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FEDERAL REGISTER

Vol. 79 Tuesday,

No. 189 September 30, 2014

Pages 58655–59086

OFFICE OF THE FEDERAL REGISTER

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Federal Register

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–13–0011; NOP–13–01FR]

RIN 0581–AD32

National Organic Program (NOP); Amendments to the National List of Allowed and Prohibited Substances (Crops and Processing)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Department of Agriculture's (USDA's) National List of Allowed and Prohibited Substances (National List) to reflect a recommendation submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) on October 18, 2012, and removes two previously expired substances. Consistent with the recommendation from the NOSB, this final rule adds biodegradable biobased mulch film to the National List with restrictive annotations. This action also adds a new definition for biodegradable biobased mulch film. This rule also removes two listings for nonorganic agricultural substances from the National List, hops (*Humulus lupulus*) and unmodified rice starch, as their use exemptions expired on January 1, 2013, and June 21, 2009, respectively. Two other substances that were recommended by the NOSB to the Secretary for addition to the National List, *Citrus hystrix,* leaves and fruit, and curry leaves (*Murraya koenigii*), have not been added to the National List based on comments received on the proposed rule.

DATES: *Effective Date:* This rule is effective October 30, 2014. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of October 30, 2014.

FOR FURTHER INFORMATION CONTACT: Melissa Bailey, Ph.D., Director, Standards Division, National Organic Program, Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Secretary established within the National Organic Program (NOP) (7 CFR part 205) the National List regulations sections 205.600 through 205.607. The National List identifies the synthetic substances that may be used and the nonsynthetic (natural) substances that may not be used in organic production. The National List also identifies nonagricultural synthetic, nonagricultural nonsynthetic, and nonorganic agricultural substances that may be used in organic handling. The Organic Foods Production Act of 1990 (OFPA), as amended (7 U.S.C. 6501–6522), and USDA organic regulations, in section 205.105, specifically prohibit the use of any synthetic substance in organic production and handling unless the synthetic substance is on the National List. Section 205.105 also requires that any nonorganic agricultural and any nonsynthetic nonagricultural substance used in organic handling must also be on the National List.

Under the authority of OFPA, the National List can be amended by the Secretary based on proposed amendments developed by the NOSB. Since established, the Agricultural Marketing Service (AMS) has published multiple amendments to the National List beginning on October 31, 2003 (68 FR 61987). AMS published the most recent amendment to the National List on October 3, 2013 (78 FR 61154).

This final rule amends the National List to enact one recommendation submitted to the Secretary by the NOSB on October 18, 2012. This rule also removes two previously expired substances from the National List. Two other recommendations that were submitted by the NOSB to the Secretary on May 25, 2012, have not been finalized based on comments received on AMS' August 22, 2013 proposed rule (78 FR 52100).

II. Overview of Amendments

The following provides an overview of the amendments made to designated sections of the National List regulations:

Section 205.2 Terms defined.

Section 205.3 Incorporation by reference.

Section 205.601 Synthetic substances allowed for use in organic crop production.

This final rule amends sections 205.2 and 205.601 of the National List by adding a new definition and new substance to the National List for organic crop production. In addition, section 205.3 has been added to comply with incorporation by reference requirements.

Biodegradable Biobased Mulch Film

This rule adds a new definition for biodegradable biobased mulch film that includes criteria and third-party standards for compostability, biodegradability, and biobased content. These third-party standards are incorporated by reference at new section 205.3. For the final rule, we have added new section 205.3 to specify the current versions of the cited third-party standards and include information on the availability of these standards to meet requirements for incorporation by reference.[1] Additional text regarding the availability of these standards has also been added to new section 205.3.

This rule also adds the substance ''biodegradable biobased mulch film,'' with restrictions, to new subparagraph (b)(2)(iii) of section 205.601. The new listing reads as follows: ''Biodegradable biobased mulch films as defined in § 205.2. Must be produced without organisms or feedstock derived from excluded methods.''

Section 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as ''organic.''

This final rule amends section 205.606 of the National List regulations by removing paragraphs (l) and (w)(2) to remove two previously expired substances, hops (*Humulus lupulus*) and unmodified rice starch, whose use

[1] Federal Register Document Drafting Handbook, Chapter 6: What is Incorporation by Reference, and How do I do it? April 2014 Revision. *http://www.archives.gov/federal-register/write/handbook/chapter-6.pdf.*

expired on January 1, 2013, and June 21, 2009, respectively. Further, this final rule redesignates paragraph (w)(3) as (w)(2) and paragraphs (m) through (aa) as (l) through (z).

III. Related Documents

Two notices were published regarding meetings of the NOSB and its deliberations on recommendations and substances petitioned for amending the National List. Substances and NOSB recommendations addressed in this final rule were announced for NOSB deliberation in the following **Federal Register** notices: (1) 77 FR 21067, April 9, 2012 (curry leaves and *C. hystrix*); and (2) 77 FR 52679, August 30, 2012 (biodegradable biobased mulch film).

The expiration date of January 1, 2013, for the listing for hops was added to the National List on June 27, 2012, by a final rule (77 FR 33290) published in the **Federal Register** notice on June 6, 2012.

The listing and expiration date of June 21, 2009 for unmodified rice starch was added to the National List on June 21, 2007, by an interim final rule (72 FR 35137) published in the **Federal Register** on June 27, 2007.

The proposal to allow the use of three new substances, along with the deletion of two expired substances, was published as a proposed rule on August 22, 2013 (78 FR 52100).

Additional information on substances, including petitions, technical reports, and NOSB recommendations, are available on the NOP Web site at *http://www.ams.usda.gov/NOPNationalList.*

IV. Statutory and Regulatory Authority

OFPA authorizes the Secretary to make amendments to the National List based on proposed amendments developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorize the NOSB to develop proposed amendments to the National List for submission to the Secretary and establish a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or deletion from the National List. The National List petition process is implemented under section 205.607 of the USDA organic regulations. The current petition process (72 FR 2167, January 18, 2007) can be accessed through the NOP Web site at *http://www.ams.usda.gov/nop.*

A. Executive Order 12866

This action has been determined not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This final rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under OFPA from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in section 6514(b) of OFPA. States are also preempted under sections 6503 through 6507 of OFPA from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of OFPA.

Pursuant to section 6507(b)(2) of OFPA, a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of OFPA, (b) not be inconsistent with OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to section 6519(f) of OFPA, this final rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601–624), the Poultry Products Inspection Act (21 U.S.C. 451–471), or the Egg Products Inspection Act (21 U.S.C. 1031–1056), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301–399), nor the authority of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136–136(y)).

Section 6520 of OFPA provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic certification program established under this title. OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The Small Business Administration (SBA) defines small agricultural producers and handlers as those having annual receipts of less than $750,000 (13 CFR 121.201). SBA defines small agricultural service firms, which would include accredited certifying agents, as those having annual receipts of less than $7,000,000 (13 CFR 121.201).

The NOP reported that there were 18,513 certified organic farms and processing facilities in the United States at the end of 2013.[2] According to the 2011 Certified Organic Production Survey, nearly 90% of certified organic farms reported annual organic product sales of less than $500,000.[3] AMS believes that most of these entities would be considered to be small entities under the criteria established by the SBA.

In addition, the USDA has 82 accredited certifying agents that provide certification services to producers and handlers; 49 of these are based in the United States. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP Web site, at *http://www.ams.usda.gov/nop.* AMS believes that most of these accredited certifying agents would be considered small entities under the criteria established by the SBA.

