalloped hammerhead sharks from the U.S. Flag Pacific Islands and other PRIAs would not result in a significant gap in the range of the taxon.

Finally, there is no evidence, nor has the commenter provided any new information, that would suggest that the population segment around the U.S. Pacific Flag Islands or PRIAs differs markedly in its genetic characteristics (such as exhibiting unique haplotypes) from the other scalloped hammerhead sharks of the Indo-West DPS. Thus, using the best available scientific data, we do not find that the U.S. Pacific Flag Islands and PRIA population satisfy the significance criterion of the DPS policy. These scalloped hammerhead sharks will remain included in the Indo-West Pacific DPS.

Comment 13: Several commenters argue that the U.S. Flag Pacific Islands have management measures and regulatory mechanisms comparable to Hawaii that provide equivalent protections for scalloped hammerhead sharks. The commenters proceed to discuss the various management and regulatory mechanisms in the U.S. Flag Pacific Islands as support for their statement that these mechanisms protect the scalloped hammerhead shark from becoming threatened or endangered in the foreseeable future. Therefore, similar to the Central Pacific DPS, the commenters propose that these populations do not warrant listing.

Response: We are responsible for determining whether scalloped hammerhead sharks are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we first consider whether a group of organisms constitutes a ''species'' under Section 3 of the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines species to include ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' The scalloped hammerhead sharks found around the U.S. Pacific Flag islands are considered to be part of the larger Indo-West Pacific DPS. The DPS is the ''species'' that qualifies for listing under the ESA; we cannot make a ''not warranted'' finding on a portion of the DPS.

While we agree that the U.S. Flag Pacific Islands have management measures and regulatory mechanisms comparable to Hawaii, including gear, logbook, observer, and protected species workshop requirements, and longline exclusion zones, which afford some protection to scalloped hammerhead sharks within those waters, we must evaluate the adequacy of these regulations in terms of the protections they afford to the entire Indo-West Pacific DPS. As the Proposed Rule (78 FR 20718; April 5, 2013) notes, threats to the Indo-West Pacific DPS include overutilization by industrial/commercial and artisanal fisheries and inadequacy of existing regulatory mechanisms in many areas of the Indo-West Pacific DPS range (78 FR 20718, discussion of Proposed Determinations). Few countries within the Indian Ocean have regulations aimed at controlling the exploitation of shark species. In addition, while many of the small Pacific Island countries have created shark sanctuaries in their respective waters, including Tokelau, Palau, Marshall Islands, Cook Islands, and French Polynesia, enforcement has proven difficult, leading to reports of vessels illegally fishing thousands of pounds of shark products from these waters (Paul, 2009; AFP, 2012; Turagabeci, 2012). As discussed in the Status Review Report and Proposed Rule, the ERA team considered the current regulatory mechanisms, including those within the U.S. Pacific Flag Islands and elsewhere within the DPS, and evaluated the demographic risks and threats to the Indo-Pacific DPS and concluded that the Indo-West Pacific DPS is not currently in danger of extinction, but is likely to become so in the foreseeable future. We have reviewed the best available information and have determined that the Indo-West Pacific DPS warrants listing as a threatened species.

Comment 14: One commenter stated that NMFS should re-locate the northern boundary of the Indo-West Pacific DPS farther south (e.g., to the equator) so that more U.S. jurisdictional waters and high seas waters fished by U.S. fisheries are included within the Central Pacific DPS.

Response: The southern boundary line of the Central Pacific DPS (which is also the northern boundary line of the Indo-West Pacific mentioned in the comment) was not chosen based on catch rates or fishing effort by U.S. fisheries. The boundary lines of each DPS were chosen based on behavioral and biological data from tagging and genetic studies and consideration of the physical features of the habitats. As previously mentioned, given the long distance between Johnston Atoll and Kingman Reef and Palmyra Atoll, coupled with the presence of deep water barriers between these locations, a boundary line of 10° N was chosen to separate these locations and divide the Indo-West Pacific DPS from the Central Pacific DPS. These boundary lines are meant to reflect the conclusions from the DPS analysis regarding the discreteness and significance of each DPS.

Comment 15: A few commenters stated that NMFS did not provide any information regarding the presence of scalloped hammerhead sharks in nearshore areas of American Samoa and CNMI and only limited information for Guam, and that they are unaware of any evidence to suggest localized population declines of scalloped hammerhead sharks in the U.S. Flag Pacific Islands.

Response: We do not have any quantitative information regarding the abundance of scalloped hammerhead sharks in nearshore areas of American Samoa and CNMI. During the public comment period, the American Samoa Government provided us with information on observed catches of scalloped hammerhead sharks in the American Samoa longline fishery. The American Samoa longline fishery has had an observer program since 2006, with coverage ranging between 6 and 8 percent from 2006–2009, and between 20 and 33 percent since 2010. Only eight scalloped hammerhead sharks have been observed caught during this period in the American Samoa longline fishery.

We do not presume localized population declines of scalloped hammerhead sharks in the U.S. Flag Pacific Islands. In the 12-month ''not warranted'' determination, we state that decreases in CPUE of sharks off the coasts of South Africa and Australia, and in longline catch in Papua New Guinea and Indonesian waters, suggest localized population declines (78 FR 20718, discussion of Evaluation of Demographic Risks, Indo-West Pacific DPS and discussion of Overutilization for Commercial, Recreational, Scientific or Educational Purposes factor, Indo-West Pacific DPS). We considered these population declines, as well as information regarding other threats, such as the inadequacy of existing regulatory measures to protect the entire DPS (not just individuals found off American Samoa) and the species' life history characteristics that present demographic risks to its continued viability, when we concluded that the Indo-West Pacific DPS is approaching a level of abundance and productivity that places its future persistence in question throughout its entire range.

Comment 16: One commenter mentioned that American Samoa already has an existing regulation banning the take of all sharks and

therefore the proposal to list the species under the ESA is redundant.

Response: The scalloped hammerhead sharks found in waters of American Samoa are part of the Indo-West Pacific DPS. Although American Samoa currently bans the taking of all sharks, this is not a consistent regulation throughout the range of the Indo-West Pacific DPS. As mentioned in a previous response (and discussed in the Status Review Report and 12-month ''not warranted'' determination), threats to the Indo-West Pacific DPS include overutilization by industrial/commercial and artisanal fisheries (in countries that, for example, do not ban the taking of sharks) and inadequacy of existing regulatory mechanisms or weak enforcement of current regulations in many areas, resulting in frequent reports of illegal fishing of the species. Based on an evaluation of these threats, the Indo-West Pacific DPS was found to warrant listing as threatened.

Threats to the Species

Comment 17: One commenter noted that large-scale impacts (e.g., global climate change) are the greatest threats to this mainly oceanic shark. The commenter concludes that it is therefore highly unlikely that proposing to list this shark species under the ESA will eliminate this threat.

Response: We disagree that the greatest threat to the species is global climate change. This statement, which is found in the 12-month ''not warranted'' determination and Proposed Rule (see 78 FR 20718, discussion of the Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range), was made with regard to the evaluation of the threat of habitat modification or destruction. We found no evidence that would suggest the scalloped hammerhead was in danger of extinction due to habitat destruction or modification and instead posited that large-scale impacts, such as global climate change, could potentially alter habitat conditions and become a threat to the species. However, based on the Chin et al. (2010) study discussed previously, as well as the information in the Status Review Report, we have not found evidence to indicate that any large-scale impacts affecting habitat conditions are currently significant threats to the species. As discussed in the Status Review Report and 12-month ''not warranted'' determination, the threats of overutilization, inadequacy of existing regulatory mechanisms, and other natural or manmade factors warrant listing of the Eastern Atlantic and Eastern Pacific DPSs as endangered and the Indo-West Pacific and Central & SW Atlantic DPSs as threatened (see 78 FR 20718, discussion of Proposed Determinations).

Regardless of whether a threat can be eliminated, under the ESA, a species must be listed if it is endangered or threatened as a result of any one or a combination of the following five factors: the present or threatened destruction, modification, or curtailment of its habitat or range (which may include effects from global climate change); overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence (ESA, section 4(a)(1)(A)–(E)). While listing a species does not automatically remove all threats, the ESA does provide tools for greater protection of listed species. When this final rule takes effect, the prohibition on ''take'' in section 9 of the ESA will apply to the Eastern Pacific and Eastern Atlantic DPSs. Also, any action funded, authorized, or undertaken by a Federal agency that may affect any of the listed DPSs will require consultation between that Federal agency and NMFS under section 7 of the ESA. Once listed, section 4 of the ESA also requires that we develop and implement recovery plans that must, in part, identify objective, measurable criteria which, when met, would result in a determination that the species may be removed from the list; this standard inherently requires that recovery plans propose methods to address impacts and threats to the species.

Factual Errors Within Status Review Report and 12-Month ''Not Warranted'' Determination

Comment 18: Several commenters pointed out some factual errors regarding the description of the Hawaii-based longline fishery. For example, the shallow-set fishery is subject to periodic closures if sea turtle ''hard caps'' are reached, but the fishery has only closed twice since 2004 due to sea turtle interactions. The shallow-set fishery also operates in higher latitudes than the deep-set fishery and, as a result, only two scalloped hammerhead sharks have been caught in the shallow-set fishery since 2004. It is therefore incorrect to imply that shallow-set management measures are beneficial to scalloped hammerhead sharks when in reality there are fewer takes due to the nature of the fishery.

Response: We have updated the Status Review Report accordingly and reviewed the incorrect implication within the report (included in the DPS analysis section). We do not find that the removal of the statement regarding the benefits of the shallow-set management measures changes the conclusions of the DPS analysis.

Comment 19: A commenter noted that the observer program for the Hawaii-based longline fishery was initiated in 1994, not 1995. Observer coverage rate from 1994 to 2000 ranged between 3 and 10 percent and increased to a minimum of 20 percent in 2001. The deep-set fishery is currently observed at a minimum of 20 percent.

Response: We have updated the Status Review Report accordingly.

Comment 20: A commenter stated that the description of the longline prohibited area around the Main Hawaiian Islands is not accurate. A recently implemented False Killer Whale Take Reduction Plan (77 FR 71260; November 29, 2012) under the Marine Mammal Protection Act eliminated the seasonal contraction of the exclusion zone, establishing a permanent longline prohibited area ranging from 50–75 nautical miles (93–139 km) around the Main Hawaiian Islands. As a result, there is now a year-round longline fishery closure around the Main Hawaiian Islands.

Response: We accept this correction and have concluded that this new information regarding new fishery management measures that will protect scalloped hammerhead sharks from being incidentally caught in longline gear within the closure further supports our ''not warranted'' determination for the Central Pacific DPS.

Comment 21: One commenter noted that NMFS incorrectly attributes threats to the Central Pacific DPS from the purse seine fishery. Purse seine effort in the Western and Central Pacific Ocean occurs south of 10° N. lat., with little to no effort in the Central Pacific DPS range. It is worth nothing that higher velocity wind speeds are encountered in higher latitudes north and south of 10° N. lat. And 10° S. lat., respectively, which makes it difficult to operate large purse seine vessels that may bycatch schools of scalloped hammerhead sharks.

Response: We have updated the Status Review Report accordingly. The impact of this correction on our evaluation of threats to the Central Pacific DPS has not changed our determination that listing the Central Pacific DPS is not warranted at this time.

Comment 22: One commenter mentioned that NMFS incorrectly states that American Samoa has a shark sanctuary. Rather, American Samoa has

an Executive Order prohibiting the possession and take of marine species that includes all shark species.

Response: We have updated the Status Review Report accordingly.

Additional Information for Status Review Report and 12-Month ''Not Warranted'' Determination

Comment 23: One commenter noted that NMFS failed to mention that the U.S. Territories of American Samoa, Guam, and CNMI also have measures to prohibit shark finning or possession of shark fins when it discussed U.S. legislation in the 12-month ''not warranted'' determination and Proposed Rule.

Response: Although we did not specifically discuss the shark finning and possession bans of the U.S. Flag Pacific Islands within the text of the 12-month ''not warranted'' determination and Proposed Rule, this information was included in the Status Review Report. We considered the Status Review Report, upon which the 12-month ''not warranted'' determination and Proposed Rule was based, as providing the best available scientific and commercial information on the scalloped hammerhead shark, and used it to inform our determination. Thus, the information on shark finning and possession bans of the U.S. Flag Pacific Islands included in the Status Review Report was considered in our 12-month ''not warranted'' determination and Proposed Rule.

Comment 24: Several commenters provided detailed descriptions of the American Samoa longline fishery and information regarding Guam and CNMI longline fisheries.

Response: We appreciate the additional information and have updated the Status Review Report accordingly.

Comment 25: One commenter provided further information on the decline of landings from Brazil and the Eastern Atlantic, catch records from India, and information on juveniles and landings from the Eastern Pacific. The commenter supported the proposed endangered and threatened listing statuses for the DPSs.

Response: We reviewed the information provided by the commenter and determined that these data provide further support for our designations. We have updated the Status Review Report to include this new information.

ESA Section 9 Take Prohibitions

Comment 26: One commenter requested that if NMFS issues a Section 4(d) rule for the Indo-West Pacific DPS, Section 9 take prohibitions should not apply to licensed Hawaii-based commercial longline vessels. The commenter stated that the two primary threats that NMFS identified as contributing to the extinction risk of the Indo-West Pacific DPS were (1) lack of regulatory controls over certain fisheries and (2) overutilization caused by bycatch and the targeting of hammerhead sharks for fins or meat. According to the commenter, the Hawaii-based longline fisheries do not contribute to either of these threats. The commenter argues that existing regulatory structures applicable to the Hawaii-based longline fisheries support the conservation of the Indo-West Pacific DPS, and the effects, if any, of the Hawaii-based longline fisheries on scalloped hammerhead sharks are negligible, discountable, and insignificant. Thus, the commenter argues that the Hawaii-based longline fisheries should not be subjected to Section 9 take prohibitions as it is not necessary or advisable for the conservation of the Indo-West Pacific DPS.