In accordance with RFA, AMS has considered the impact of this action on

[2] Information about the 2013 List of Certified Operations is available on the NOP Web site at: *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5097484&acct=nopgeninfo.*

[3] U.S. Department of Agriculture, National Agricultural Statistics Service. 2011 Certified Organic Production Survey. October 2012. Available at: *http://bit.ly/2011OrganicSurvey.*

small entities. The effect of this final rule would be to allow the use of one additional substance, biodegradable biobased mulch film, in organic crop production and to remove two previously expired substances. The new allowance for biodegradable biobased mulch film will provide small entities with more tools to use in day-to-day farming operations. AMS concludes that the economic impact of this addition, if any, will be minimal and beneficial to small agricultural producers. Accordingly, AMS certifies that this rule would not have a significant impact on a substantial number of small entities.

D. Paperwork Reduction Act

No additional collection or recordkeeping requirements are imposed on the public by this final rule. Accordingly, OMB clearance is not required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, Chapter 35.

E. Executive Order 13175

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

F. Comments Received on Proposed Rule AMS–NOP–13–0011; NOP–13–01PR

AMS received 120 comments on the proposed rule. Comments were received from organic producers and handlers, nonprofit organizations, industry groups, trade associations, input suppliers, accredited certifying agents, and private citizens.

Most comments addressed the proposed allowance of biodegradable biobased mulch film and supported its use in organic crop production. Thirteen comments addressed the proposed allowance of two new nonorganic ingredients and did not support their addition to the National List. Comments received for each substance are described in more detail below.

Several comments opposed the allowance of any nonorganic material in organic crop production and handling, but did not provide specific comments on the proposed amendments.

Comments on the proposed removal of expired listings for hops and unmodified rice starch were supportive of this action. Therefore, AMS is finalizing the amendments that remove these two previously expired substances from section 205.606 of the National List.

Biodegradable Biobased Mulch Film

Over one hundred comments addressed the proposed definition and allowance for biodegradable biobased mulch film. The majority of comments received were supportive of the proposed action.

One comment claimed that the proposed listing would allow materials to be used in ways that were not intended by the NOSB recommendation. We disagree. The definition and listing ensure that mulch film is biobased and meets additional standards for biodegradability and compostability consistent with the NOSB recommendation. Additional information on these issues is discussed in more detail below.

Two comments requested that other materials, herbicidal soaps for food crops and synthetic fabric weed barrier cloth (non-plastic), be allowed for weed control in organic crop production. AMS did not propose any action with respect to these materials in the proposed rule and, therefore, is not addressing these materials in this final rule. Parties interested in the allowance of these materials in organic crop production may submit a petition to the NOSB. This process can be initiated in accordance with the Notice of Guidelines on Procedures for Submitting National List Petitions (72 FR 2167).

Many commenters supported mulch film as a more environmentally sustainable alternative to traditional plastic mulch. Commenters indicated that mulch film would reduce landfill waste, reduce air pollution from burning of traditional plastic mulch, and be more sustainable and ecological since it uses renewable biobased resources. Some commenters also cited farms that have voluntarily surrendered their organic certification in order to use mulch film instead of traditional plastic film since they felt the mulch film is better for the environment.

AMS received a number of comments from certified organic producers who supported the use of biobased mulch film. Organic producers cited many environmental and economic benefits from the use of mulch film including reduced plastic landfill waste, reduced labor costs, and reduced removal and disposal costs. Several producers noted that labor costs associated with hand weeding are a major expense for their operation and that that the use of mulch film would reduce these costs.

Producers also noted that mulch films may allow for more effective weed control and improved cultivation of living mulches and cover crops. Comments specifically noted that mulch film would be beneficial to organic farmers without compromising the integrity of organic farming. One producer provided limited information about a successful on-farm trial using mulch film. Another producer noted that they used mulch film prior to becoming certified organic and expressed support for the use of the substance. One grower who supported the allowance of mulch film indicated that organic straw mulch, an alternative natural material, is increasingly hard to find.

One producer who supported the use of mulch film stated that biodegradable mulch films should be required instead of plastic mulch, and that biodegradable mulch films should be required to be tilled into the soil. We have not adopted the commenter's suggestion for required tilling, as discussed further below. Another commenter also indicated that traditional plastic mulch should be prohibited in organic agriculture. Removing the allowance for traditional plastic mulch on the National List is outside of the scope of this rulemaking action and, therefore, no further action was taken on this comment. Parties interested in a prohibition for traditional plastic mulch may submit a petition to the NOSB. This process can be initiated in accordance with the Notice of Guidelines on Procedures for Submitting National List Petitions (72 FR 2167).

Two comments supporting the use of mulch film indicated that foreign operations certified to other organic standards can currently use mulch films and export their certified organic products into the United States; which puts domestic growers as at competitive disadvantage. This rulemaking action to allow the use of mulch film would address this concern.

Many comments indicated their support of the proposed listing at section 205.601 that prohibits mulch films made from or with excluded methods (i.e., genetically modified organisms or GMOs) because GMOs are not allowed for use in organic production. Several comments supported the use of mulch only if it does not contain any genetically modified material. Another comment stated that the proposed rule was unclear about biodegradable film that may contain genetically modified organisms and requested that the final rule require the mulch to be GMO free. One comment requested additional clarification on how far back in the production process that the use of excluded methods must be verified. One comment supported the prohibition on

excluded methods but did not feel that it was necessary to specify the exclusion at section 205.601 since excluded methods are generally prohibited in organic production and handling. The comment indicated that targeting a single material with this restriction may lead to inconsistent certification decisions.

AMS has considered these comments and has retained the text that was proposed at section 205.601 that requires that mulch film must be produced without organisms or feedstock derived from excluded methods. There may be questions about whether the use of mulch film derived from genetically modified organisms should be interpreted as the *use* of an excluded method as prohibited under section 205.105(e), particularly if the manufacturing process eliminates any genetically engineered traits that are only detectible in the raw agricultural feedstock. Our intention is to implement the NOSB recommendation to prohibit the use of genetically engineered feedstock or organisms in the production of mulch film, regardless of whether the genetically engineered trait is retained or detectible in the finished product. We also note that the NOSB indicated in its recommendation some concerns about consistency in the review of soil inputs for excluded methods and noted that it did not intend for this annotation to be interpreted as applying to other soil inputs.

Consistent with the NOSB recommendation and with the listing finalized at section 205.601, certifying agents and material evaluation programs will need to verify that mulch films are produced without organisms or feedstock derived from excluded methods. This includes verification that feedstock, including plant materials, microorganisms, enzymes, or other additives, are not genetically engineered or derived from genetically modified organisms. We have retained the language of ''derived from excluded methods,'' rather than ''produced using excluded methods,'' as suggested by one commenter, as we feel the proposed regulatory text is adequate to describe the intent.

Two comments that did not support the allowance of mulch film requested that, if approved, that the regulations should explicitly state that engineered nanomaterials are prohibited in this material. We have not adopted by the commenters' suggestion on this issue. AMS acknowledges that the NOSB considers engineered nanomaterials to be synthetic and prohibited under the organic regulations, and that the NOSB issued a separate recommendation on this topic in 2010.[4] On December 17, 2010, NOP responded to this NOSB recommendation that (1) it would be difficult to identify and verify the absence of nanomaterials in organic products; and (2) NOP needed more information about how nanomaterials are defined, regulated and used in agricultural products.[5] Since this time, AMS continues to analyze information received from various sources on this issue to determine next steps. We also noted that the NOSB recommendation for mulch film specifically indicates that a proposed clause prohibiting nanomaterials was omitted from the final recommendation due to the lack of a legal definition. For these reasons, AMS has not accepted the commenters' suggestion to amend the annotation for mulch film to specifically prohibit nanomaterials.

One comment from an accredited certifying agent requested clarification on the allowance of mulch film as a compost feedstock. The certifying agent indicated that they have received requests from producers about compostable cutlery and plates and encouraged further consideration by AMS of whether these materials may be used as a compost feedstock. The NOSB did not consider the use of mulch film or compostable cutlery and plates as a compost feedstock in its recommendation on mulch film and is outside the scope of this rulemaking action. Parties interested in a broader allowance for compostable bioplastic materials, such as compostable cutlery, may submit a petition to the NOSB. This process can be initiated in accordance with the Notice of Guidelines on Procedures for Submitting National List Petitions (72 FR 2167).