Response: Once a species is listed as endangered, the ESA section 9 take prohibitions of the ESA automatically apply and any 'take' of the species is illegal unless that take is authorized under an incidental take statement following ESA section 7 consultation or under an ESA section 10 permit authorizing directed take (e.g., for scientific research or enhancement of the species) or incidental take during an otherwise lawful activity. In the case of a species listed as threatened, section 4(d) of the ESA requires the implementation of measures deemed necessary and advisable for the conservation of species. Therefore, for any species listed as threatened, we can impose any or all of the section 9 prohibitions if such measures are necessary and advisable for the conservation of the species. However, after a review of the threats and needs of the Central & SW Atlantic DPS and the Indo-West Pacific DPS, we have decided not to propose protective regulations for either of these threatened DPSs (see the *Section 9 Take Prohibitions* section below for more information).

Comment 27: A commenter requested that if NMFS pursues a threatened status for the Indo-West Pacific DPS, without modifications to the boundaries of the DPS, then NMFS should recognize the significant shark management and conservation measures in place for the U.S. Flag Pacific Islands. NMFS should exempt any federally authorized or permitted activity in the U.S. Flag Pacific Islands that may occasionally operate within the Indo-West Pacific DPS from ESA Section 4(d) take prohibitions.

Response: As mentioned above and as explained further below, we have determined that additional regulations prohibiting take are not necessary or advisable for either of the threatened DPSs at this time.

Critical Habitat

Comment 28: One commenter stated that NMFS should not designate critical habitat within any of the U.S. Flag Pacific Islands because existing measures negate the need for any special management consideration or protections, and the U.S. Flag Pacific Islands are on the margins of the Indo-West Pacific distribution.

Response: The fact that the location of the U.S. Flag Pacific Islands are on the margins of the Indo-West Pacific DPS distribution does not necessarily have any bearing on the designation of critical habitat. Critical habitat is defined in section 3 of the ESA (16 U.S.C. 1532(3)) as: (1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the ESA is no longer necessary.

Section 4(a)(3)(a) of the ESA (16 U.S.C. 1533(a)(3)(A)) requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. Designations of critical habitat must be based on the best scientific data available and must take into consideration the economic, national security, and other relevant impacts of specifying any particular area as critical habitat. If we determine that it is prudent and determinable, we will publish a proposed designation of critical habitat for scalloped hammerhead sharks in a separate rule. In making that determination, we would consider input from government agencies, the scientific community, industry and any other interested party on features and areas that may meet the definition of critical habitat for the DPSs to be listed that occur in U.S. waters or its territories; the Central & SW Atlantic,

Indo-West Pacific, and Eastern Pacific DPSs. Input may be sent to the Office of Protected Resources in Silver Spring, Maryland (see **ADDRESSES**). Please note that we are not required to respond to any input provided on this matter.

Summary of Changes From the Proposed Listing Rule

Based on the comments received and our review of the Proposed Rule, we made the changes listed below.

1. We added information on the delineation of the DPS boundary lines to clarify why these specific boundary lines were chosen.

2. We made minor revisions or added information on management measures and regulatory mechanisms found within the U.S. Flag Pacific Islands based on information from the American Samoa Government and the WCPFC.

3. We changed many of the references of ''IUU'' fishing to ''illegal'' fishing based on comments received from our internal review of the proposed listing rule and discussions with the ERA team. The ERA team had defined ''IUU'' fishing as any instance of illegal fishing within either the jurisdiction of a coastal state or upon the high seas that is essentially not being regulated (as it is done without the authorization of the nation or organization governing that fishing area or species) and ultimately goes unreported. However, the definition of ''IUU'' fishing for the purposes of the U.S. High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826d–1826g) is provided under regulations at 50 CFR 300.201, which defines ''IUU'' fishing as:

(1) Fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including but not limited to catch limits or quotas, capacity restrictions, and bycatch reduction requirements;

(2) Overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; or,

(3) Fishing activity that has a significant adverse impact on seamounts, hydrothermal vents, cold water corals and other vulnerable marine ecosystems located beyond any national jurisdiction, for which there are no applicable conservation or management measures, including those in areas with no applicable international fishery management organization or agreement.

Because the ERA team was not using this regulatory definition of ''IUU'' fishing when referring to ''IUU'' fishing in the Status Review Report, we have changed some of the text that previously referred to ''IUU'' fishing to read as ''illegal'' fishing in order to reduce confusion and more accurately reflect the term as understood and defined by the ERA team.

4. We made minor updates or added information in the listing rule based on recommendations from peer reviewers, commenters, new information we received or reviewed since publication of the Proposed Rule, and our own internal review of the proposed listing rule.

We have also updated our Status Review Report based on new information that we received or reviewed since March 2013, as well as information provided by peer reviewers and commenters mentioned above. From hereafter, mention of the ''Status Review Report'' refers to the updated version (see Miller *et al.* 2014, available at *http://www.nmfs.noaa.gov/pr/species/fish/scallopedhammerheadshark.htm*). Our listing determination and summary of the data on which it is based, with the incorporated changes, are presented in the remainder of this document.

Identification of Distinct Population Segments

As described above, the ESA's definition of ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.'' The genetic diversity among subpopulations, geographic isolation, and differences in international regulatory mechanisms provide evidence that several populations of scalloped hammerhead sharks meet the DPS Policy criteria. Therefore, prior to evaluating the conservation status for scalloped hammerhead sharks, and in accordance with the joint DPS policy, we considered: (1) The discreteness of any scalloped hammerhead shark population segment in relation to the remainder of the species to which it belongs; and (2) the significance of any scalloped hammerhead shark population segment to the remainder of the species to which it belongs.

Discreteness

The Services' joint DPS policy states that a population of a vertebrate species may be considered discrete if it satisfies either one of the following conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation) or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of Section 4(a)(1)(D) of the ESA. To inform its decisions with respect to possible scalloped hammerhead DPSs, the ERA team mainly relied on genetic data, tagging studies, and evidence of differences in the control of exploitation and management by international governmental bodies.

Although scalloped hammerhead sharks are highly mobile, this species rarely conducts trans-oceanic migrations (Kohler and Turner, 2001; Duncan and Holland, 2006; Duncan *et al.,* 2006; Chapman *et al.,* 2009; Diemer *et al.,* 2011). Female scalloped hammerhead sharks may even display a level of site fidelity for reproduction purposes (Duncan *et al.,* 2006; Chapman *et al.,* 2009) that likely contributes to the apparent genetic discontinuity in the global scalloped hammerhead shark population (Duncan *et al.,* 2006; Chapman *et al.,* 2009; Daly-Engel *et al.,* 2012). Genetics analyses for scalloped hammerhead sharks using mitochondrial DNA (mtDNA), which is maternally inherited, and microsatellite loci data, which reflects the genetics of both parents, have consistently shown that scalloped hammerhead subpopulations are genetically diverse and that individual subpopulations can be differentiated (Duncan *et al.,* 2006; Chapman *et al.,* 2009; Ovenden *et al.,* 2011; Daly-Engel *et al.,* 2012). As discussed in the 12-month ''not warranted'' determination and Proposed Rule (see 78 FR 20718, discussion of Identification of Distinct Population Segments), genetic studies indicate that populations of *S. lewini* in the Atlantic are differentiated from those found in the Pacific or Indian Oceans (Duncan *et al.,* 2006; Chapman *et al.,* 2009; Ovenden *et al.,* 2011; Daly-Engel *et al.,* 2012). There is also evidence of further genetic isolation between the eastern and western Atlantic scalloped hammerhead populations, and finer scale delineation within the western Atlantic population (Duncan *et al.,* 2006; Chapman *et al.,* 2009; Daly-Engel *et al.,* 2012). With regards to the *S. lewini* sharks in the Central Pacific and Eastern Pacific, both microsatellite loci

and mtDNA data indicate significant genetic differentiation between these two populations (Daly-Engel *et al.,* 2012). However, within the Indo-West Pacific region a lack of genetic structure suggests frequent mixing of scalloped hammerhead populations found in these waters (Daly-Engel *et al.,* 2012). A comparison of microsatellite loci samples from the Indian Ocean, specifically samples from the Seychelles and West Australia, as well as from South Africa and West Australia, indicated either no or weak population differentiation (Daly-Engel *et al.,* 2012). Additionally, there was no evidence of genetic structure between the Pacific and Indian Oceans, as samples from Taiwan, Philippines, and East Australia in the western Pacific showed no population differentiation from samples in the Indian Ocean ($F_{ST} = -0.018$, $P = 0.470$) (Daly-Engel *et al.,* 2012).

Although these genetic data may imply that males of the species move widely within the Indo-West Pacific region, potentially across ocean basins, tagging studies suggest otherwise. Along the east coast of South Africa, for example, *S. lewini* moved an average distance of only 147.8 km (data from 641 tagged scalloped hammerhead sharks; Diemer *et al.,* 2011). Tagging studies in other regions also suggest limited distance movements, and only along continental margins, coastlines, and submarine features, such as chains of seamounts, commonly associated with scalloped hammerhead shark ''hotspots'' (Holland *et al.,* 1993; Kohler and Turner, 2001; Duncan and Holland, 2006; Hearn *et al.,* 2010; Bessudo *et al.,* 2011; Diemer *et al.,* 2011). This is true even for island populations, with tagged *S. lewini* individuals frequently migrating to nearby islands and mainlands (Duncan and Holland, 2006; Hearn *et al.,* 2010; Bessudo *et al.,* 2011), but no evidence or data to support oceanic migration behavior. Thus, it seems more likely that the high connectivity of the habitats found along the Indian and western Pacific coasts have provided a means for this shark population to mix and reproduce without having to traverse deep ocean basins. Further explanation of the other discreteness factors can be found in the 12-month ''not warranted'' determination and Proposed Rule (78 FR 20718).

Significance

When the discreteness criterion is met for a potential DPS, as it is for the Northwest Atlantic & Gulf of Mexico, Central & Southwest Atlantic, Eastern Atlantic, Indo-West Pacific, Central Pacific, and Eastern Pacific population segments identified above, the second element that must be considered under the DPS policy is significance of each DPS to the taxon as a whole. Significance is evaluated in terms of the importance of the population segment to the overall welfare of the species. Some of the considerations that can be used to determine a discrete population segment's significance to the taxon as a whole include: (1) Persistence of the population segment in an unusual or unique ecological setting; (2) evidence that loss of the population segment would result in a significant gap in the range of the taxon; and (3) evidence that the population segment differs markedly from other populations of the species in its genetic characteristics.

Based on the results from the genetic and tagging analyses mentioned previously, we believe that there is evidence that loss of any of the population segments would result in a significant gap in the range of the taxon. For example, the Indo-West Pacific region, which is hypothesized as the center of origin for *S. lewini,* with the oldest extant scalloped hammerhead species found in this region (Duncan *et al.,* 2006; Daly-Engel *et al.,* 2012), covers a wide swath of the scalloped hammerhead sharks' range (extending from South Africa to Japan, and south to Australia and New Caledonia and neighboring Island countries). However, as Daly-Engel *et al.* (2012) note, the migration rate of *S. lewini* individuals from West Africa into South Africa is very low (0.06 individuals per generation), suggesting that in the case of an Indo-West Pacific extirpation, re-colonization from the Eastern Atlantic to the Western Indian Ocean is very unlikely. In addition, re-colonization from the Central Pacific DPS would also occur rather slowly (on an evolutionary timescale), as those individuals would have to conduct trans-oceanic migrations, a behavior that has yet to be documented in this species. The Central Pacific region, itself (extending from Kure Atoll to Johnston Atoll, and including the Hawaiian Archipelago), encompasses a vast portion of the scalloped hammerhead sharks' range in the Pacific Ocean and is isolated from the neighboring Indo-West Pacific and eastern Pacific regions by deep expanses of water. Loss of this DPS would result in a decline in the number of suitable and productive nursery habitats and create a significant gap in the range of this taxon across the Pacific Ocean. From an evolutionary standpoint, the Central Pacific population is thought to be the ''stepping stone'' for colonization to the isolated eastern Pacific, as Duncan *et al.* (2006) observed two shared haplotypes between Hawaii and the otherwise isolated Eastern Pacific population. In other words, in the case of an Eastern Pacific population extirpation and loss of the Central Pacific population, it would require two separate and rare colonization events to repopulate the Eastern Pacific population: one for the re-colonization of the central Pacific and another for the re-colonization of the eastern Pacific. Thus, on an evolutionary timescale, loss of the Central Pacific population would result in a significant truncation in the range of the taxon.

Even those discrete population segments that share a connecting coastline, like the Northwest Atlantic & Gulf of Mexico and Central & Southwest Atlantic population segments, will not likely see individuals re-colonizing the range of the other population segment, given that gene flow is low between these areas and tagging studies show limited distance movements by individuals along the western Atlantic coast. In addition, repopulation by individuals from the eastern Pacific to the western Atlantic, or vice versa, is highly unlikely as these animals would have to migrate through suboptimal oceanographic conditions, such as very cold waters, that are detrimental to this species' survival. Therefore, the display of weak philopatry and constrained migratory movements provides evidence that loss of any of the discrete population segments would result in a significant gap in the range of the scalloped hammerhead shark, negatively impacting the species as a whole.

Boundary Lines

In summary, the scalloped hammerhead shark population segments considered by the ERA team meet both the discreteness and significance criteria of the DPS policy. We concur with the ERA team's conclusion that there are six scalloped hammerhead shark DPSs, which comprise the global population, and are hereafter referred to as: (1) NW Atlantic & GOM DPS, (2) Central & SW Atlantic DPS, (3) Eastern Atlantic DPS, (4) Indo-West Pacific DPS, (5) Central Pacific DPS, and (6) Eastern Pacific DPS. The boundaries for each of these DPSs, and brief explanations of specific boundary lines based on the DPS analysis, are as follows (see Figure 1):

(1) NW Atlantic & GOM DPS—Bounded to the north by 40° N. lat., includes all U.S. EEZ waters in the Northwest Atlantic off the U.S. mainland and extends due east along 28° N. lat. off the coast of Florida to 30° W. long. In the Gulf of Mexico, the

boundary line includes all waters of the Gulf of Mexico, with the eastern portion bounded by the U.S. and Mexico EEZ borders.

Explanation: The NW Atlantic & GOM DPS was identified as being discrete from other DPSs as a consequence of genetic, behavioral, and physical factors. Tagging studies, for example, showed that scalloped hammerhead sharks in the northwest Atlantic and Gulf of Mexico frequently mixed but there was no evidence of this mixing occurring farther south with scalloped hammerhead sharks in Central and South America, or with any of the other DPSs. Additionally, differences in the control of exploitation and regulatory mechanisms between the United States and Mexico and the other countries in the Atlantic were also identified as a factor that could influence the conservation status of Atlantic populations and provided support for the separation of the NW Atlantic & GOM DPS from the Central & SW Atlantic DPS. For example, the United States has implemented its own strict regulations aimed at controlling the exploitation of scalloped hammerhead sharks in the northwest Atlantic and Gulf of Mexico in an effort to rebuild the population (78 FR 40317; July 3, 2013). Mexico has also prohibited shark finning in its EEZ and recently banned shark fishing from May 1 to June 30 in the Gulf of Mexico. Based on the above information and that which was discussed in further detail in the DPS analysis, the boundary lines for the NW Atlantic & GOM DPS specifically around the Gulf of Mexico and Caribbean Sea were chosen to coincide with the U.S. and Mexico EEZ borders. The northern boundary line was based on the known geographic range of the species (Compagno, 1984; Baum *et al.,* 2007; Bester, 2011), and the eastern boundary line was chosen as a mid-point of the Atlantic Ocean to separate the Eastern from the Western Atlantic Ocean. Although scalloped hammerhead sharks are coastal species and would not likely be encountered in this open ocean area (near the Eastern/Western Atlantic boundary line), we wanted to ensure that all waters within the scalloped hammerhead range were included within the range of a DPS.

(2) Central & SW Atlantic DPS—Bounded to the north by 28° N. lat., to the east by 30° W. long., and to the south by 36° S. lat. All waters of the Caribbean Sea are within this DPS boundary, including the Bahamas' EEZ off the coast of Florida, the U.S. EEZ off Puerto Rico and the U.S. Virgin Islands, and Cuba's EEZ.

Explanation: Although the U.S. regulations extend to the U.S. EEZ in the Caribbean (i.e., surrounding U.S. territories) and to U.S. fishermen fishing on the high seas in the Caribbean Sea, the vast majority of the Caribbean Sea nations, as well as nations farther south, lack regulatory measures controlling the exploitation of scalloped hammerhead sharks. Additionally, the Central & SW Atlantic DPS was identified as being discrete from other DPSs as a consequence of genetic, behavioral, and physical factors (78 FR 20718). As such, the boundary lines were drawn to incorporate all waters of the Caribbean Sea, including the U.S. EEZ surrounding the U.S. territories in the Caribbean, and the South Atlantic. The southern boundary line was based on the known geographic range of the species (Compagno, 1984; Baum *et al.,* 2007; Bester, 2011), and the eastern boundary line was chosen as a mid-point of the Atlantic Ocean to separate the Eastern from the Western Atlantic Ocean.

(3) Eastern Atlantic DPS—Bounded to the west by 30° W. long., to the north by 40° N. lat., to the south by 36° S. lat., and to the east by 20° E. long., but includes all waters of the Mediterranean Sea.

Explanation: The Eastern Atlantic population of scalloped hammerhead sharks was identified as being discrete from other DPSs as a consequence of genetic, behavioral, and physical factors (78 FR 20718). In addition, scalloped hammerhead sharks have recently been observed around southern Italy (Sperone *et al.,* 2012) within the Mediterranean Sea. Therefore, based on geography, genetics, and behavioral information, the Eastern Atlantic DPS boundary includes those scalloped hammerhead sharks found within the Eastern Atlantic and the Mediterranean Sea. The northern and southern boundary lines were based on the known geographic range of the species (Compagno, 1984; Baum *et al.,* 2007; Bester, 2011) and the western boundary line was chosen as a mid-point of the Atlantic Ocean to separate the Eastern from the Western Atlantic Ocean. The eastern boundary line shows the division between the Eastern Atlantic DPS and those scalloped hammerhead sharks in the Indian Ocean, as supported by available genetic information (Daly-Engel *et al.,* 2012).

(4) Indo-West Pacific DPS—Bounded to the south by 36° S. lat., to the west by 20° E. long., and to the north by 40° N. lat. In the east, the boundary line extends from 175° E. long. due south to 10° N. lat., then due east along 10° N. lat. to 150° W. long., then due south to 4° S. lat., then due east along 4° S. lat. to 130° W. long, and then extends due south along 130° W. long.

Explanation: The Indo-West Pacific population of scalloped hammerhead sharks was identified as being discrete from other DPSs as a consequence of genetic, behavioral, and physical factors, as well as differences in the control of exploitation of the species across international boundaries (78 FR 20718). The southern and northern boundary lines are based on the known geographic range of the species (Compagno, 1984; Baum *et al.,* 2007; Bester, 2011), and the western boundary provides the separation from the Eastern Atlantic DPS as supported by available genetic information (Daly-Engel *et al.,* 2012). In the east, the boundaries that form the lines south of 10° N lat. coincide with the WCPFC convention area boundaries within the Eastern Pacific. As differences in *S. lewini* exploitation coinciding with international boundary lines were cited as support for the DPS delineation (78 FR 20718), we determined that the most effective way to conserve the DPS was to delineate it by relevant RFMO boundary lines. The remaining boundary lines are drawn based on the boundaries of the Central Pacific DPS delineation in order to encompass all open ocean areas (and, hence, extending to the border of the Central Pacific DPS boundary line).

(5) Central Pacific DPS—Bounded to the north by 40° N lat., to the east by 140° W. long., to the south by 10° N. lat., and to the west by 175° E. long.

Explanation: The Central Pacific population of scalloped hammerhead sharks was identified as being discrete from other DPSs as a consequence of physical factors (bathymetric barriers), behavioral factors (unlikely to make long-distance oceanic migrations but rather disperses along continuous coastlines, continental margins, and submarine features), and genetic differences (which support separating this population from the neighboring Eastern Pacific and Atlantic DPSs). In addition, the Central Pacific was identified as having many management controls in place that protect important scalloped hammerhead habitats and nursery grounds, as well as adequately enforced fishing regulations that control the exploitation of the species and provide conservation benefits to the species which are lacking in neighboring DPSs. For example, the fisheries of the Hawaiian Islands are managed by both Federal law, such as the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and State of Hawaii marine conservation law. Currently, there are

no directed shark fisheries in Hawaii; however, scalloped hammerhead sharks are sometimes caught as bycatch on Hawaiian longline gear. The Hawaii pelagic longline (PLL) fishery, which operates mainly in the Northern Central Pacific Ocean, is managed through a Fishery Ecosystem Plan (FEP) developed by the Western Pacific Regional Fishery Management Council (WPFMC) and approved by NMFS under the authority of the MSA. In an effort to reduce bycatch in this fishery, a number of gear regulations and fishery management measures have been implemented. A recently implemented False Killer Whale Take Reduction Plan (77 FR 71260; November 29, 2012) under the Marine Mammal Protection Act has also established a permanent longline prohibited area ranging from 50–75 nautical miles (93–139 km) around the Main Hawaiian Islands. In addition, mandatory fishery observers have been monitoring both sectors (shallow and deep) of the limited-entry Hawaii-based PLL fishery since 1994, with observer coverage increasing in recent years to provide a more comprehensive bycatch dataset. Shark finning has also been banned since 2000 for the Hawaii-based longline fishery. Although these significant and effectively enforced fishery management measures in the Central Pacific (and the lack thereof in neighboring DPSs) were identified as support for the discreteness of this DPS, we relied mainly on the biological and physical factors that separated this DPS from other DPSs when delineating the boundary lines of the DPS.

The northern boundary line of Central Pacific DPS is based on the known geographic range of the species (Compagno, 1984; Baum *et al.,* 2007; Bester, 2011). The southern boundary line was chosen based on bathymetric barriers and distance to the neighboring PRIAs. Between Johnston Atoll and the nearest PRIA (Kingman reef), the distance is approximately 1,350 to 1,400 km. Although scalloped hammerhead sharks have the ability to travel long distances (1,941 km, Bessudo *et al.,* 2011; 1,671 km, Kohler and Turner, 2001; Hearn *et al.,* 2010), it is important to note that these migrations occur along continental margins or coastlines or between islands with similar oceanographic conditions. This species has been known to disperse into pelagic waters off seamounts and islands, usually for limited durations (at night; Klimley and Nelson 1984; Hearn *et al.,* 2010; Bessudo *et al.,* 2011) and distances (<10 km; Klimley and Nelson 1984; Hearn *et al.,* 2010). The assumption is that they are foraging in the open waters at night and returning to the seamounts during the day, with evidence of seasonal site residence and fidelity. A study conducted in a nursery ground in Hawaii revealed that sharks travelled as far as 5.1 km in the same day, but the mean distance between capture points was only 1.6 km (Duncan and Holland, 2006). Another tagging study in Hawaii indicates that adult males remain ''coastal'' within the archipelago (Holland personal communication, 2012). There is currently no tagging evidence of adult scalloped hammerhead sharks that would suggest they traverse long distances (>1000 km) over deep open water. As such, the southern boundary line at 10° N. lat. represents the separation of the Central Pacific DPS from the Indo-West Pacific DPS as a result of bathymetric and distance barriers. The western boundary line was delineated based on the deep water barrier adjacent to the Papahānaumokuākea Marine National Monument to the northwest of the range of the Central Pacific DPS in order to separate these islands from the neighboring Indo-West Pacific islands and their respective EEZs. The eastern boundary line captures the eastern extent of the U.S. EEZ of the Hawaiian Archipelago and falls within the longitudinal area regarded as the Eastern Pacific Barrier (EPB), a deep water barrier to routine passage by this species and many insular species, based on their zoogeographic patterns (Baums *et al.,* 2012). As the scalloped hammerhead is unlikely to cross this deep EPB, as supported by the genetic and behavioral data (78 FR 20718), it was determined that the boundary line between the Eastern Pacific DPS and Central Pacific DPS should be approximately the midpoint of this geophysical barrier.

(6) Eastern Pacific DPS—bounded to the north by 40° N lat. and to the south by 36° S lat. The western boundary line extends from 140° W. long. due south to 10° N., then due west along 10° N. lat. to 150° W. long., then due south to 4° S. lat., then due east along 4° S. lat. to 130° W. long, and then extends due south along 130° W. long.

Explanation: The Eastern Pacific population of scalloped hammerhead sharks was identified as being discrete from other DPSs as a consequence of genetic, behavioral, and physical factors as well as differences in the control of exploitation of the species across international boundary lines (78 FR 20718). The northern and southern boundary lines are based on the known geographic range of the species (Compagno, 1984; Baum *et al.,* 2007; Bester, 2011). The northern section of the western boundary provides the geophysical separation from the Central Pacific DPS and the rest of the boundary line coincides with the WCPFC convention area boundaries within the Eastern Pacific. As differences in *S. lewini* exploitation coinciding with international boundary lines were cited as support for the DPS delineation (78 FR 20718), we determined that the most effective way to conserve the DPS was to delineate it by relevant RFMO boundary lines.

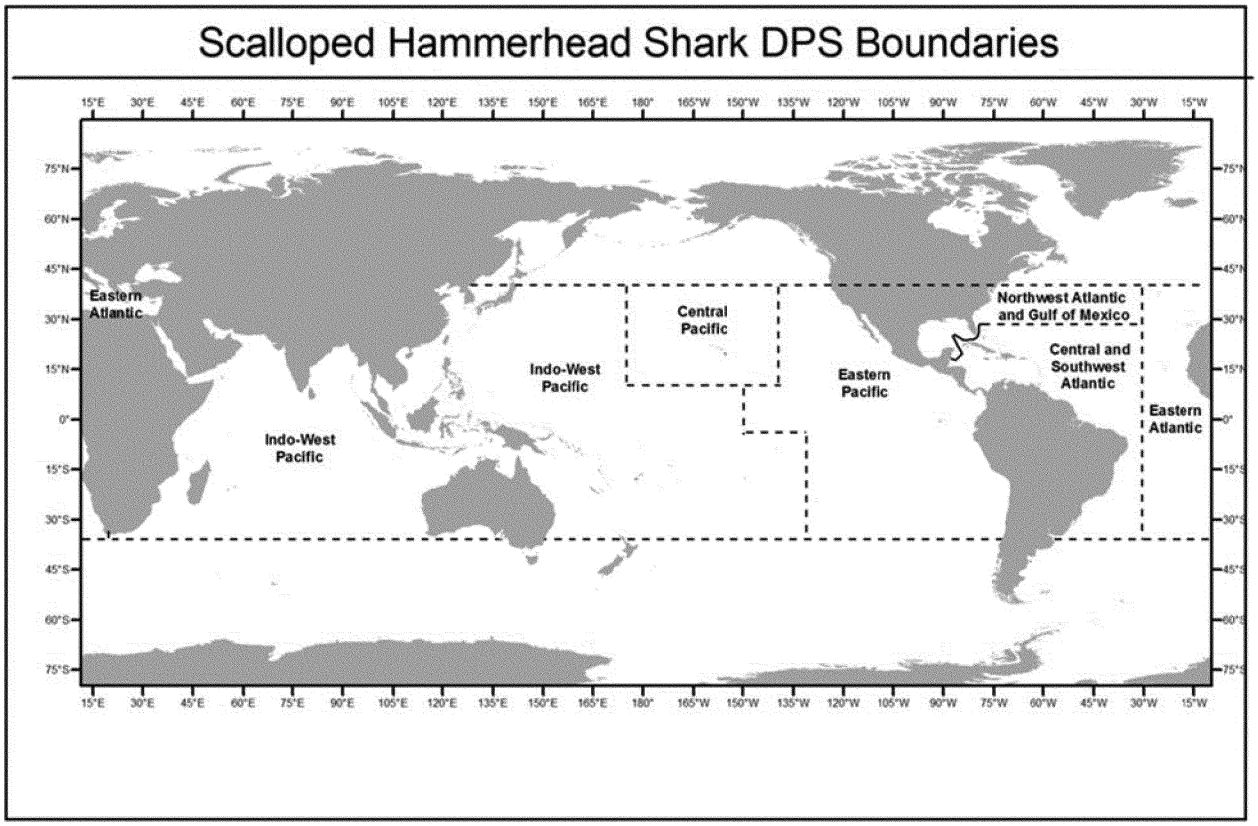

Figure 1. Map of the six scalloped hammerhead shark DPS boundaries

Summary of Factors Affecting the Four DPSs of Scalloped Hammerhead Sharks

The ESA defines an endangered species as one that is ''in danger of extinction throughout all or a significant portion of its range,'' and a threatened species as one that is ''likely to become an endangered species in the foreseeable future throughout all or a significant portion of its range'' (Sections 3 (6) and (20) of the ESA). Section 4(a)(1) of the ESA and NMFS' implementing regulations (50 CFR 424) state that we must determine whether a species is endangered or threatened because of any one or a combination of the following factors: the present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; or other natural or man-made factors affecting its continued existence. We are to make this determination based solely on the best available scientific and commercial information after conducting a review of the status of the species and taking into account any efforts being made by states or foreign governments to protect the species.