Several comments raised concerns about the potential adverse environmental impacts from use of this material. Comments cited concerns about accumulation of polymer fragments and mulch additives, such as dyes, fillers, and other synthetic film additives that may not completely biodegrade. Comments stated that inadequate data are available regarding potential long-term accumulation of additives that remain in the soil and provided details or references in support of these claims. One comment opposed the allowance of mulch films because potential adverse impacts on wildlife and soil microbial communities. One comment claimed that AMS should not approve the use of mulch film in organics because the environmental impacts are largely unknown and due to a lack of ecotoxicological studies to test for potential residues or harmful compounds. Another comment asked a question about microbiological risk, but did not provide additional details about their concerns. One comment expressed concerns about the potential for inadvertent spread of mulch pieces from farms to adjacent ecosystems and indicated a need for further research in this area to assess risks to wildlife, aquatic life, and adjacent ecosystems. Another comment indicated that the question of residue left by the mulch film should be weighed against the tiny scraps of broken and stretched plastic that remain in the field after removal of traditional plastic mulch, despite efforts for complete removal.

AMS has considered the comments about the potential adverse environmental impacts from the use of mulch film and considered this issue in comparison to the current use of traditional plastic mulches. In addition, the NOSB evaluated this substance against the criteria in OFPA, which includes consideration of the potential for detrimental chemical interaction with materials used in organic farming systems; the persistence and areas of concentration in the environment of the substance and its breakdown products or other contaminants; the probability of environmental contamination during manufacture, use, misuse or disposal of the substance; the effects of the substance on biological and chemical interactions in the agroecosystem; and available alternatives.[6] We understand that additional studies may be helpful on these topics and that the NOSB Materials Subcommittee has proposed that this topic be added to the NOSB's list of research priorities.[7] At this time, however, we believe that the environmental benefits gained by the use of mulch film that were raised by the majority of commenters outweigh the potential benefits from delaying a decision until more studies are completed. In consideration of the comment on ecotoxicological effects, we

[4] NOSB Recommendation. Guidance Document—Engineered Nanomaterials in Organic Production, Processing and Packaging. October 28, 2010. Available on the NOP Web site at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5087795&acct=nosb.*

[5] Memorandum for the Chairperson of the National Organic Standards Board, National Organic Program, December 17, 2010. Available on the NOP Web site at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5088266&acct=nosb.*

[6] OFPA, 7 U.S.C. 6518(m).

[7] NOSB Materials Subcommittee Proposal: Research Priorities for 2013. December 10, 2013. Available on the NOP Web site at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5106662.*

have retained the criteria for compostability in the definition of biodegradable biobased mulch film since it provides a screen for ecotoxic effects via plant growth and seedling germination tests in soil, as further discussed below.

In addition, we believe that the potential inadvertent spread of mulch film can be adequately addressed by certifiers under the existing regulations at section 205.200, which require that the operation implement production practices that maintain or improve the natural resources of the operation, including soil and water quality. If an operation allows materials to negatively impact soil or water quality, certifying agents must address this issue as a noncompliance under section 205.200.

Several comments raised questions about the biodegradability of mulch films. One comment claimed that complete degradation is required to ensure that mulch meets the requirement under OFPA that synthetic mulches be ''removed'' at the end of the growing season and did not believe that this requirement was met by the proposed listing.

Section 6508(c)(2) of OFPA prohibits the use of plastic mulches, unless such mulches are removed at the end of each growing or harvest season. This provision is implemented under the USDA organic regulations at sections 205.206(c)(6) and 205.601(b)(2)(ii). As supported by comments, AMS considers biodegradation of biofilm mulch as a form of removal at the end of the growing or harvest season. If an operation uses practices that does not allow mulch to biodegrade, and, therefore, it accumulates over time, certifying agents must address this issue as noncompliance under sections 205.200, 205.206(c)(6), and 205.601(b)(2)(iii).

One comment indicated that more investigation is needed on the different types of biodegradable mulches and claimed that not all are biodegradable. Another comment cited a study that showed that none of the biodegradable plastic mulches tested fully biodegraded in the soil after a two year period of soil incorporation following a cropping season.

One comment indicated that the NOSB recommendation is inadequate to ensure that biofilm mulches have completely biodegraded at the end of the growing or harvest season. Two comments indicated that complete degradation is necessary to qualify as ''removal'' at the end of the growing or harvest season, as required by OFPA under section 6508(c)(2). Another commenter posed questions on what the mulch film may degrade to.

Two comments did not support the rule and indicated that more research is needed to ensure adequate breakdown of mulch films. One comment indicated that it is not yet possible to establish adequate criteria that can be implemented by material review organizations, certifiers, and growers, while another commenter stated that no products currently exist in the marketplace that have been proven to fully degrade. Comments also cited a forthcoming ASTM standard that addresses aerobically biodegradable plastics in the soil environment. One comment suggested that AMS withdraw the proposed rule and postpone approval until an applicable standard is identified and products are developed that meet biodegradability requirements.

AMS has considered these comments. As explained in the proposed rule, we agree that growers will need to take appropriate actions to ensure complete degradation. These actions may be site-specific and be impacted by a number of factors, including climate, soil type, pH, soil microbial activity, irrigation, and other production practices. Section 205.200 requires that production practices maintain or improve the natural resources of the operation, including soil and water quality. In addition, section 205.203 requires that the producer select and implement practices that maintain or improve the physical, chemical, and biological condition of soil. Thus, the use of a mulch film in a manner that causes it to accumulate in the field and not biodegrade over time would not be compliant with the existing requirements at sections 205.200 and 205.203. We believe the definition and criteria for biodegradable biobased mulch film as finalized at section 205.2 provide an adequate baseline for biodegradability. Additionally, the existing requirements at sections 205.200 and 205.203 provide adequate safeguards against misuse. If misuse is identified, certifying agents may reference these standards when issuing notices of noncompliance to operations as required under section 205.662.

Another comment raised questions about possible to changes to product formulations and indicated that manufacturers change formulations frequently based on costs of available feedstock. Supplier and ingredient substitution is not unique to mulch film manufacturing and occurs with other formulated inputs products, such as blended fertilizers and soil amendments that are marketed for organic production. As part of the review process for input products, certifying agents and material evaluation programs must continue to ensure that any alternate formulations of approved mulch film products comply with any annotations provided on the National List.

Definition at Section 205.2

This rule adds a new definition for biodegradable biobased mulch film that includes criteria and third-party standards for compostability, biodegradability, and biobased content.

One comment indicated that certifying agents may not have the resources to perform the testing methods referenced in the proposed definition and recommended that AMS require separate third-party verification to these standards and allow certifying agents to accept their verification. They also requested that AMS identify which third-party verifications can be accepted. AMS does not expect that certifying agents have equipment or resources to perform the tests referenced at section 205.2. Instead, as with review of any input used in organic production or handling, certifying agents and material evaluation programs that review these materials must have sufficient expertise to determine whether the appropriate tests have been conducted by the manufacturer or party seeking review. Alternatively, certifying agents may accept reviews (i.e., third-party verifications) conducted by other certifying agents or other approved third parties as explained under NOP Policy Memo 11–4.[8]

One commenter suggested that AMS use the word ''plastic'' in the definition to clarify that the rule is intended to regulate biodegradable bioplastic mulch film. We have not adopted the commenter's suggestion, as the term ''biodegradable biobased mulch film'' is adequate to describe the intended material. In addition, the term used is consistent with the name used in the petition and the NOSB recommendation.

Compostability

In the proposed rule, AMS specifically requested comments on the applicability of the proposed compostability standards for biodegradable biobased mulch film.