The Proposed Rule to list the Central & SW Atlantic DPS, Eastern Atlantic DPS, Indo-West Pacific DPS, and the Eastern Pacific DPS (78 FR 20718) and the Status Review Report (Miller *et al.,* 2014) provide detailed discussion of the status and threats to each DPS. As described in the Proposed Rule, the primary factors responsible for the decline of these four DPSs are overutilization, due to both catch and bycatch of these sharks in fisheries, and inadequate regulatory mechanisms for protecting these sharks, with illegal fishing identified as a significant problem. We conducted a comprehensive assessment of the combined impact of the five ESA section 4(a)(1) factors throughout the range of each DPS to determine extinction risk of each DPS. We focused on evaluating whether the DPSs are presently in danger of extinction, or whether the danger of extinction is likely to develop in the future. In our Proposed Rule and this final rule to list these four DPSs, we determined that the Eastern Atlantic and Eastern Pacific DPSs are currently in danger of extinction and that the Central & SW Atlantic and Indo-West Pacific DPSs are likely to become so in the foreseeable future. The next section briefly summarizes our findings regarding threats to these DPSs of scalloped hammerhead sharks, including any new information that was received during the public comment period. More details can be found in the Status Review Report and the Proposed Rule (78 FR 20718).

The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

We did not find evidence to suggest that habitat destruction, modification, or curtailment was presently contributing significantly to any of the DPS's risks of extinction. Because the scalloped hammerhead range is mainly comprised of open ocean environments occurring over broad geographic ranges, large-scale impacts such as global climate change that affect ocean temperatures, currents, and potentially food chain dynamics, are most likely to pose the greatest threat to this species. However, we did not find evidence of any large-scale impacts affecting habitat

conditions that are currently significant threats to the species. Additionally, the scalloped hammerhead shark is highly mobile within the range of its DPS (Kohler and Turner, 2001; Duncan and Holland, 2006, Maguire *et al.,* 2006; Bessudo *et al.,* 2011; Diemer *et al.,* 2011), and there is no evidence to suggest its access to essential habitat is restricted within the ranges of any of the DPSs. It also does not participate in natal homing, which would essentially restrict the species to a specific nursery ground, but rather has been found utilizing artificially enlarged estuaries as nursery habitats located 100 to 600 km from established nursery grounds (Duncan *et al.,* 2006). Also, based on a comparison of *S. lewini* distribution maps from 1984 (Compagno, 1984) and 2012 (Bester, n.d.), and current reports of scalloped hammerhead shark catches in FAO fishing areas, there is no evidence to suggest a range contraction for any DPS based on habitat degradation. Overall, using the best available information, there is no evidence to suggest there exists a present or threatened destruction, modification, or curtailment of the scalloped hammerhead shark's habitat or range and we conclude that it is unlikely that this factor is contributing on its own or in combination with other factors to the extinction risk of any of the four DPSs.

Overutilization for Commercial, Recreational, Scientific or Educational Purposes

We identified overutilization for commercial and/or recreational purposes as a significant threat contributing to the extinction risk of the four scalloped hammerhead shark DPSs. Scalloped hammerhead sharks are targeted by industrial, commercial, artisanal and recreational fisheries, and caught as bycatch in many other fisheries, including pelagic longline tuna and swordfish, gill net, and purse seine fisheries. Below, we briefly summarize our findings regarding overutilization for each of the four DPSs.

The threat of overutilization by industrial/commercial fisheries was identified as a high risk and overutilization by artisanal fisheries as a moderate risk to the extinction of the Central & SW Atlantic DPS. Brazil, the country that reports one of the highest scalloped hammerhead landings in South America, maintains heavy industrial fishing of this species off its coastal waters. In the late 1990s, Amorim *et al.* (1998) remarked that heavy fishing by longliners led to a decrease in this population. According to the FAO global capture production database, Brazil reported a significant increase in catch of *S. lewini* during this period, from 30 mt in 1999 to 508 mt by 2002, before decreasing to a low of 87 mt in 2009. Similar decreases in landings were also reported by the State of Santa Catarina in Brazil. Based on new information not previously discussed in the Proposed Rule, in 1989, landings of the hammerhead complex (mainly *S. lewini* and *S. zygaena*) totaled 6.7 mt, but then increased to a peak of 570 mt in 1994 as a result of the development of net fishing (CITES, 2013). From 1995 to 2007, landings varied but never recovered to the levels of 1994, and in 2008, landings dropped to 44 mt (CITES, 2013).

Documented heavy inshore fishing has also led to significant declines of adult female *S. lewini* abundance (up to 90 percent) (CITES, 2010) as well as targeted fishing of and reported decreases in juvenile and neonate scalloped hammerhead populations (Vooren *et al.,* 2005; Kotas *et al.,* 2008). Information from surface longline and bottom gillnet fisheries targeting hammerhead sharks off southern Brazil indicates declines of more than 80 percent in CPUE from 2000 to 2008, with the targeted hammerhead fishery abandoned after 2008 due to the rarity of the species (FAO, 2010).

S. lewini is also commonly landed by artisanal fishers in the Central and Southwest Atlantic, with concentrated fishing effort in nearshore and inshore waters, areas likely to be used as nursery grounds. Specific catch and landings data are unavailable from the Caribbean; however, *S. lewini* is often a target of artisanal fisheries off Trinidad and Tobago, eastern Venezuela, and Guyana, and anecdotal reports of declines in abundance, size, and distribution shifts of sharks suggest significant fishing pressure on overall shark populations in this region (Kyne *et al.,* 2012). Additionally, Chapman *et al.* (2009) recently linked *S. lewini* fins from Hong Kong fin traders to the Central American Caribbean region, suggesting the lucrative fin trade may partially be driving the artisanal and commercial fishing of this DPS. Farther south, in Brazil, artisanal fisheries make up about 50 percent of the fishing sector, with many fishers focusing their efforts inshore on schools of hammerheads. Between 1993 and 2001, adult female *S. lewini* abundance in Brazil decreased by 60–90 percent due to this inshore fishing pressure (CITES, 2010). In 2004, Brazil recognized this threat of *S. lewini* overutilization in its waters and subsequently added the species to its list of over-exploited species (Normative Instruction MMA n° 05); however, this listing does not carry with it any prohibitions on fishing for the species. The best available information indicates that overutilization of this DPS has resulted in, and continues to contribute to, declines in abundance of this DPS. As abundance decreases, the DPS becomes more vulnerable to risk of extinction due to environmental variation, anthropogenic perturbations, and depensatory processes. The ERA team concluded, and we agree, that this DPS' current trends and level of abundance due to overutilization of the DPS are contributing significantly to its risk of extinction.

The threat of overutilization by industrial/commercial and artisanal fisheries was identified as a high risk to the extinction of the Indo-West Pacific DPS. High levels of commercial fishing that target sharks or catch them as bycatch occur in this DPS. Unfortunately, few studies on the specific abundance of *S. lewini* have been conducted on this DPS, making it difficult to determine the rate of exploitation of this species. One study, off the coast of Oman, found *S. lewini* to be among the most commonly encountered species in commercial landings from 2002 to 2003 (Henderson *et al.,* 2007). However, in 2003, *S. lewini* experienced a notable decline in relative abundance and, along with other large pelagic sharks, was displaced by smaller elasmobranch species (a trend also reported by informal interviews with fishermen) (Henderson *et al.,* 2007). Off East Lombok, in Indonesia, data provided to the FAO also suggest potential declines in the population as the proportion of scalloped hammerhead sharks in the Tanjung Luar artisanal shark longline fishery catch decreased from 15 percent to 2 percent over the period of 2001 to 2011 (FAO, 2013).

In contrast, and based on new information not previously discussed in the Proposed Rule, records from Cohin Fisheries Harbor in India suggest an increase in the catch of *S. lewini* from 2007 to 2011, with the sharks constituting around 12.2 percent of the total shark landings at Cochin (CITES, 2013). However, during this same period, the minimum size of the sharks decreased from 1.1 m to 0.7 m, possibly indicating evidence of size truncation and overexploitation (CITES, 2013). Similarly, in Chinese Taipei, the median weight of *S. lewini* has significantly decreased over the past 20 years, based on new data from Huang (2013) (Joung *et al.,* 2013) that was received after publication of the Proposed Rule. The

removal of these larger, and hence, likely mature animals decreases the productivity of the population, particularly for slow-growing, late-maturing, and long-lived species such as the scalloped hammerhead shark. Additionally, CPUE data from South Africa and Australia shark control programs indicate significant declines (over 90 percent) of local scalloped hammerhead populations in this DPS, most likely a result from overharvesting, although it should be noted that these shark control programs were also assessed to have at least a medium causative impact on these localized depletions. Specifically, declines of 99 percent, 86 percent, and 64 percent have been estimated for *S. lewini* from catch rates in shark nets deployed off the beaches of South Africa from 1952–1972, 1961–1972, and 1978–2003, respectively (Dudley and Simpfendorfer, 2006; Ferretti *et al.,* 2010). Estimates of the decline in Australian hammerhead abundance range from 58–85 percent (Heupel and McAuley 2007; CITES, 2010). CPUE data from the northern Australian shark fishery indicate declines of 58–76 percent in hammerhead abundance in Australia's northwest marine region from 1996–2005 (Heupel and McAuley, 2007). From 1973 to 2008, the number of hammerheads caught per year in NSW beach nets decreased by more than 90 percent, from over 300 individuals to fewer than 30 (Reid and Krogh, 1992; Williamson, 2011). Similarly, data from the Queensland shark control program indicate declines of around 82 percent in hammerhead shark abundance between 1985 and 2012, with *S. lewini* abundance fluctuating over the years but showing a recent and steady decline since 2004 (QLD DEEDI, 2013). Between 2004 and 2012, the number of *S. lewini* sharks caught in the Queensland shark control program nets decreased by 80 percent (QLD DEEDI, 2013).

In other waters of this DPS, shark populations are presumed to be fully to over-exploited (de Young, 2006), with evidence of significant landings by longline and artisanal fisheries and declines in scalloped hammerhead shark catch. For example, Papua New Guinea, which currently has an active domestic shark longline fishery, reported a 43 percent decrease in its hammerhead catch over the course of 1 year (from 2011 to 2012). For many of the artisanal fisheries in this region, the lucrative shark fin trade is the driving force behind exploitation of scalloped hammerhead sharks. For example, in northern Madagascar, Robinson and Sauer (2011) documented an artisanal fishery that targets sharks primarily for their fins and discards the carcasses. Two shark families comprised the majority of the artisanal landings: Carcharhinidae accounted for 69 percent of the species and Sphyrnidae accounted for 24 percent (Robinson and Sauer, 2011). *S. lewini* was the most common species in the Sphyrnidae landings, with over 96 percent of the catch comprised of immature individuals (Robinson and Sauer, 2011). Similarly, the shark fisheries operating in Antongil Bay in northeastern Madagascar commonly land only fins, rather than whole sharks, with the scalloped hammerhead shark as the most represented species in the shark fishery (Doukakis *et al.,* 2011). Both adults, including pregnant females, and juveniles are harvested in the small and large-mesh artisanal gillnet and traditional beach seine fisheries, suggesting largely unregulated and targeted fishing of scalloped hammerhead sharks in a potential breeding ground (Doukakis *et al.,* 2011). Furthermore, four of the top five exporters of shark fins to Hong Kong (Singapore, Taiwan, Indonesia, and the United Arab Emirates) are located in this DPS' range, and in 2008 accounted for around 34 percent (or 3,384 mt) of the total exports of shark fins (both frozen and dried). The best available information indicates that overutilization of this DPS has resulted in, and continues to contribute to, declines in abundance of this DPS. Decreases in the size of the sharks over time likely indicate an overexploited population and portends declines in the per capita growth rate of the population. Over-harvesting of sharks in breeding grounds is likely to affect recruitment success to this DPS. Overall, the ERA team concluded, and we agree, that overutilization is significantly increasing this DPS' risk of extinction by contributing to the continued decline in current abundance and placing the DPS on a path where it is more vulnerable to risk of extinction due to environmental variation, anthropogenic perturbations, and depensatory processes.

The threat of overutilization by industrial/commercial fisheries was identified as a high risk and overutilization by artisanal fisheries as a moderate risk to the extinction of the Eastern Atlantic DPS. Although species-specific data are unavailable from this region, hammerheads are a large component of the bycatch in the European pelagic freezer-trawler fishery that operates off Mauritania. Between 2001 and 2005, 42 percent of the retained pelagic megafauna bycatch from over 1,400 freezer-trawl sets consisted of hammerhead species (*S. lewini, S. zygaena,* and *S. mokarran*). Of concern, especially as it relates to abundance and recruitment to the population, is the fact that around 75 percent of the hammerhead catch were juveniles of 0.50–1.40 m in length (Zeeberg *et al.,* 2006). In addition to the industrial fisheries, scalloped hammerhead sharks are targeted by many of the artisanal fisheries operating off West Africa. According to Diop and Dossa (2011), shark fishing has occurred in the Sub Regional Fisheries Commission (SRFC) member countries (Cape-Verde, Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal, and Sierra Leone) for around 30 years. However, since 2005, there has been a significant and ongoing decrease in shark landings, with an observed extirpation of some species, and a scarcity of others, such as large hammerhead sharks (Diop and Dossa, 2011), indicating overutilization of the resource. In Mauritania, many of the artisanal fisheries have been documented fishing great quantities of juvenile scalloped hammerhead sharks using driftnets and fixed gillnets (CITES, 2010), with *S. lewini* also caught in large numbers in the sciaenid fishery operating in this region. In 2010, the first year that it provided capture production statistics to FAO, Mauritania reported a total catch of 257 mt of *S. lewini,* the highest amount reported by any one country since 2003. According to data provided to the FAO, *S. lewini* abundance off the coast of Mauritania has declined by 95 percent since 1999, with evidence of a decrease in average size of the shark since 2006 (FAO, 2013). From 2006 to 2009, CPUE of *S. lewini* declined from a peak of 55.0 kg/day at sea to 26.2 kg/day at sea (Dia *et al.,* 2012). Similarly, scientific research survey data, collected from 1982–2010, also show a sharp drop in yields, especially since 2005, and in 2010, virtually no *Sphyrna* sp (*S. lewini* and *S. zygaena*) were caught during the survey (Dia *et al.,* 2012). Given the evidence of significant declines in abundance, to the point where *S. lewini* is rarely observed, it is likely that the current DPS levels of abundance and density place it at a risk of extinction due to depensatory processes (where abundance may be insufficient to support reproductive processes). As such, any additional mortality on this DPS may be devastating, and given the largely unregulated catch of the species off West Africa but steady demand and fishing pressure on marine resources for food and livelihood in this region (Diop

and Dossa, 2011), we conclude that historical and current overutilization of this DPS is contributing significantly to its risk of extinction.