Many comments supported the definition proposed at section 205.2 and indicated that all three testing standards—compostability, biodegradation, and biobased—that

[8] NOP Policy Memo 11–4 on Evaluation of Materials is available at *http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5088949.*

define biodegradable biobased mulch film are necessary because they ensure that the material is compatible with good soil management and principles. One comment supported the inclusion of this standard since it provides additional evidence that approved mulch films will break down through biological processes.

Several comments indicated that both the compostability standards and biodegradability testing requirements serve an important screening purpose. The comments noted that the compostability standard provides an initial rejection point earlier in the timeline of reviewing mulch film and confirms the absence of any ecotoxic effects via plant growth and seedling germination tests in soil.

Three comments did not support the reference to the compostability testing, stating that it is designed for commercial composting and does not correlate between conditions found in the field or environmental conditions present on farms, which have lower achievable temperatures.

We have considered these comments and have retained the standards for compostability. We agree with the comments that compostability testing is important as an initial screen for ecotoxity which is not otherwise addressed by the other criteria for biodegradability and biobased content; therefore, we have retained the compostability standards recommended by the NOSB and included in the proposed rule. The text was updated to cite the current version of this standard to meet incorporation by reference requirements.

Biodegradation

Some commenters noted that a new ASTM work item, ASTM WK29802, is under development with the working title, ''New Specification for Aerobically Biodegradable Plastics in Soil Environment in the Temperate Zone.'' This work item was initiated by ASTM on July 29, 2010.[9] According to several commenters, this new specification is expected to be a better fit for testing the biodegradability of mulch film in a soil environment when compared to ASTM D5988.[10] Since this new standard has not yet been published, we are unable to fully consider this alternative. Once the standard has been published, parties interested in further consideration of this alternative standard may submit a petition to the NOSB. This process can be initiated in accordance with the Notice of Guidelines on Procedures for Submitting National List Petitions (72 FR 2167).

One comment noted that a label of a commercial product which references ASTM D5988 only implies that the product was tested, but does guarantee any level to which the product actually degraded. We believe this comment is addressed through the definition for biodegradable biobased mulch film which states that the substance ''demonstrates at least 90% biodegradation absolute or relative to microcrystalline cellulose in less than two years, in soil.'' This requirement provides a baseline for biodegradability which is consistent with the NOSB recommendation.

One commenter indicated that it was unclear whether the biodegradability specifications (i.e., ASTM D5988) apply to mulches received from the vendor, or mulches exposed to weathering, or both. AMS intends for the specifications provided under section 205.2 to apply to mulch films as received from the manufacturer or supplier by the producer.

One commenter indicated that the biodegradation standard ASTM D5988 was inappropriate because it is a laboratory test performed under a controlled environment and it does not address the wide variety of conditions found on organic farms. In addition, the comment indicated the standard ASTM D5988 is insufficient because it does not require complete degradation of mulch. Instead, the standard only requires demonstrating 90% biodegradation in testing, which does not address residual components of mulch that could build up in soils over time. The commenter also indicated that different rates may be observed in different climates and soil conditions.

Two additional comments cited research studies and ongoing field studies that found that several biodegradable mulches that comply with the ASTM biodegradation standards showed variable levels of decomposition during the growing season.

AMS understands that the complete degradation of mulch film may be impacted by a number of factors, including climate, soil type, pH, irrigation, and other production practices. The two referenced standards for biodegradability, ISO 17556 and ASTM D5988, are intended to provide a baseline that any mulch film must meet. These standards do not exempt the producer from other parts of the USDA organic regulations that require production practices that maintain or improve soil quality and other environmental conditions, as discussed earlier.

Biobased Content

One comment indicated that there is no correlation between the percentage of biobased content and rate of complete biodegradation. The commenter stated that biobased infers that materials are being used that have renewable content, but nothing more. We have not amended the regulatory text in response to this comment since the requirement for biobased content is intended to ensure that feedstock is derived from renewable materials, rather than fossil fuel sources, to be consistent with the NOSB recommendation. We understand that some minor additives, e.g., plasticizers, colorants, etc., may not be available in biobased form; however, we expect that the feedstock will be biobased and that content will determined using ASTM D6866 testing methods. If there are questions about whether a particular formula is in compliance, AMS encourages certifying agents and material evaluation programs that review these materials to contact NOP prior to making decisions on materials and products that are potentially problematic or controversial.

One comment suggested an amendment to the language for biobased content to read as follows (suggested text italicized): ''Must be biobased *with all carbon derived from a renewable resource via biological processes,* with content determined using ASTM D6866 testing method.'' The commenter claims that the NOSB recommendation stated that all the carbon must be ''derived from a renewable resource via a biological process.'' The comment further states that, by not explicitly including this component, AMS would be broadening the use allowance for mulch film beyond that which was recommended by NOSB.

We have reviewed the comment against the NOSB recommendation and noted that the NOSB recommended a definition for biobased as ''organic material in which carbon is derived from a renewable resource via biological processes. Biobased materials include all plant and animal mass derived from carbon dioxide recently fixed via photosynthesis, per definition of a renewable resource (ASTM).'' As previously explained in the proposed rule, we have not incorporated a separate definition for biobased and believe that the definition of

[9] This work item, ASTM WK29802, has since been renamed as ''New Specification for plastics that are innately biodegradable in soil under aerobic conditions,'' *http://www.astm.org.* Accessed August 4, 2014.

[10] ASTM D5988–12, Standard Test Method for Determining Aerobic Biodegradation of Plastic Materials in Soil. ASTM International. *http://www.astm.org.*

''biodegradable biobased mulch film'' incorporates the intent of the NOSB on this issue. Therefore, we have not adopted the commenter's suggestion. The ASTM D6866 testing method is a standard test method to quantify the biobased content of samples. The test methods directly discriminate between product carbon resulting from contemporary carbon input and that derived from fossil-based input.[11] We have not included the term ''all carbon,'' as suggested by the comment, to account for trace amounts of carbon that may be present from additives (e.g., plasticizers, colorants including carbon black, etc.) used in the manufacturing process. The suggested text could also cause confusion in interpretation when a margin of error is reported as part of testing results. In addition, we have not included the term ''carbon derived from a renewable resource via biological testing methods'' since it is redundant with the term ''biobased'' and the testing criteria for biobased content. AMS believes that the proposed definition meets use the intended use that was recommended by the NOSB. As this use was recommended by the NOSB and was included in a proposed amendment to the National List published August 22, 2013 (78 FR 52100), the allowance for biodegradable biobased mulch film is consistent with the authority granted by AMS under OFPA.[12]

One comment indicated that the biobased definition provides inadequate information regarding what types of products will be allowed and what will be prohibited. The comment indicated that the ''biobased'' definition from the USDA BioPreferred® program only requires that a product have a minimum of 25% biobased content, allows GMO biobased feedstocks, and does not provide clear information on what is allowable for the remaining balance of the content. The comment requested that AMS provide names of specific polymers that can be synthesized from renewable sources and are proven to be biodegradable in the soil.

AMS expects that all feedstock for biobased mulch films will be biobased and that content will be determined using ASTM D6866 testing methods. We understand that the criteria included in the USDA organic regulations may exclude some products that are defined as ''biobased'' under the USDA BioPreferred® program, which allows a lower percentage of biobased content and may contain petroleum or fossil fuel derived feedstock, and allows genetically modified organisms. We understand that some minor additives, e.g., plasticizers, colorants, etc., used in mulch film allowed under this rule may not be available in biobased form; however, we expect that the feedstock for the mulch film will be derived from biobased sources. The use of feedstock derived from excluded methods is specifically excluded under the listing at section 205.601.

At this time, AMS is not prepared to issue a specific list of polymers that are available from renewable (e.g., biobased) resources. We noted that the NOSB intended to define biobased so that this category would not allow products derived from petroleum. Based on review of the petition and NOSB recommendation, we understand this to mean that mulch films derived from aliphatic aromatic copolymers (AACs), e.g. synthesized from adipic acid, terephthalic acid, and 1,4-butanediol, would be prohibited. Further guidance in this area may be more appropriate for other organizations or agencies with specialized technical expertise in this area. We note that this list may need to be updated over time in response to advances in technology. We believe that the criteria outlined under sections 205.2 and 205.601 provide adequate guidance to certifying agents and material evaluation programs that will review these types of products for compliance with the USDA organic regulations. Certifying agents would not review products to the USDA BioPreferred® program criteria, which are established for biobased products.

One comment stated that the proposed standard for measuring biobased content, ASTM D6866, is a poor measurement tool for measuring biobased content in reference to starch. The comment requested that AMS recognize this shortcoming and grant a special consideration for starch, since some mulch films are starch based. The comment indicated that special consideration has been granted in Europe, but did not provide additional information in support of this claim. We have considered this comment but have not amended the text in response. In the absence of an alternative third-party testing standard for biobased content, we have retained the biobased testing method, ASTM D6866, cited in the original petition and recommended by the NOSB. We have amended the text for the final rule to specify the current version of this standard to comply with incorporation by reference requirements. Due to lack of additional information on this issue, parties interested in further consideration of this topic may submit a petition to the NOSB. This process can be initiated in accordance with the Notice of Guidelines on Procedures for Submitting National List Petitions (72 FR 2167).

Additional Guidance

In the proposed rule, AMS specifically requested comments on whether guidance on management practices is necessary to prevent mulch film from accumulating in fields.

Two comments indicated that additional guidance was unnecessary at this time if manufacturer's instructions are followed and with the knowledge that each organic farmer has about their soil and climate conditions.

One comment indicated that guidance could be useful since growers will be eager to use this new material, but did not provide additional details on the need or scope of the guidance. Another commenter supported the creation of a guidance document to ensure that the biodegradable mulch films are not accumulating in the soil and indicated that it would help to prevent accumulation issues from occurring due to a lack of experience.

One comment provided additional background on the rationale for NOSB recommending the development of guidance so that growers would understand what actions are needed to ensure complete degradation.

One comment indicated that regulations must be promulgated that detail best management practices for using and degrading mulch film. The commenter indicated that AMS should not wait until problems arise with respect to the use and incomplete degradation of mulch film before mandating best management practices since this would compromise organic integrity.

AMS has considered the comments and determined not to move forward with additional guidance on this topic at this time. As explained above, we agree that growers may need to take appropriate actions to ensure complete degradation. These actions may be site-specific and be impacted by a number of factors, including climate, soil type, pH, soil microbial activity, irrigation, and other production practices. AMS encourages parties with specific technical expertise in this area, such as product manufacturers and university research programs, to continue to provide technical assistance to producers on this topic.

[11] *http://www.astm.org/Standards/D6866.htm.*

[12] Section 6517(d)(2) states: No additions.—The Secretary may not include exemptions for the use of specific synthetic substances in the National List other than those exemptions contained in the Proposed National List or Proposed Amendments to the National List.

Substances Not Added to the National List

Citrus hystrix, Leaves and Fruit

Curry Leaves (Murraya koenigii)

Thirteen comments addressed the proposed allowance of two nonorganic ingredients in organic processing: *Citrus hystrix,* leaves and fruit, and curry leaves (*Murraya koenigii*). These substances were proposed to be added to section 205.606 of the National List based on two NOSB recommendations. Several comments opposed the allowance of any nonorganic ingredients in organic processing, including nonorganic *Citrus hystrix* and curry leaves. Several comments opposed the specific allowance of *Citrus hystrix* and curry leaves due to concerns about pesticide residues, particularly on imported ingredients, since the majority of production occurs outside of the United States.[13] One comment opposed the import of any food into the United States, which is outside of the scope of this action. One comment raised questions about whether these ingredients would be checked for pesticides, other substances, or evaluated for purity and another commenter raised questions on how the nonorganic ingredients were produced. One comment indicated that these plants are relatively easy to cultivate and that companies need to contact growers to see if they are willing to grow organic forms of these ingredients. One producer indicated that their farm produces organic curry leaves in Hawaii, but did not provide details on the amounts produced. Several comments raised questions about organic search requirements for commercial availability and claimed that allowing nonorganic ingredients would decrease the incentive for developing organic sources of these ingredients. Another comment supported the allowance of the nonorganic ingredients only under an alternative labeling program whereby the products would not be labeled as organic and only if the allowance of nonorganic ingredients met additional criteria. These additional criteria are beyond the scope of the USDA organic regulations.

After consideration of the comments, AMS has not amended section 205.606 to include *Citrus hystrix* and curry leaves. We noted a lack of comments in support of the proposed rule to allow these ingredients in organic handling. While an organic handler originally submitted the petition for these ingredients for review by the NOSB, no handlers commented on the need for nonorganic *Citrus hystrix* and curry leaves. In the absence of comments in support of their allowance, we have not determined at this time that these substances are necessary to the production or handling of an agricultural product, as required by section 6517 of OFPA; therefore, we have not added these substances to the National List.

However, AMS believes that the majority of issues raised by commenters that opposed the inclusion of curry leaves and *Citrus hystrix* do not uniquely apply to these ingredients when compared to other ingredients that are eligible for inclusion on section 205.606 of the National List. For example, demonstrating that an organic form is not commercially available is required prior to use of any nonorganic substance listed at section 205.606. In addition, the use of imported ingredients listed at section 205.606 is allowed, provided that the ingredients comply with any food safety requirements under the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301–399) or the authority of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136–136(y)) that apply to all food.

In addition, we specifically note that this action does not change the eligibility of processed products that are labeled ''made with organic (specified ingredients or food group(s))'' to contain nonorganic forms of *Citrus hystrix* or curry leaves, as allowed under section 205.304 of the USDA organic regulations. Handlers interested in using nonorganic forms of these ingredients continue to be eligible for the ''made with organic (specified ingredients or food group(s))'' label claim, provided that all other requirements under the USDA organic regulations are met.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Incorporation by reference, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205 is amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

Subpart A—Definitions

■ 2. Amend § 205.2 by adding a new definition for ''Biodegradable biobased mulch film'' in alphabetical order to read as follows:

§ 205.2 Terms defined.

* * * * *

Biodegradable biobased mulch film. A synthetic mulch film that meets the following criteria:

(1) Meets the compostability specifications of one of the following standards: ASTM D6400, ASTM D6868, EN 13432, EN 14995, or ISO 17088 (all incorporated by reference; see § 205.3);

(2) Demonstrates at least 90% biodegradation absolute or relative to microcrystalline cellulose in less than two years, in soil, according to one of the following test methods: ISO 17556 or ASTM D5988 (both incorporated by reference; see § 205.3); and

(3) Must be biobased with content determined using ASTM D6866 (incorporated by reference; see § 205.3).

* * * * *

■ 3. Add § 205.3 to subpart A to read as follows:

§ 205.3 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, we must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the USDA Agricultural Marketing Service, National Organic Program, 1400 Independence Avenue SW., Washington, DC 20250; (202) 720–3252, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428; phone 1–877–909–2786; *http://www.astm.org/.*

(1) ASTM D5988–12 (''ASTM D5988''), ''Standard Test Method for Determining Aerobic Biodegradation of

[13] One example cited: *http://english.doolnews.com/curry-leaf-laced-with-deadly-pesticides-kerala-news-10453-10453.html.*

Plastic Materials in Soil,'' approved May 1, 2012, IBR approved for § 205.2.

(2) ASTM D6400–12 (''ASTM D6400''), ''Standard Specification for Labeling of Plastics Designed to be Aerobically Composted in Municipal or Industrial Facilities,'' approved May 15, 2012, IBR approved for § 205.2.

(3) ASTM D6866–12 (''ASTM D6866''), ''Standard Test Methods for Determining the Biobased Content of Solid, Liquid, and Gaseous Samples Using Radiocarbon Analysis,'' approved April 1, 2012, IBR approved for § 205.2.