The threat of overutilization by industrial/commercial fisheries and artisanal fisheries was identified as a high risk to the extinction of the Eastern Pacific DPS. Although abundance data are lacking in this area, information from commercial and artisanal fisheries suggests heavy exploitation of this DPS. For example, in Mexico, *S. lewini* was and continues to be a popular fished species in artisanal fisheries. Historically, artisanal fishermen routinely caught them on the southern coast of Sinaloa (Pérez-Jiménez *et al.,* 2005; Bizzarro *et al.,* 2009), and they comprised over 50 percent of the elasmobranch catch and 43 percent of the total recorded catch in the late 1990s (Bizzarro *et al.,* 2009). From 2004 to 2005, *S. lewini* comprised 64 percent of the artisanal shark catch south of Oaxaca, Mexico (CITES, 2012). In the Gulf of Tehuantepec, scalloped hammerhead sharks constitute the second most important shark species targeted by Mexican fishers, comprising around 29 percent of the total shark catch from this region (INP, 2006). In fact, from 1996 to 2003, a total of 10,919 individual scalloped hammerhead sharks were landed from this area and brought to port in the Mexican state of Chiapas (INP, 2006), where *S. lewini* and *C. falciformis* represent 89.3 percent of the shark catch (CITES, 2012). However, it is estimated that the scalloped hammerhead population is currently decreasing by 6 percent per year, and from 1996–2001, CPUE of *S. lewini* in the Gulf of Tehuantepac declined to nearly zero (INP, 2006).

In Costa Rica, shark catches reported by the artisanal and longline fisheries declined by approximately 50 percent after reaching a maximum of 5,000 mt in 2000 (SINAC, 2012). According to the Costa Rican Institute of Fishing and Aquaculture, the estimated total catch of *S. lewini* by the coastal artisanal and longline fleet from 2004–2007 was 823 mt, which represented 3 percent of the national Costa Rican total catch of sharks for these years (SINAC, 2012). In Ecuador, sharks are mainly caught as incidental catch in a variety of fishing gear, including pelagic and bottom longlines, and drift and set gill nets, with scalloped hammerhead sharks used primarily for the fin trade. In 2004, total combined landings from ten of Ecuador's main small-scale fishing ports were approximately 149 mt. In 2005, this number decreased by about 67 percent to 49 mt, but subsequently increased in the following years to reach a peak of 327 mt in 2008. In 2009, landings decreased again by around 71 percent, but tripled the following year to reach approximately 304 mt of hammerhead sharks in 2010 (INP, 2010).

Of major concern is that many of the artisanal fishers from the Eastern Pacific region are targeting schools of juvenile and immature *S. lewini* due to the profitability of the younger shark meat (Arriatti, 2011), and likely negatively affecting recruitment to this DPS. In Colombia, around 73.7 percent of the *S. lewini* individuals caught in artisanal fisheries are juveniles < 200 cm TL (CITES 2013). In Panama, directed artisanal fishing for hammerheads has been documented in coastal nursery areas, with artisanal gillnet fishery catches dominated by neonate and juvenile *S. lewini* (Arriatti, 2011). Likewise, in Costa Rica, many of the identified nursery grounds for scalloped hammerhead sharks are also popular elasmobranch fishing grounds and are heavily fished by gillnets (Zanella *et al.,* 2009). In ''Tres Marias'' Islands and Isabel Island in the Central Mexican Pacific, Perez-Jimenez *et al.* (2005) found artisanal fishery catches dominated by immature individuals. Out of 1,178 females and 1,331 males caught from 1995–1996 and 2000–2001, less than 1 percent were mature (Perez-Jimenez *et al.,* 2005). On the coast of Chiapas in Mexico, neonates (≤ 60cm TL) comprised over 40 percent of the Port of Madero catch from 1996–2003 (INP, 2006). Seasonal surveys conducted in Sinaloa, Mexico from 1998–1999 depict an active artisanal fishery that primarily targets early life stages of *S. lewini,* with only four specimens (out of 1,515) measuring > 200 cm stretched TL (Bizzarro *et al.,* 2009). A comparison of landing sizes from this region between 1998–1999 and 2007–2008 revealed a significant decrease in *S. lewini* size, indicating a possible truncation of the size of the local population (Bizzarro *et al.,* 2009). In Michoacán, hammerheads represent 70 percent of the catch, with fishing effort concentrated in breeding areas and directed towards juveniles and pregnant females (CITES, 2012) and reports of the artisanal fishermen filleting the embryos of *S. lewini* for domestic consumption (Smith *et al.,* 2009).

Given the species' low productivity, slow growth rate, and late maturity, this substantial removal of recruits from the population is causing, and will continue to cause, a decline in the DPS abundance. For example, based on new information not previously discussed in the Proposed Rule, between 1995 and 2004, a shrimp trawling fishery operating in the Colombian Pacific noted a significant decrease in its bycatch of *S. lewini* juveniles, with no reports of the species in 2007 (CITES, 2013). Overall, the data suggest the heavy fishing pressure on scalloped hammerhead sharks by artisanal fisheries, especially in nursery areas where substantial takes of juveniles and neonates, and possibly pregnant females, have been recorded, and subsequent catch and population declines can be characterized as overutilization that is significantly increasing the species' risk of extinction.

Competition, Disease, and Predation

We did not find evidence to suggest that competition, disease, or predation was presently contributing significantly to any of the DPSs' risks of extinction, nor was it likely to put any of the DPSs at risk of extinction in the future. Scalloped hammerhead sharks are apex predators and opportunistic feeders, with a diet composed of a wide variety of items, including teleosts, cephalopods, crustaceans, and rays (Compagno, 1984; Bush, 2003; Júnior *et al.,* 2009; Noriega *et al.,* 2011). Although there may be some prey species that have experienced population declines, no information exists to indicate that depressed populations of these prey species are negatively affecting the scalloped hammerhead shark abundance. In addition, predation is not thought to be a major threat to scalloped hammerhead abundance numbers. In terms of disease, these sharks likely carry a range of parasites, such as external leeches (*Stilarobdella macrotheca*) and copepods (*Alebion carchariae, A. elegans, Nesippus crypturus, Kroyerina scotterum*); however, the sharks have often been observed visiting parasite cleaning stations (Bester, n.d.) and no data exist to suggest these parasites are affecting *S. lewini* abundance.

The Inadequacy of Existing Regulatory Mechanisms

We identified the inadequacy of existing regulatory mechanisms as a significant threat contributing to the extinction risk of the four scalloped hammerhead shark DPSs. Existing regulatory mechanisms may include Federal, state, and international regulations. Below we briefly summarize our findings regarding our evaluation of current and relevant domestic and international management measures that affect these four scalloped hammerhead shark DPSs. More information on these domestic and international management measures can

be found in the Status Review Report and Proposed Rule (78 FR 20718).

For the Central & SW Atlantic DPS, we identified the inadequacy of current regulatory mechanisms as a moderate risk, with illegal fishing significantly contributing to the DPS' risk of extinction. Many foreign commercial and artisanal fisheries operate within the range of this DPS, with little to no regulatory oversight, and thus regulatory mechanisms are likely inadequate to reduce the significant threat of overutilization to the scalloped hammerhead shark population. For example, artisanal gillnet fisheries, known for their substantial bycatch problems, are still active in Central America, with many allowed to operate in inshore nursery areas. Due in large part to the number of sovereign states found in this region, the management of shark species in Central America and the Caribbean remains largely disjointed, with some countries lacking basic fisheries regulations (Kyne *et al.,* 2012). Other countries lack the capabilities to enforce what has already been implemented. For example, in May 2012, the Honduran navy seized hundreds of shark fins from fishers operating illegally within the borders of its shark sanctuary. As Kyne *et al.* (2012) reports, it is basically common practice to move shark fins across borders for sale in countries where enforcement is essentially lacking in this region. In South America, Brazil has banned finning, but continues to find evidence of illegal fishing in its waters. In Belém in May 2012, the Brazilian Institute of Environmental and Renewable Natural Resources (IBAMA) seized around 7.7 mt of illegally obtained dried shark fins intended for export to China (Nickel, 2012). A few months later, IBAMA confiscated more than 5 mt of illegal shark fins in Rio Grande do Norte (Rocha de Medeiros, 2012), suggesting current regulations and enforcement are not adequate to deter or prevent illegal shark finning. In fact, it is estimated that illegal fishing constitutes 32 percent of the Southwest Atlantic region's catch (based on estimates of illegal and unreported catch averaged over the years of 2000 to 2003; Agnew *et al.,* 2009).

In addition, heavy industrial fishing off the coast of Brazil, with the use of drift gillnets and longlines, remains largely unregulated, as does the intensive artisanal fishery, which accounts for about 50 percent of the fishing sector. Brazil currently has regulations limiting the extension of pelagic gillnets and prohibiting trawls in waters less than 3 nautical miles (5.6 km) from the coast; however, as is the case with many regulations affecting this DPS, inadequate enforcement of these laws has led to continued fishing in these inshore nursery areas and resultant observed declines in both adult and juvenile scalloped hammerhead shark abundance (Amorim *et al.,* 1998; Kotas, 2008; CITES, 2010). Given the information above, the ERA team ranked both illegal fishing and the inadequacy of current regulatory mechanisms as moderate risks. We agree that these factors, in combination with others (such as overutilization and low species productivity), likely contribute significantly to the Central & SW Atlantic DPS' risk of extinction.

For the Indo-West Pacific DPS, we identified the inadequacy of current regulatory mechanisms as a moderate risk, with illegal fishing significantly contributing to the DPS' risk of extinction. Multiple RFMOs cover the Indo-West Pacific DPS area with requirements of full utilization of any retained catches of sharks and regulations that onboard fins cannot weigh more than 5 percent of the weight of the sharks. These regulations are aimed at curbing the practice of shark finning, but do not prohibit the fishing of sharks. In addition, these regulations may not even be effective in stopping finning of scalloped hammerhead sharks, as a recent study found the scalloped hammerhead shark to have an average wet-fin-to-round-mass ratio of only 2.13 percent (n=81; Biery and Pauly, 2012). This ratio suggests that fishing vessels operating in these RFMO convention areas would be able to land more scalloped hammerhead shark fins than bodies and still pass inspection. There are no scalloped hammerhead-specific RFMO management measures in place for this region, even though this DPS is heavily fished. Consequently, this species has seen population declines off the coasts of South Africa and Australia, so much so that in 2012, New South Wales, Australia, listed it as an endangered species.

Few countries within this DPS' range have regulations aimed at controlling the exploitation of shark species. Oman, Seychelles, Australia, South Africa, Taiwan, and most recently India all have measures to prevent the waste of shark parts and discourage finning. The Maldives have designated their waters as a shark sanctuary. A number of Pacific Island countries (including U.S. territories) have also created shark sanctuaries, prohibited shark fishing, or have strong management measures to control the exploitation of sharks in their respective waters, including Tokelau, Palau, Marshall Islands, American Samoa, CNMI, Cook Islands, and French Polynesia, although effective enforcement of these regulations is an issue for some of the countries. Additionally, many of the top shark fishing nations and world's exporters of fins are also located within the range of this DPS, and have little to no regulation (or enforcement) of their expansive shark fisheries. For example, off northern Madagascar, where there is an active artisanal fin fishery, sharks are an open access resource, with no restrictions on gear, established quotas, or fishing area closures (Robinson and Sauer, 2011). Indonesia, which is the top shark fishing nation in the world, does not currently have restrictions pertaining to shark fishing or finning. Indonesian small-scale fisheries, which account for around 90 percent of the total fisheries production, are not required to have fishing permits (Varkey *et al.,* 2010), nor are their vessels likely to have insulated fish holds or refrigeration units (Tull, 2009), increasing the incentive for shark finning by this sector (Lack and Sant, 2012). Ultimately, their fishing activities remain largely unreported (Varkey *et al.,* 2010), which suggests that the estimates of Indonesian shark catches are greatly underestimated. In fact, in Raja Ampat, an archipelago in Eastern Indonesia, Varkey *et al.* (2010) estimated that 44 percent of the total shark catch in 2006 was unreported (including small-scale and commercial fisheries' unreported catch and illegal, unregulated, and unreported (IUU) fishing). Although Indonesia adopted an FAO recommended shark conservation plan (National Plan of Action—Shark) in 2010, due to budget constraints, it can only focus its implementation of key conservation actions in one area, East Lombok (Satria *et al.,* 2011). Due to this historical and current absence of shark management measures, especially in the small-scale fisheries sector, many of the larger shark species in Indonesian waters have already been severely overfished (Field *et al.,* 2009).

In addition to the largely unregulated fishing of this DPS, illegal fishing, especially for shark fins, has been identified as a significant contributor to the extinction risk of this DPS. Scalloped hammerhead sharks are valued for their large fins, which fetch a high commercial value in the Asian shark fin trade (Abercrombie *et al.,* 2005) and comprise the second most traded fin category in the Hong Kong market (Clarke *et al.,* 2006). Due to this profit incentive, there have been many reports of finning and seizures of illegally gained shark fins throughout the range of this DPS, including in

waters of Australia (Field *et al.,* 2009), Mozambique, South Africa, Bay of Bengal, Arabian Gulf, Palau, the Federated States of Micronesia (FSM) (Paul, 2009), and Somalia (HSTF, 2006). Agnew *et al.* (2009) provided regional estimates of illegal fishing (using FAO fishing areas as regions) and found the Western Central Pacific (Area 71) and Eastern Indian Ocean (Area 57) regions to have relatively high levels of illegal fishing (compared to the rest of the regions), with illegal and unreported catch constituting 34 and 32 percent of the region's catch, respectively.