(4) ASTM D6868–11 (''ASTM D6868''), ''Standard Specification for Labeling of End Items that Incorporate Plastics and Polymers as Coatings or Additives with Paper and Other Substrates Designed to be Aerobically Composted in Municipal or Industrial Facilities,'' approved February 1, 2011, IBR approved for § 205.2.

(c) European Committee for Standardization; Avenue Marnix, 17–B–1000 Brussels; phone 32 2 550 08 11; *www.cen.eu.*

(1) EN 13432:2000:E (''EN 13432''), September, 2000, ''Requirements for packaging recoverable through composting and biodegradation—Test scheme and evaluation criteria for the final acceptance of packaging,'' IBR approved for § 205.2.

(2) EN 14995:2006:E (''EN 14995''), December, 2006, ''Plastics—Evaluation of compostability—Test scheme and specifications,'' IBR approved for § 205.2.

(d) International Organization for Standardization, 1, ch. de la Voie-Creuse, CP 56, CH–1211 Geneva 20, Switzerland; phone 41 22 749 01 11; *www.iso.org.*

(1) ISO 17088:2012(E), (''ISO 17088''), ''Specifications for compostable plastics,'' June 1, 2012, IBR approved for § 205.2.

(2) ISO 17556:2012(E) (''ISO 17556''), ''Plastics—Determination of the ultimate aerobic biodegradability of plastic materials in soil by measuring the oxygen demand in a respirometer or the amount of carbon dioxide evolved,'' August 15, 2012, IBR approved for § 205.2.

Subpart G—Administrative

■ 4. Amend § 205.601 by adding paragraph (b)(2)(iii) to read as follows:

§ 205.601 Synthetic substances allowed for use in organic crop production.

* * * * *

(b) * * *

(2) * * *

(iii) Biodegradable biobased mulch film as defined in § 205.2. Must be produced without organisms or feedstock derived from excluded methods.

* * * * *

■ 5. Amend § 205.606 by:

■ A. Removing paragraph (l);

■ B. Redesignating paragraphs (m) through (aa) as (l) through (z) respectively;

■ C. Removing newly redesignated paragraph (v)(2); and

■ D. Further redesignating newly redesignated paragraph (v)(3) as (v)(2).

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–23135 Filed 9–29–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Doc. No. AMS–FV–14–0041; FV14–905–2 FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Relaxing Grade Requirements on Valencia and Other Late Type Oranges

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 changed the minimum grade requirements prescribed under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida (order). The interim rule reduced the minimum grade requirement for Valencia and other late type oranges shipped to interstate markets from a U.S. No. 1 to a U.S. No. 1 Golden from May 15 through June 14 each season and to a U.S. No.2 external/U.S. No. 1 internal from June 15 through August 31 each season. This rule provides additional Valencia and other late type oranges for late season markets, helping to maximize fresh shipments.

DATES: Effective October 1, 2014.

FOR FURTHER INFORMATION CONTACT: Corey E. Elliott, 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: *Corey.Elliott@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 905, as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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.

The handling of oranges, grapefruit, tangerines, and tangelos grown in Florida is regulated by 7 CFR part 905. Prior to this change, the minimum grade requirement for Valencia and other late type oranges was a U.S. No. 1 from August 1 through June 14 each season and a U.S. No. 2 external/U.S. No. 1 internal from June 15 through July 31 each season. The Committee reviewed the effects of a temporary grade change for the 2012–13 season and concluded that the change had provided handlers the opportunity to sell additional fruit without affecting overall consumer demand for Valencia and other late type oranges. Consequently, the Committee recommended continuing the relaxation in the minimum grade for the 2013–14 season and subsequent seasons. Therefore, this rule continues in effect the rule that reduced the minimum grade requirement for Valencia and other late type oranges shipped to interstate markets from a U.S. No. 1 to a U.S. No. 1 Golden from May 15 through June 14 each season and to a U.S. No. 2 external/U.S. No. 1 internal from June 15 through August 31 each season.

In an interim rule published in the **Federal Register** on May 28, 2014, and effective on May 23, 2014, (79 FR 30439, Doc. No. AMS–FV–14–0041, FV14–905–2 IR), § 905.306 was amended by changing the minimum grade requirement for Valencia and other late

type oranges shipped to interstate markets from a U.S. No. 1 to a U.S. No. 1 Golden from May 15 through June 14 each season and to a U.S. No. 2 external/U.S. No. 1 internal from June 15 through August 31 each season.

Final Regulatory Flexibility Analysis

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

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

There are approximately 30 Valencia and other late type orange handlers subject to regulation under the marketing order and approximately 750 producers of citrus in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those whose annual receipts are less than $7,000,000, and small agricultural producers are defined as those having annual receipts less than $750,000 (13 CFR 121.201).

Based on industry and Committee data, the average f.o.b. price for fresh Valencia and other late type oranges during the 2012–13 season was approximately $11.80 per 4/5 bushel carton, and total fresh shipments were approximately 3.6 million cartons. Using the average f.o.b. price and shipment data, the majority of Florida Valencia and other late type orange handlers could be considered small businesses under SBA's definition. In addition, the average annual grower revenue is below $750,000 based on production data, grower prices as reported by NASS, and the total number of Florida citrus growers. Thus, assuming a normal distribution, the majority of Valencia and other late type orange handlers and producers may be classified as small entities.

This rule continues in effect the action that reduced the grade requirements for Valencia and other late type oranges prescribed under the order. This rule reduces the minimum grade requirements of Valencia and other late type oranges from a U.S. No. 1 to a U.S. No. 1 Golden from May 15 through June 14 each season and to a U.S. No. 2 external/U.S. No. 1 internal from June 15 through August 31 each season. Authority for these changes is provided in § 905.52.

This action does not impose any additional costs on the industry. However, it is anticipated that this action will have a beneficial impact. Reducing the grade requirements for Valencia and other late type oranges from May 15 through August 31 makes additional fruit available for shipment to the fresh market, providing the opportunity to supply late season markets. The Committee believes that relaxing the grade requirements provides an outlet for fruit that may otherwise go unharvested. This allows more fruit to be shipped to the fresh market and increases returns to both handlers and growers. The benefits of this rule are expected to be equally available to all fresh citrus 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 Florida 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 meeting was widely publicized throughout the Florida citrus industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the April 3, 2014, 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 July 28, 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-14-0041-0001.*

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (4 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 30439, May 28, 2014) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 905

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

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

■ Accordingly, the interim rule that amended 7 CFR part 905 and that was published at 79 FR 30439 on May 28, 2014, is adopted as a final rule, without change.

Dated: September 24, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–23239 Filed 9–29–14; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 37, 73, and 150

[NRC–2012–0140]

RIN 3150–AJ18

Safeguards Information—Modified Handling Categorization; Change for Materials Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its regulations to remove the Safeguards Information—Modified Handling (SGI–M) designation of the security-related information for large irradiators, manufacturers and distributors, and for transport of category 1 quantities of radioactive material. The rulemaking will also result in the removal of the SGI–M designation of the security-related information for the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel. The security-related information for these facilities and the transportation of certain

materials will no longer be designated as SGI–M and will be protected under the information protection requirements that apply to other materials licensees that possess category 1 and category 2 quantities of radioactive material.