Although the number of shark management and conservation measures for this DPS is on the rise, the ERA team noted that the current protections that they afford the Indo-West Pacific DPS may be minimal if illegal fishing is not controlled. We agree and conclude that the inadequacy of current regulatory mechanisms, in the form of ineffective enforcement of current regulations or lack of existing regulatory measures, in combination with illegal fishing, is contributing significantly to the risk of extinction of this DPS.

For the Eastern Atlantic DPS, we identified the inadequacy of current regulatory mechanisms as a moderate risk, with illegal fishing significantly contributing to the DPS' risk of extinction. Although regulations in Europe appear to be moving towards the sustainable use and conservation of shark species, these strict and enforceable regulations do not extend farther south in the Eastern Atlantic, where the majority of scalloped hammerhead sharks are caught. Some western African countries have attempted to impose restrictions on shark fishing; however, these regulations have exceptions, loopholes, or poor enforcement. For example, Mauritania has created a 6,000 km^2 coastal sanctuary for sharks and rays, prohibiting targeted shark fishing in this region; however, sharks, such as the scalloped hammerhead, may be caught as bycatch in nets. Many other countries, such as Namibia, Guinea, Cape-Verde, Sierra Leone, Nigeria, and Gambia, have shark finning bans, but even with this regulation, scalloped hammerhead sharks are caught with little to no restrictions on harvest numbers. According to Diop and Dossa (2011), fishing in the SRFC region now occurs year-round, including during shark breeding season, and, as such, both pregnant and juvenile sharks may be fished, with shark fins from fetuses included on balance sheets at landing areas. Many of these state-level management measures also lack standardization at the regional level (Diop and Dossa, 2011), which weakens some of their effectiveness. For example, Sierra Leone and Guinea both require shark fishing licenses; however, these licenses are much cheaper in Sierra Leone, and as a result, fishers from Guinea fish for sharks in Sierra Leone (Diop and Dossa, 2011). Also, although many of these countries have recently adopted FAO recommended National Plan of Action—Sharks, their shark fishery management plans are still in the early implementation phase, and with few resources for monitoring and managing shark fisheries, the benefits to sharks from these regulatory mechanisms (such as reducing the threat of overutilization) have yet to be realized (Diop and Dossa, 2011). In addition, reports of illegal fishing are prevalent in the waters off West Africa and account for around 37 percent of the region's catch, the highest regional estimate of illegal fishing worldwide (Agnew *et al.,* 2009; EJF, 2012). The available data suggest that illegal fishing is a serious and rampant problem in West African waters, and with lack of enforcement of existing regulations and weak management of the fisheries in this area, as evidenced by the observed substantial and largely unregulated catches of both adult and juvenile hammerheads by artisanal fishers in this region, we agree with the ERA team's findings and conclude that the combination of both the inadequacy of existing regulatory measures and illegal fishing are contributing significantly to the risk of extinction of this DPS.

For the Eastern Pacific DPS, we identified the inadequacy of current regulatory mechanisms as a moderate risk, with illegal fishing significantly contributing to the DPS' risk of extinction. Similar to the RFMO regulations for the Indo-West Pacific DPS, the RFMO that covers the Eastern Pacific DPS area, the Inter-American Tropical Tuna Commission (IATTC), requires the full utilization of any retained catches of sharks, with a regulation that onboard fins cannot weigh more than 5 percent of the weight of the sharks. However, in 2013, we published a report to Congress that identified nations that engaged in IUU fishing, based on violations of international conservation and management measures during 2011 and/or 2012, and identified three Colombian, one Ecuadorian, one Panamanian, and two Venezuelan-flagged vessels that violated IATTC resolutions and illegally finned sharks, discarding the carcasses at sea (NMFS, 2013).

Shark finning and discarding the corresponding carcass at sea is also illegal in Colombia, Costa Rica, and El Salvador. Panama requires industrial fishers to land sharks with fins naturally attached, but artisanal fishers may separate the fins from the carcass, as long as they satisfy the 5 percent weight rule. Although the purpose of these regulations is to help deter finning, they do not protect sharks from overfishing. In addition, many of the other current regulatory mechanisms found in Central American countries in the Eastern Pacific may not adequately protect scalloped hammerhead sharks from overutilization. For example, although Ecuador has banned directed fishing for sharks in its waters, sharks caught in ''continental'' (i.e., not Galapagos) fisheries may be landed if bycaught. Panama still allows directed artisanal gillnet fishing for juvenile and adult sharks, including *S. lewini* (Arriatti, 2011), as does the Mexican State of Sinaloa, where the most popular gears in the elasmobranch fishery are bottom set gillnets and longlines (Bizzarro *et al.,* 2009). Bottom fixed gillnets are also allowed in the artisanal fishery around ''Tres Marias'' Island and Isabel Island in the Central Mexican Pacific, with bycatch dominated by juvenile *S. lewini* (Perez-Jimenez *et al.,* 2005). Although Mexico is working towards promoting a sustainable shark and ray fishery, the current legislation (NOM–029–PESCA–2006) allows artisanal fishers to target hammerheads with longlines within 10 nm from the shore. However, given the artisanal fleets' already substantial fishing effort on sharks (artisanal vessels contribute 40 percent of the marine domestic production and comprise up to 80 percent of the elasmobranch fishing effort; Cartamil *et al.,* 2011), this increase in fishing opportunity may further threaten the Eastern Pacific DPS, especially since 62 percent of the total Mexican domestic shark production comes from the Pacific Ocean (NOM–029–PESCA–2006). In addition, many of the new regulations are not well understood by current Mexican fishers, with very few fishers found to be in compliance with them (Cartamil *et al.,* 2011). Recently, Mexico issued regulations prohibiting shark fishing in its Pacific Ocean waters, from May 1 to July 31 (DOF, 2012).

More restrictive regulations, such as complete moratoriums on shark fishing, can be found within this DPS' range around Honduras and in the Eastern Tropical Pacific Seascape. However, there is evidence of illegal fishing by both local fishers and industrial longliners within these marine protected areas. For example, in Cocos Island National Park, off Costa Rica, a ''no take'' zone was established in 1992,

yet between 2004 and 2009, 1,512 km of illegal longlines, 48,552 hooks, and 459 hooked sharks were documented in the park (Friedlander *et al.,* 2012). Populations of *S. lewini* declined in this protected area by an estimated 71 percent from 1992 to 2004 (Myers *et al.,* nd). Data collected by dive masters since 1992 place the decline in hammerhead abundance at more than 11 fold from peak relative abundance numbers in the park (Friedlander *et al.,* 2012).

From 1998–2004, Jacquet *et al.* (2008) found Ecuadorian shark fin exports exceeded mainland catches by 44 percent (average of 3,850 mt per year), and suggested that this discrepancy may have been a result of illegal fishing on protected Galapagos sharks. New information that we received since publication of the Proposed Rule shows a decline in the relative abundance of *S. lewini* from 2003 to 2011 around the Malpelo Wildlife Sanctuary, off Colombia; however, the decrease was not strongly negative (Soler *et al.,* 2013). From 2004 to 2011, Soler *et al.* (2013) reported estimates of relative abundance ranging from 30 (hammerheads/dive) to 17 (hammerheads/dive) and suggested the decrease in hammerhead abundance was likely due to overfishing and poaching in the surrounding waters. Evidence of such poaching occurred in November 2011, when Colombian environmental authorities reported a large shark massacre in this wildlife sanctuary. The divers counted 10 illegal Costa Rican trawler boats in the wildlife sanctuary and estimated that as many as 2,000 scalloped hammerhead, Galápagos and silky sharks may have been killed for their fins (Brodzinsky, 2011).

Although shark finning is discouraged in the waters of this DPS, the ERA team voiced concerns about the allowed use of fishing gear that is especially effective at catching schools of scalloped hammerhead sharks within inshore and nursery areas in this DPS' range. Thus, the ERA team ranked the threat of inadequate current regulatory mechanisms as a moderate risk. Additionally, without stronger enforcement, especially in the marine protected areas in the Eastern Tropical Pacific, the known ''hot spots'' of scalloped hammerhead aggregations, the inadequacy of existing regulatory mechanisms will continue to enable the substantial illegal fishing, which we concluded is a threat contributing significantly to this DPS' risk of extinction.

Other Natural or Man-Made Factors Affecting Its Continued Existence

We also identified other natural factors, such as the species' high at-vessel fishing mortality and schooling behavior, as contributing to the risk of extinction for each DPS when combined with other threats such as overutilization and illegal fishing. Scalloped hammerhead sharks are obligate ram ventilators (they must keep moving to ensure a constant supply of oxygenated water) and suffer very high at-vessel fishing mortality in bottom longline fisheries (Morgan and Burgess, 2007; Macbeth *et al.,* 2009) and in beach net programs (Reid and Krogh, 1992; Dudley and Simpfendorfer, 2006). Their schooling behavior also increases the shark's likelihood of being caught in large numbers. For example, fishers in Costa Rica were documented using gillnets in shallow waters to target schools of juveniles and neonates in these nursery areas (Zanella *et al.,* 2009). In Brazil, schools of neonates and juveniles are caught in large numbers by coastal gillnets and recreational fishers in inshore waters, and consequently their abundance has significantly decreased over time (CITES, 2010). Off South Africa, Dudley and Simpfendorfer (2006) reported significant catches of newborn *S. lewini* by prawn trawlers, with estimates of 3,288 sharks in 1989 and 1,742 sharks in 1992.

This schooling behavior also makes the species a popular target for illegal fishing activity, with fishers looking to catch large numbers of scalloped hammerhead sharks (both adult and juveniles) quickly and with relatively little effort. In the Malpelo Wildlife Sanctuary, divers had reported sightings of schools of more than 200 hammerhead sharks before the sanctuary became a recent target of illegal fishing (Brodzinsky, 2011). Because this schooling behavior provides greater access to large numbers of scalloped hammerhead sharks, the likelihood of this species being overfished greatly increases. Given the species' low fecundity, slow growth rate, and late maturity, it would likely take decades for a given DPS to recover from large removals of individuals. In the interim, the DPS would be exposed to demographic risks that could lead to population collapse and possible extinction. Thus, we identified the species' high at-vessel mortality and schooling behavior as factors that work in combination with others, such as current abundance and trends, heavy fishing pressure and overutilization, inadequate regulatory mechanisms, and illegal fishing, to significantly increase the four DPSs' risks of extinction.

Efforts Being Made To Protect the Four DPSs

Section 4(b)(1)(A) of the ESA requires the Secretary of Commerce to take into account ''. . . efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction or on the high seas.'' The ESA therefore directs us to consider all conservation efforts being made to conserve the species. The joint USFWS and NMFS *Policy on Evaluation of Conservation Efforts When Making Listing Decisions* (''PECE Policy,'' 68 FR 15100; March 28, 2003) further identifies criteria we use to determine whether formalized conservation efforts that have yet to be implemented or to show effectiveness contribute to making listing unnecessary, or to listing a species as threatened rather than endangered. In determining whether a formalized conservation effort contributes to a basis for not listing a species, or for listing a species as threatened rather than endangered, we must evaluate whether the conservation effort improves the status of the species under the ESA. Two factors are key in that evaluation: (1) For those efforts yet to be implemented, the certainty that the conservation effort will be implemented, and (2) for those efforts that have not yet demonstrated effectiveness, the certainty that the conservation effort will be effective. The following is a brief review of the major conservation efforts and an evaluation of whether these efforts are reducing or eliminating threats by having a positive conservation benefit and thus improving the status of the scalloped hammerhead shark DPSs.

We identified the increasing number of shark fin bans as one potential effort to conserve the DPSs. The concern regarding the practice of finning and its effect on global shark populations has been growing both domestically and internationally. The push to stop shark finning and curb the trade of shark fins is evident overseas and most surprisingly in Asian countries, where the demand for shark fin soup is highest. Just recently, China prohibited shark fins at all official reception dinners (Ng, 2013). However, as many of these bans have just recently been implemented, their effect on reducing the threat of *S. lewini* overutilization and illegal fishing is unknown.

We also identified the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) listings as another potential effort to conserve the DPSs. Since publication of the Proposed Rule, member nations of CITES, referred to as ''Parties,'' voted in support of listing three species of hammerhead sharks (scalloped, smooth, and great) in Appendix II—an action that means increased protection, but still allows legal and sustainable trade. In addition, *S. lewini* was submitted for inclusion on CITES Appendix III by Costa Rica. These CITES listings will go into effect on September 14, 2014. At that time, export of their fins will require CITES permits that ensure the products were legally acquired and that the Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species. The countries of Guyana and Yemen have entered reservations, which means that they are not bound by CITES requirements when trading in these species with countries not a party to CITES. Japan has also taken a reservation but has stated that it will comply voluntarily with the CITES requirements for export permits. Canada has also entered reservations but this is temporary until they are able to implement domestic regulations.

Although these CITES listings will likely work towards creating sustainable international trade in *S. lewini* products in the future, their effect on reducing current threats to the point where an ESA listing may be unnecessary or downgraded for any of the DPSs is uncertain. As the CITES listings will only apply to international trade, it is unclear if this effort will effectively reduce the threats of overutilization by artisanal fisheries for domestic consumption, or if these CITES listings will help promote stronger domestic regulatory and conservation measures or curb illegal fishing for these four DPSs.

We support all conservation efforts currently in effect and those that are planned for the near future, as mentioned above. However, we cannot say with a high level of certainty that the conservation efforts will be effective as required by the PECE policy (68 FR 15100, 28 March 2003). Therefore, we have determined that these efforts will not likely alter the extinction risk of the four DPSs.

Final Listing Determination

Section 4(b)(1) of the ESA requires that NMFS make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and taking into account those efforts, if any, being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species. We have reviewed the best available scientific and commercial information including the petition, the Status Review Report, peer review comments, public comments, and other available published and unpublished information, and we have consulted with species experts and individuals familiar with scalloped hammerhead sharks.

For the reasons stated above, and as summarized here, we conclude that: (1) Scalloped hammerhead sharks in the Central & SW Atlantic, Eastern Atlantic, Indo-West Pacific, and Eastern Pacific meet the discreteness and significance criteria for DPSs; (2) the Eastern Atlantic and Eastern Pacific scalloped hammerhead shark DPSs are in danger of extinction throughout their ranges; and (3) the Central & SW Atlantic and Indo-West Pacific scalloped hammerhead shark DPSs are likely to become endangered throughout their ranges in the foreseeable future.