DATES: This final rule is effective January 28, 2015, unless a significant adverse comment is received by October 30, 2014. If the rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Please refer to Docket ID NRC–2012–0140 when contacting the NRC about the availability of information for this direct final rule. You may access publicly-available information related to this direct final rule by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0140. 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 direct final rule.
- 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 (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- 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: Vanessa Cox, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8342, email: *Vanessa.Cox@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The NRC has issued three sets of security orders containing SGI–M for the protection of category 1 and category 2 quantities of radioactive material. These orders were all issued under the Commission's authority for common defense and security. The first set of orders was issued to panoramic and underwater irradiator licensees that possess more than 370 Terabequerels (TBq) (10,000 curies (Ci)) of radioactive material (large irradiators) (EA–02–249; June 6, 2003) (68 FR 35458; June 13, 2003). The second set of orders was issued to manufacturing and distribution (M&D) licensees (EA–03–225; January 12, 2004) (69 FR 5375; February 4, 2004). The third set of orders was issued to licensees that transport source, byproduct, or special nuclear material in category 1 quantities of radioactive material (EA–05–006; July 19, 2005) (70 FR 44407; August 2, 2005). The third set of orders also covered transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel.

The orders issued to large irradiators, M&D licensees, and licensees transporting category 1 quantities of radioactive materials, require these licensees to perform specified actions within specific timeframes. The information related to these timeframes is designated SGI–M. Some licensees have developed security plans incorporating these timeframes. Therefore, information contained in these security plans has been designated as SGI–M. Furthermore, the orders to licensees transporting category 1 quantities of radioactive material require these licensees to develop transportation security plans and coordinate itinerary information with the states through which the shipment will be traveling. Portions of these transportation security plans and itinerary information are also designated as SGI–M.

A fourth set of orders, commonly called the Increased Control (IC) Orders, was issued to all other licensees that possessed greater than category 2 quantities of radioactive material (EA–05–090; November 14, 2005) (70 FR 72128; December 1, 2005). These orders were issued under the Commission's authority for protection of public health and safety. The IC Orders require licensees to immediately detect, assess, and respond to any unauthorized access to category 2 or greater quantities of radioactive material. These orders do not contain any specific response times or other SGI–M information. Because these licensees' security plans are based on the IC Orders, and these orders do not contain SGI information, the security plans for licensees subject only to the IC Orders are not designated as SGI–M.

On October 24, 2008 (73 FR 63546), the NRC published a final rule that established, among other things, the requirements for protection of SGI–M and designated categories of licensees that would be subject to the SGI–M provisions. The SGI–M requirements are located in part 73 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Physical Protection of Plants and Materials.'' This rule required certain licensees to establish, implement, and maintain an information protection system that includes the applicable measures for SGI–M specified in 10 CFR 73.23, ''Protection of Safeguards Information—Modified Handling: Specific requirements.'' This section contains specific requirements related to panoramic and underwater irradiators that possess greater than 370 TBq (10,000 Ci) of byproduct material in the form of sealed sources; manufacturers and distributors of items containing source, byproduct, or special nuclear material in greater than or equal to category 2 quantities of concern; the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel; and transportation of source, byproduct, or special nuclear material in greater than or equal to category 1 quantities of concern. The rule was effective on February 23, 2009. Orders containing the requirements for protection of SGI–M were not modified or rescinded after issuance of the final rule; therefore, licensees are currently subject to both the requirements in the regulations and the orders.

On March 19, 2013 (78 FR 16922), the NRC published a final rule in the **Federal Register**, adding a new part 37 to Title 10 of the CFR, ''Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.'' NRC licensees were required to comply with 10 CFR part 37 by March 19, 2014. The final rule establishes the security requirements for the protection of category 1 and category 2 quantities of radioactive material and for transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel. The rule also contains information protection requirements for the security plan, procedures, and other information.

II. Discussion

A. What action is the NRC taking?

The NRC is amending its regulations to remove the SGI–M designation of the security-related information for large irradiators, M&Ds, and transport of category 1 quantities of radioactive material. The rulemaking will also result in the removal of the SGI–M designation of the security-related information for the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel. The security-related information will instead be protected under the new 10 CFR part 37, ''Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.''

B. What is the purpose of the direct final rule?

The purpose of the direct final rule is to remove the SGI–M designation of the security-related information for large irradiators, M&Ds, and for transport of category 1 quantities of radioactive material. The rulemaking will also result in the removal of the SGI–M designation of the security-related information for the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel.

C. Whom will this action affect?

The direct final rule will apply to any panoramic and underwater irradiator licensee that possesses more than 370 TBq (10,000 Ci) of radioactive material, M&D licensees, and any licensee that transports small quantities of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel or category 1 quantities of radioactive material whether the facility is licensed by the NRC or an Agreement State. There are 85 Agreement State licensees and 27 NRC licensees that will be impacted by this rule. These are the materials licensees that received orders under the Commission's authority to protect the common defense and security.

D. With the redesignation of the security-related information, will the security plans become public information?

No, the security-related information will not be made public. The change in the designation of the security-related information does not result in public disclosure of the information as the information will still be protected under 10 CFR part 37. Access to this information will be based upon a trustworthiness and reliability determination and on a need-to-know determination.

E. Will documents now designated SGI–M still have to be protected as SGI–M?

Yes, documents marked as SGI–M must be protected as SGI–M until they are removed from the SGI–M category (destroyed or decontrolled). Once 10 CFR part 37 or the equivalent Agreement State regulations are in place and the NRC security orders are rescinded, the SGI–M security Orders and security plans required by the Orders must be destroyed in accordance with 10 CFR 73.23(i). Additionally, if a panoramic irradiator or M&D licensee develops a 10 CFR part 37 security plan in preparation for compliance with 10 CFR part 37 or the equivalent Agreement State regulation before § 73.23 is revised, the licensee must decontrol the 10 CFR part 37 security plan in accordance with § 73.23(h) once § 73.23 is revised.

The NRC does not expect licensees who were subject to the NRC security orders to find all stored documents designated as SGI–M solely for the purpose of destroying the documents. Instead, as those documents are removed from storage, the licensee must either destroy or decontrol the document(s) at that time. Documents marked as SGI–M must continue to be protected as SGI–M until they are destroyed or decontrolled. Additional information on the destruction or decontrolling of SGI is available in Section 9 of Regulatory Guide 5.79, ''Protection of Safeguards Information.''

F. What are the information protection requirements under 10 CFR part 37? How does this compare to the information protection requirements prescribed for SGI–M?

The 10 CFR part 37 rulemaking requires that a need-to-know determination be made before an individual is allowed to have access to the security-related information. The 10 CFR part 37 rulemaking requires licensees to limit access to and prevent unauthorized disclosure of their security plans and implementing procedures. When not in use, the security plan and implementing procedures must be stored in a manner that will prevent the unauthorized removal of those documents. Information stored in non-removable electronic form must be password-protected. These requirements are similar to the storage requirements for SGI–M.

The regulations in 10 CFR part 37 also require a background investigation to determine the trustworthiness and reliability of an individual seeking access to protected information. This determination must be conducted by a reviewing official who has also been determined to be trustworthy and reliable. The background investigation for access to information under 10 CFR part 37 is similar to that required by § 73.23, with the exception that fingerprints are not submitted and a Federal Bureau of Investigation (FBI) criminal history records check is not required. However, many of the individuals needing access to protected information would also require access to radioactive material. Unescorted access to radioactive material requires fingerprinting and an FBI criminal history records check as part of the background investigation required under 10 CFR part 37. Therefore, the NRC anticipates that most individuals requiring access to security-related information would already have undergone fingerprinting and an FBI criminal history records check.

The regulations in 10 CFR part 37 do not have requirements for the transmission of information or for marking the material. However, with the exception of routing information, licensees do not routinely transmit security-related information and the routing information is not transmitted as SGI–M, but is protected as SGI–M once received. Licensees are not required to submit the security plan or implementing procedures to the NRC.

The NRC concludes that 10 CFR part 37 provides adequate protection of the security-related information without unduly burdening licensees with the additional requirements for protection of SGI–M.