The scalloped hammerhead shark population segment occurring in the Central & SW Atlantic is discrete from other population segments and significant to the scalloped hammerhead species based on the following: (1) Genetic differences between this population and those scalloped hammerhead sharks inhabiting waters of the Pacific, Indian, and eastern Atlantic oceans; (2) tagging studies that suggest limited distance migrations along coastlines, continental margins, and submarine features with no observed mixing between the Central & SW Atlantic population and the NW Atlantic & GOM population, supporting the conclusion of isolation from other populations; (3) fishery management measures that are lacking for this DPS compared to NW Atlantic & GOM DPS (with the exception of U.S. EEZ Caribbean), with significant differences in control of *S. lewini* exploitation and regulatory mechanisms across these international boundaries; and (4) evidence that a loss of this segment would result in a significant gap in the range of the taxon (from Caribbean to Uruguay), with oceanographic conditions that would act as barriers to re-colonization, and tagging and genetic studies that suggest the segment would unlikely be rapidly repopulated through immigration.

The scalloped hammerhead shark population segment occurring in the Eastern Atlantic is discrete from other population segments and significant to the scalloped hammerhead species based on the following: (1) Genetic differences between this population and those scalloped hammerhead sharks inhabiting waters of the Pacific, Indian, and western Atlantic oceans; (2) tagging studies that suggest limited distance migrations along coastlines, continental margins, and submarine features, with genetic studies that show migration around the southern tip of Africa is rare (i.e., no mixing with those sharks found in the Indian Ocean), supporting the conclusion of isolation from other populations; and (3) evidence that loss of this segment would result in a significant gap in the range of the taxon (from Mediterranean Sea to Namibia), with oceanographic conditions that would act as barriers to re-colonization, and tagging and genetic studies that suggest the segment would unlikely be rapidly repopulated through immigration.

The scalloped hammerhead shark population segment occurring in the Indo-West Pacific is discrete from other population segments and significant to the scalloped hammerhead species based on the following: (1) Genetic differences between this population and those scalloped hammerhead sharks inhabiting waters of the Eastern Pacific and Atlantic oceans; (2) tagging and genetic studies that show limited distance migrations and support isolation from other populations, but suggest males mix readily along coastlines and continental margins within the range of this DPS due to the high connectivity of habitat; (3) fishery management measures that are lacking for this DPS compared to those for the Central Pacific DPS, with significant differences in control of *S. lewini* exploitation and regulatory mechanisms across international boundaries; and (4) evidence that loss of this segment would result in a significant gap in the range of the taxon (from South Africa to Japan and south to Australia and New Caledonia and neighboring island countries), with oceanographic conditions that would act as barriers to re-colonization, and tagging and genetic studies that suggest the segment would unlikely be rapidly repopulated through immigration.

The scalloped hammerhead shark population segment occurring in the Eastern Pacific is discrete from other population segments and significant to the scalloped hammerhead species based on the following: (1) Genetic differences between this population and those scalloped hammerhead sharks inhabiting waters of the Indo-West Pacific, Central Pacific, and Atlantic oceans; (2) tagging studies that suggest wide movements around islands and

occasional long-distance dispersals between neighboring islands with similar oceanographic conditions, but isolation from other DPSs by bathymetric barriers and oceanographic conditions, supporting the conclusion of isolation from other populations; and (3) evidence that loss of this segment would result in a significant gap in the range of the taxon (from southern CA, USA to Peru), with oceanographic conditions that would act as barriers to re-colonization, and tagging and genetic studies that suggest the segment would unlikely be rapidly repopulated through immigration.

We have independently reviewed and evaluated the best available scientific and commercial information related to the status of each DPS, including the demographic risks and trends and the multiple threats related to the factors set forth in the ESA Section 4(a)(1)(A)–(E). As explained in the Proposed Rule (see 78 FR 20718, discussion of Proposed Determinations), no portion of any DPS' range is considered significant and we therefore have determined that no DPS is threatened or endangered throughout a significant portion of its range. Our determinations set forth above and summarized below are thus based on the status of each DPS across its entire range. Based on our evaluation of the status of each DPS and the threats to its persistence we predicted the likelihood that each DPS is in danger of extinction throughout all of its range now and in the foreseeable future (which was defined as 50 years) (78 FR 20718). We considered each of the statutory factors to determine whether it presented an extinction risk to each DPS on its own. We also considered the combination of those factors to determine whether they collectively contributed to the extinction of each DPS. As required by the ESA, Section 4(b)(1)(a), we also took into account efforts to protect scalloped hammerhead sharks by states, foreign nations and others and evaluated whether those efforts provide a conservation benefit to each DPS and reduced threats to the extent that a DPS did not warrant listing or could be listed as threatened rather than endangered. Our conclusions and final listing determinations are based on a synthesis and integration of the foregoing information, factors and considerations.

Below are the summaries of our final listing determinations:

We have determined that the Central & SW Atlantic DPS of the scalloped hammerhead shark is not presently in danger of extinction, but is likely to become so in the foreseeable future throughout all of its range. Factors supporting a conclusion that this DPS is not presently in danger of extinction include: (1) Low productivity rates but moderate rebound potential to pelagic longline fisheries common within the range of this DPS; (2) ICCAT recommendations slated for implementation (or already implemented) by Contracting Parties that offer protection for this species from ICCAT fishing vessels; (3) regulations that limit the extension of pelagic gillnets and trawls, shark fin bans, and prohibitions on shark fishing or the retention of scalloped hammerhead sharks; and (4) evidence that sharks are still present in significant enough numbers to be caught by commercial and artisanal fisheries. Factors supporting a conclusion that the DPS is likely to become in danger of extinction in the foreseeable future include overutilization, inadequacy of existing regulatory mechanisms and other natural or manmade factors, specifically: (1) Decreasing catch trends suggesting population decline; (2) high susceptibility to overfishing, especially given its schooling behavior, with artisanal fisheries catching large numbers of juveniles in inshore and nursery areas, likely affecting future recruitment to the DPS; (3) high at-vessel mortality rate associated with incidental capture in fisheries (resulting in further reduction of population productivity and abundance); (4) popularity of the species in the shark fin trade; and (5) limited regulatory mechanisms and/or weak enforcement in some areas, leading to illegal fishing of the species and contributing to the further decline of this DPS. Therefore, we are listing the Central & SW Atlantic DPS of the scalloped hammerhead shark as threatened under the ESA.

We have determined that the Indo-West Pacific DPS of scalloped hammerhead sharks is not presently in danger of extinction, but is likely to become so in the foreseeable future throughout all of its range. Factors supporting a conclusion that this DPS is not presently in danger of extinction include: (1) Relatively high reported catches of the species off the coasts of South Africa and Queensland, Australia; (2) still observed throughout the entire range of this DPS with the overall population size uncertain given the expansive range of this DPS; and (3) current regulations that prevent the waste of shark parts and discourage finning in this region, with the number of shark sanctuaries on the rise in the Western Pacific. Factors supporting a conclusion that the DPS is likely to become in danger of extinction in the foreseeable future include overutilization, inadequacy of existing regulatory mechanisms and other natural or manmade factors, specifically: (1) Decreases in CPUE of sharks off the coasts of South Africa and Australia and in longline catch in Papua New Guinea and Indonesian waters, suggesting localized population declines, (2) high susceptibility to overfishing, especially given its schooling behavior, in artisanal fisheries and industrial/commercial fisheries; (3) high at-vessel mortality rate associated with incidental capture in fisheries (resulting in further reduction of population productivity and abundance); (4) popularity of the species in the shark fin trade; and (5) inadequate regulatory mechanisms and/or weak enforcement of current regulations in many areas, resulting in frequent reports of illegal fishing of the species and contributing to the further decline of this DPS. Therefore, we are listing the Indo-West Pacific DPS of the scalloped hammerhead shark as threatened under the ESA.

We have determined that the Eastern Atlantic DPS of the scalloped hammerhead shark is currently in danger of extinction throughout all of its range. Factors supporting this conclusion include overutilization, inadequacy of existing regulatory mechanisms and other natural or manmade factors, specifically: (1) Reduced abundance and declining population trends and catch; (2) low productivity rates; (3) high susceptibility to overfishing, especially given its schooling behavior; (4) significant historical removals of scalloped hammerhead sharks by artisanal and industrial fisheries, with directed shark fisheries still in operation and heavy fishing pressure despite evidence of species' extirpations and declines of large hammerheads; (5) high at-vessel mortality rate associated with incidental capture in fisheries (resulting in further reduction of population productivity and abundance); (6) popularity of the species in the shark fin trade; and (7) inadequate regulatory mechanisms along the coast of West Africa, with severe enforcement issues leading to heavy illegal fishing. Therefore, we are listing the Eastern Atlantic DPS of the scalloped hammerhead shark as endangered under the ESA.

We have determined that the Eastern Pacific DPS of the scalloped hammerhead shark is also currently in danger of extinction throughout all of its range. Factors supporting this conclusion include overutilization, inadequacy of existing regulatory mechanisms and other natural or

manmade factors, specifically: (1) Reduced abundance, declining population trends and catch, and evidence of size truncation; (2) low productivity rates; (3) high susceptibility to overfishing, especially given its schooling behavior, with artisanal fisheries targeting juveniles of the species in inshore and nursery areas; (4) high at-vessel mortality rate associated with incidental capture in fisheries (resulting in further reduction of population productivity and abundance); (5) popularity of the species in the shark fin trade and importance in Mexican artisanal fisheries operating in the Pacific; and (6) limited regulatory mechanisms and weak enforcement in many areas, leading to illegal fishing of the species, especially in protected waters. Therefore, we are listing the Eastern Pacific DPS of the scalloped hammerhead shark as endangered under the ESA.

Effects of Listing

Conservation measures provided for species listed as endangered or threatened under the ESA include recovery plans and actions (16 U.S.C. 1536(f)); concurrent designation of critical habitat if prudent and determinable (16 U.S.C. 1533(a)(3)(A)); Federal agency requirements to consult with NMFS and to ensure its actions do not jeopardize the species or result in adverse modification or destruction of critical habitat should it be designated (16 U.S.C. 1536); and prohibitions on taking (16 U.S.C. 1538). Recognition of the species' plight through listing promotes conservation actions by Federal and state agencies, foreign entities, private groups, and individuals.

Identifying ESA Section 7 Consultation Requirements

Section 7(a)(4) of the ESA requires Federal agencies to confer with us on actions likely to jeopardize the continued existence of species proposed for listing or result in the destruction or adverse modification of proposed critical habitat. Once a species is listed as threatened or endangered, section 7(a)(2) requires Federal agencies to ensure that any actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of the species. Once critical habitat is designated, section 7(a)(2) also requires Federal agencies to ensure that they do not fund, authorize, or carry out any actions that are likely to destroy or adversely modify that habitat. Our section 7 regulations require the responsible Federal agency to initiate formal consultation if a Federal action may affect a listed species or its critical habitat (50 CFR 402.14(a)). Examples of Federal actions that may affect the scalloped hammerhead shark DPSs include: fishery harvest and management practices, military activities, alternative energy projects, dredging in known scalloped hammerhead nursery grounds, point and non-point source discharge of persistent contaminants in known nursery grounds, toxic waste and other pollutant disposal in known nursery grounds, and shoreline development in known nursery grounds.

Critical Habitat

Critical habitat is defined in section 3 of the ESA (16 U.S.C. 1532(3)) as: (1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species, and (b) that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the ESA requires that, to the extent practicable and determinable, critical habitat be designated concurrently with the listing of a species. Designation of critical habitat must be based on the best scientific data available and must take into consideration the economic, national security, and other relevant impacts of specifying any particular area as critical habitat.

In determining what areas qualify as critical habitat, 50 CFR 424.12(b) requires that we consider those physical or biological features that are essential to the conservation of a given species including ''space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distribution of a species.'' The regulations further direct NMFS to ''focus on the principal biological or physical constituent elements . . . that are essential to the conservation of the species,'' and specify that the ''Known primary constituent elements shall be listed with the critical habitat description.'' The regulations identify physical and biological features as including: ''roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dry land, water quality or quantity, host species or plant pollinator, geological formation, vegetation type, tide, and specific soil types.''

In our proposal to list the scalloped hammerhead shark DPSs (78 FR 20718), we requested information on the identification of specific areas that meet the definition of critical habitat defined above for the Central & SW Atlantic DPS, Indo-West Pacific DPS, and Eastern Pacific DPS. These DPSs are the only DPSs that occur in U.S. waters or its territories. We also solicited biological and economic information relevant to making a critical habitat designation for each DPS. We have reviewed the comments provided and the best available scientific information. We conclude that critical habitat is not determinable at this time for the following reasons: (1) Sufficient information is not currently available to assess impacts of designation; and (2) sufficient information is not currently available regarding the physical and biological features essential to conservation.

ESA Section 9 Take Prohibitions

Because we are listing the Eastern Pacific DPS and Eastern Atlantic DPS of scalloped hammerhead sharks as endangered, all of the take prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) will apply. These include prohibitions against importing, exporting, engaging in foreign or interstate commerce, or ''taking'' of the species. ''Take'' is defined under the ESA as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.'' These prohibitions apply to all persons, organizations and entities subject to the jurisdiction of the United States, including in the United States and its territorial seas, or on the high seas.

In the case of threatened species, ESA section 4(d) requires the Secretary to issue regulations deemed necessary and appropriate for the conservation of the species. We have evaluated the needs of and threats to the Central & SW Atlantic DPS and Indo-West Pacific DPS and have determined that protective regulations pursuant to section 4(d) are not currently necessary and appropriate for the conservation of either DPS. The main threats identified for these two DPSs are overutilization (high risk) and inadequate existing regulatory measures (especially illegal fishing) (moderate risk). The threat of overutilization is primarily a result of heavy fishing pressure by foreign industrial,

commercial and artisanal fisheries. Most of the commercial fishermen under U.S. jurisdiction who could catch the Central & SW Atlantic DPS are already prohibited from landing this DPS in the Atlantic Ocean, including the Caribbean Sea. Starting in 2011, Atlantic Highly Migratory Species (HMS) commercially-permitted vessels that have PLL gear on board and dealers buying from these vessels have been prohibited from retaining onboard, transshipping, landing, storing, selling, or offering for sale any part or whole carcass of hammerhead sharks of the family *Sphyrnidae* (except for the *Sphyrna tiburo*) (76 FR 53652; August 29, 2011). HMS fishermen using other types of gear who fish for, retain, possess, sell, or intend to sell, scalloped hammerhead sharks need a Federal Atlantic Directed or Incidental shark limited access permit. These permits are administered under a limited access program and we are no longer issuing new shark permits. Additionally, HMS fishermen who have an HMS Commercial Caribbean Small Boat permit (which allows fishing for and sales of HMS species within the local U.S. Caribbean market) are currently prohibited from retaining Atlantic sharks and are restricted to fishing with only rod and reel, handline, and bandit gear under the permit (77 FR 59842; October 1, 2012).

Recreational fishermen under U.S. jurisdiction are also prohibited from retaining hammerhead sharks in the Atlantic, including the Caribbean Sea, when tuna, swordfish or billfish are also retained (76 FR 53652; August 29, 2011). When tuna, swordfish or billfish are not onboard, then recreational fishermen are only allowed to land one shark per trip (and if it is a scalloped hammerhead shark, then it must be a minimum size of 78 inches (6.5 feet; 198 cm) FL to ensure that primarily mature individuals are retained).

In the western Pacific, scalloped hammerhead sharks are rarely caught or seen around the U.S. Pacific Island Territories. Both CNMI and Guam have banned the possession, sale, offer for sale, trade, and distribution of shark fins. Guam also explicitly prohibits the take, purchase, barter, transport, export, and import of shark fins. American Samoa prohibits the possession, delivery, or transportation of any shark species or shark body party. American Samoa also prohibits shark fishing within three nautical miles of its shore. A lthough there are no targeted shark fisheries in Guam, CNMI, or American Samoa, American Samoa does have a limited entry longline fishery that operates within the U.S. EEZ. However, this longline fishery is strictly managed and regulated (see Miller *et al.,* 2014), with only eight scalloped hammerhead sharks observed caught in this fishery since 2006. There is currently no longline fishery operating in the CNMI, and Guam has had a 50–100 nm longline exclusion zone in place since 1992. Guam also prohibits drift gillnets in its fisheries. In terms of the Hawaii longline fisheries, which operate in some areas of the Indo-West Pacific DPS range, there is very low interaction with scalloped hammerhead sharks. From 1994 to 2004, there were only 26 observed interactions in the deep-set longline fishery (HLA, 2013). From 2004 to the present, this number drops to three (HLA, 2013). Catch of scalloped hammerhead sharks by U.S. vessels in the WCPFC convention area is also very minimal (SPC, 2010; Miller *et al.* 2014). Overall, the significant and adequate management measures that are in place for fishermen under U.S. jurisdiction (including gear restrictions, permit and logbook requirements, quota monitoring, bycatch measures, vessel monitoring systems, and protected species workshop requirements), directly and indirectly contribute to the very rare interactions between U.S. fishing activities and the threatened DPSs. As such, we do not see these activities as contributing significantly to the identified threats of overutilization and inadequate regulatory measures. In addition, we do not find that prohibiting these activities would have a significant effect on the extinction risks of the threatened DPSs (considering the U.S. interaction with the DPSs is negligible and the DPS' risks of extinction are primarily a result of threats from foreign fishing activities).

As mentioned previously, scalloped hammerhead sharks were included on Appendix II of CITES at the 16 Conference of the CITES Parties in March 2013, with the listing going into effect on September 14, 2014. At that time, export of their fins will require CITES permits that ensure the products were legally acquired and that the Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species (after taking into account factors such as its population status and trends, distribution, harvest, and other biological and ecological elements). In other words, trade of these DPSs will have to be monitored to ensure that the species is maintained throughout its range at a level consistent with its role in the ecosystem, and does not reach the level whereby international trade would have to be prohibited to protect the species from extinction. Although this CITES protection was not considered to be an action that decreased the current listing status of the threatened DPSs (due to its uncertain effects at reducing the threats of foreign domestic overutilization and inadequate regulations) it does help address the threat of foreign overutilization for the international fin trade, ensuring that international trade of these threatened DPSs is sustainable. Because the United States does not have a significant presence in the international fin trade (U.S. exports and imports of all species of shark fins comprise less than one percent of the total number of fins globally exported and imported; see NMFS, 2012 and FAO, 2014) we have concluded that restrictions on U.S. trade of these DPSs, in addition to the CITES requirements, are not necessary and appropriate for the conservation of these DPSs.

Identification of Those Activities That Would Constitute a Violation of Section 9 of the ESA

On July 1, 1994, NMFS and FWS published a policy (59 FR 34272) that requires us to identify, to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the ESA. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within a species' range. We will identify, to the extent known, specific activities that will not be considered likely to result in violation of section 9, as well as activities that will be considered likely to result in violation.

Based on the best available information, activities that we believe could result in violation of section 9 prohibitions against ''take'' of the Eastern Atlantic and Eastern Pacific DPSs include the following: (1) Importing fins or any part of a scalloped hammerhead shark; (2) exporting fins or any part of a scalloped hammerhead shark; (3) taking fins or any part of a scalloped hammerhead shark, including fishing for, capturing, handling, or possessing scalloped hammerhead sharks or fins; (4) selling fins or any part of a scalloped hammerhead shark; (5) delivery of fins or any part of a scalloped hammerhead shark; and (6) impacting the water column attributes in scalloped hammerhead nursery grounds (e.g., coastal development and habitat alterations, point and non-point source discharge of persistent contaminants, toxic waste and other pollutant disposal). We emphasize that whether a violation results from a particular activity is entirely dependent

upon the facts and circumstances of each incident. The mere fact that an activity may fall within one of these categories does not mean that the specific activity will cause a violation; due to such factors as location and scope, specific actions may not result in direct or indirect adverse effects on the species. Further, an activity not listed may in fact result in a violation.

ESA sections 10(a)(1)(A) and (B) provide us with authority to grant exceptions to the ESA's section 9 ''take'' prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-Federal) for scientific purposes or to enhance the propagation or survival of the species. The type of activities potentially requiring a section 10(a)(1)(A) research/enhancement permit include scientific research that targets the Central & SW Atlantic DPS, Indo-West Pacific DPS, Eastern Atlantic DPS, or Eastern Pacific DPS.

ESA Section 10(a)(1)(B) incidental take permits may be issued to non-Federal entities performing activities that may incidentally take listed species, as long as the taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Based on the best available information, we believe the following actions will not result in a violation of ESA section 9: (1) Take or possession of scalloped hammerhead sharks acquired lawfully by permit issued by NMFS pursuant to section 10 of the ESA, or take in accordance with the terms of an incidental take statement in a biological opinion pursuant to section 7 of the ESA; and (2) Federally approved projects that involve activities such as managed fisheries or the alteration of water column attributes within known scalloped hammerhead nursery grounds for which consultation under section 7 of the ESA has been completed and determined not likely to jeopardize the continued existence of the scalloped hammerhead DPS, and when such activity is conducted in accordance with any terms and conditions given by NMFS in an incidental take statement in a biological opinion pursuant to section 7 of the ESA.

Policies on Peer Review

In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review establishing a minimum peer review standard. Similarly, a joint NMFS/FWS policy (59 FR 34270; July 1, 1994) requires us to solicit independent expert review from qualified specialists, concurrent with the public comment period. The intent of the peer review policies is to ensure that listings are based on the best scientific and commercial data available. We formally solicited the expert opinion of three appropriate and independent specialists regarding scientific or commercial data or assumptions related to the information considered for listing. We received comments from two of these scientists and their comments were incorporated into the status review report and this final rule. We conclude that these experts' reviews satisfy the requirements for ''adequate [prior] peer review'' contained in the Bulletin (sec. II.2.), as well as the Services' joint policy.

Information Solicited

We request interested persons to submit relevant information related to the identification of critical habitat and essential physical or biological features, as well as economic or other relevant impacts of designation of critical habitat for the Central & SW Atlantic DPS, Indo-West Pacific DPS, and Eastern Pacific DPS. We solicit information from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party (see **ADDRESSES**).

References

A complete list of all references cited herein is available upon request (see **FOR FURTHER INFORMATION CONTACT**).

Classification

National Environmental Policy Act

The 1982 amendments to the ESA, in section 4(b)(1)(A), restrict the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus,* 657 F. 2d 829 (6th Cir. 1981), we have concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (See NOAA Administrative Order 216–6).

Executive Order 12866, Regulatory Flexibility Act, and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process. In addition, this final rule is exempt from review under Executive Order 12866. This final rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Executive Order 13132, Federalism

Executive Order 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law, or impose substantial direct compliance costs on state and local governments (unless required by statue). Neither of those circumstances is applicable to this final listing determination.

List of Subjects

50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

50 CFR Part 224

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

Dated: June 27, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 223 and 224 are amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.;* subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.;* 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.102, amend the table in paragraph (e) by adding new entries for two species in alphabetical order under the ''Fishes'' table subheading to read as follows:

§ 223.102 Enumeration of threatened marine and anadromous species.

* * * * *

(e) The threatened species under the jurisdiction of the Secretary of Commerce are:

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
FISHES					
*	*	*	*	*	*
Shark, scalloped hammerhead (Central & Southwest Atlantic DPS).	*Sphyrna lewini*	Scalloped hammerhead sharks originating from the Central & Southwest Atlantic Ocean, including all waters of the Caribbean Sea, the Bahamas' EEZ off the coast of Florida, the U.S. EEZ off Puerto Rico and the U.S. Virgin Islands, and Cuba's EEZ, and further delineated by the following boundary lines: bounded to the north by 28° N. lat., to the east by 30° W. long., and to the south by 36° S. lat.	[Insert FR page number where the document begins], July 3, 2014.	NA	NA
Shark, scalloped hammerhead (Indo-West Pacific DPS).	*Sphyrna lewini*	Scalloped hammerhead sharks originating from the Indo-West Pacific Ocean, delineated by the following boundary lines: bounded to the south by 36° S. lat., to the west by 20° E. long., and to the north by 40° N. lat. In the east, the boundary line extends from 175° E. long. due south to 10° N. lat., then due east along 10° N. lat. to 150° W. long., then due south to 4° S. lat., then due east along 4° S. lat. to 130° W. long, and then extends due south along 130° W. long.	[Insert FR page number where the document begins], July 3, 2014.	NA	NA
*	*	*	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

* * * * *

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 3. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.* and 16 U.S.C. 1361 *et seq.*

■ 4. In § 224.101, amend the table in paragraph (h) by adding new entries for two species in alphabetical order under the ''Fishes'' table subheading to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) The endangered species under the jurisdiction of the Secretary of Commerce are:

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
*	*	*	*	*	*
FISHES*					
*	*	*	*	*	*
Shark, scalloped hammerhead (Eastern Atlantic DPS).	*Sphyrna lewini*	Scalloped hammerhead sharks originating from the Eastern Atlantic Ocean, including all waters of the Mediterranean Sea, and delineated by the following boundary lines: bounded to the west by 30° W. long., to the north by 40° N. lat., to the south by 36° S. lat., and to the east by 20° E. long.	[Insert FR page number where the document begins], July 3, 2014.	NA	NA

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Shark, scalloped hammerhead (Eastern Pacific DPS).	*Sphyrna lewini*	Scalloped hammerhead sharks originating from the Eastern Pacific Ocean, delineated by the following boundary lines: bounded to the north by 40° N lat. and to the south by 36° S lat. The western boundary line extends from 140° W. long. due south to 10° N., then due west along 10° N. lat. to 150° W. long., then due south to 4° S. lat., then due east along 4° S. lat. to 130° W. long, and then extends due south along 130° W. long.	[Insert FR page number where the document begins], July 3, 2014.	NA	NA

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

* * * * *

[FR Doc. 2014–15710 Filed 7–2–14; 8:45 am]

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FEDERAL REGISTER

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Part IV

The President

Proclamation 9146—50th Anniversary of the Civil Rights Act

Federal Register
Vol. 79, No. 128
Thursday, July 3, 2014

Presidential Documents

Title 3—

The President

Proclamation 9146 of June 30, 2014

50th Anniversary of the Civil Rights Act

By the President of the United States of America

A Proclamation

Few achievements have defined our national identity as distinctly or as powerfully as the passage of the Civil Rights Act. It transformed our understanding of justice, equality, and democracy and advanced our long journey toward a more perfect Union. It helped bring an end to the Jim Crow era, banning discrimination in public places; prohibiting employment discrimination on the basis of race, color, religion, sex, or national origin; and providing a long-awaited enforcement mechanism for the integration of schools. A half-century later, we celebrate this landmark achievement and renew our commitment to building a freer, fairer, greater society.

Through the lens of history, the progress of the past five decades may seem inevitable. We may wish to remember our triumphs while erasing the pain and doubt that came before. Yet to do so would be a disservice to the giants who led us to the mountaintop, to unsung heroes who left footprints on our National Mall, to every American who bled and died on the battlefield of justice. In the face of bigotry, fear, and unyielding opposition from entrenched interests, their courage stirred our Nation's conscience. And their struggle helped convince a Texas Democrat who had previously voted against civil rights legislation to become its new champion. With skillful charm and ceaseless grit, President Lyndon B. Johnson shepherded the Civil Rights Act through the Congress—and on July 2, 1964, he signed it into law.

While laws alone cannot right every wrong, they possess an unmatched power to anchor lasting change. The Civil Rights Act threw open the door for legislation that strengthened voting rights and established fair housing standards for all Americans. Fifty years later, we know our country works best when we accept our obligations to one another, embrace the belief that our destiny is shared, and draw strength from the bonds that hold together the most diverse Nation on Earth.

As we reflect on the Civil Rights Act and the burst of progress that followed, we also acknowledge that our journey is not complete. Today, let us resolve to restore the promise of opportunity, defend our fellow Americans' sacred right to vote, seek equality in our schools and workplaces, and fight injustice wherever it exists. Let us remember that victory never comes easily, but with iron wills and common purpose, those who love their country can change it.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim July 2, 2014, as the 50th Anniversary of the Civil Rights Act. I call upon all Americans to observe this day with programs, ceremonies, and activities that celebrate this accomplishment and advance civil rights in our time.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of June, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

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