G. What is the reason for the designation change?

The NRC considers that this re-designation is appropriate based on the following: (1) Large irradiators have a lower risk of theft, and M&D licensees have a similar risk of theft when compared to other licensees possessing category 1 and category 2 quantities of radioactive material; (2) the information protection requirements in 10 CFR part 37 provide adequate protection of the security-related information; (3) the security requirements under 10 CFR part 37 are the same for all licensees; (4) information security requirements should be consistent across all areas that are regulated under NRC authority for public health and safety; (5) the change will ease communication between regulator and licensee; and (6) under 10 CFR part 73, the NRC would continue to inspect Agreement State licensee programs for the protection of SGI–M

until the Agreement State requirements become effective. Additionally, several commenters on the proposed 10 CFR part 37 rule, including several Agreement States, indicated that the security-related information for large irradiators, M&Ds, and licensees that transport category 1 quantities of radioactive material should not be considered SGI–M.

Sandia National Laboratories (SNL) performed vulnerability assessments on a variety of materials licensees before the ICs were developed. The ICs and 10 CFR part 37 incorporate security measures that were identified in the draft vulnerability assessments (ADAMS Accession No. ML082130714) as being effective in providing reasonable assurance that public health and safety and the common defense and security will be adequately protected. The SNL study also indicates that certain licensees are less vulnerable to theft than other licensees. Large irradiators have a lower risk of theft, and M&D licensees have a similar risk of theft when compared to other licensees subject to the security requirements in 10 CFR part 37. The NRC, therefore, concludes that licensee security plans for M&D and large irradiator licensees need not be protected at a higher level than the security plans of other licensees subject to 10 CFR part 37.

As noted in the response to Question F, 10 CFR part 37 will provide adequate protection of the security-related information that is currently designated as SGI–M for these licensees. The actual security requirements in 10 CFR part 37 are the same for all licensees. These security requirements do not contain any of the information from the security orders that was designated as SGI–M. The SGI–M timeframes that were in the orders are replaced in the 10 CFR part 37 rule by terms such as prompt, immediate, and without delay. Therefore, disclosure of one licensee's response times will not compromise another licensees' security-related information because the response time designated in the rule is already public knowledge, (i.e., immediate).

Currently, itinerary information for the transportation of category 1 quantities of material and for the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel is designated as SGI–M under 10 CFR part 73 and the orders. Licensees are required to coordinate this information with states through which the shipment will pass. Shipment information is shared on a need-to-know basis for pre-planning, coordination, and advance notification purposes. Although the information is considered to be SGI–M, the information is not handled as SGI–M for the purposes of communication (telephone and facsimile) with the States and other licensees; however, once the shipment information is received, it must be handled as SGI–M. If the SGI–M designation for these licensees is revised, the licensees will be able to communicate freely with the States and transportation companies possessing a need-to-know and will not need to deal with the inconsistency in transmitting the SGI–M shipment information as non-SGI–M.

The security orders for the transportation of category 1 quantities of radioactive material, large irradiator licensees, and M&D licensees were issued under the NRC's common defense and security authority. The new 10 CFR part 37 security requirements, however, were issued under the NRC's authority to protect the public health and safety. The NRC has determined that the information protection requirements set forth in the new 10 CFR part 37 are adequate to protect the security information associated with large irradiators, M&Ds, and licensees that transport category 1 quantities of radioactive material. Therefore, once this direct final rule is effective, the security information associated with these licensees is no longer required to be handled as SGI–M. Furthermore, this will ensure that all the information security requirements are consistent across all areas that are regulated under public health and safety.

Protection of information at a level less than SGI–M will allow licensees to communicate more easily with regulators regarding implementation of the 10 CFR part 37 requirements, but still requires licensees to limit access to specific security plans and procedures. For example, licensees will be required to limit access to the plans to those employees who need access to perform a job function. Licensees also will be required to store their security plans in locked cabinets while not in use, but could use normal lines of communication with the NRC or an Agreement State to discuss security-related questions or concerns. This approach achieves meaningful information protection without unduly burdening licensees' and regulators' ability to achieve effective implementation of the 10 CFR part 37 requirements.

If the security-related information for these facilities remains designated as SGI–M, the NRC will be responsible for inspection and enforcement of the SGI–M programs at those facilities regulated by an Agreement State. This can result in confusion for licensees. Results of many aspects of the security inspections would be SGI–M and could not be discussed in an open environment. Because only some security-related information at these facilities would be SGI–M, licensees would need to maintain two systems to protect security-related information, which needlessly increases the burden on the licensee.

H. Will the orders be rescinded?

Yes, the orders will be rescinded once 10 CFR part 37 is implemented for NRC licensees. For Agreement State licenses, the orders will be rescinded when the Agreement State adopts program element requirements based on those elements that embody the essential objectives of the 10 CFR part 37 requirements. Agreement States have until March 2016 to comply.

I. Will the NRC issue guidance for this rule?

No, the NRC does not plan to issue guidance specific to this rule. Existing guidance on SGI does not contain references to these types of facilities and, therefore, does not need to be revised. The guidance on 10 CFR part 37, NUREG–2155, Implementation Guidance for 10 CFR Part 37, ''Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material'' (ADAMS Accession No. ML13053A061), will be revised to remove references to SGI–M. Only the revised pages will be issued for the 10 CFR part 37 guidance document. The changes will be included in the next update to NUREG–2155.

J. Are individuals transporting category 1 radioactive material subject to the background investigation requirements?

No. Under this final rule, the Commission is revising the listing of categories of individuals relieved from the background investigation requirements to include employees of carriers that transport category 1 quantities of radioactive material. Additionally, information related to the physical protection of shipments of source and byproduct material in category 1 quantities of radioactive material is no longer designated as SGI–M. For these reasons, the NRC will rely on the background investigations required by the U.S. Department of Transportation (DOT) and the Transportation Security Administration (TSA) programs for background investigations of these personnel. While the background investigation may not be identical to one required under 10 CFR part 37, the potential risk that a

commercial driver or package handler may pose due to any difference in the background investigation is acceptably small.

As part of this rulemaking, the NRC considered the level of responsibility to place on its licensees regarding fingerprinting and criminal history records checks for persons involved in the transportation of category 1 radioactive material. Licensees covered by the fingerprinting and criminal history records check requirements of 10 CFR part 37 may decide to transfer radioactive material away from the site or may receive radioactive material from another entity.

Such transfers or receipts may occur either as part of a shipment to or from a domestic or an international company. Individuals involved in the shipment, in particular those employed by carriers or other organizations handling shipments, may have unescorted access to the material during the shipment process. These persons may not be employees of the licensee and therefore may not be under the licensee's direct control. Section 37.29(a) grants relief from the background investigation for those individuals who are commercial vehicle drivers for category 2 road shipments and package handlers at transportation facilities such as freight terminals and railroad yards.

These individuals would typically be outside the control of the licensee.

III. Summary of Changes

Section 30.4 Definitions

The definition for ''Quantities of Concern'' is removed from the regulations as it is no longer needed.

Section 30.32 Application for Specific Licenses

Paragraph (k) is removed from the regulations to remove the reference to the SGI requirements in 10 CFR part 73.

Section 30.34 Terms and Conditions of Licenses

Paragraph (l) is removed from the regulations to remove the reference to the SGI requirements in 10 CFR part 73.

Section 37.29 Relief From Fingerprinting, Identification, and Criminal History Records Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials

Paragraph (a)(10) is revised to include category 1 drivers.

Section 37.43 General Security Program Requirements

Paragraph (d)(1) is revised to remove reference to § 37.43(d)(9).

Paragraph (d)(9) is removed from the regulations to remove the reference to the SGI requirements in 10 CFR part 73.

Section 37.77 Advance Notification of Shipment of Category 1 Quantities of Radioactive Material

Paragraph (f) is revised to change the reference for protection of the information from § 73.21 to § 37.43(d).

Section 73.2 Definitions

The definition for ''Quantities of Concern'' is removed from the regulations, as it is no longer needed.

Section 73.21 Protection of Safeguards Information: Performance Requirements

Paragraph (a)(1)(ii) is revised to remove panoramic and underwater irradiators that possess greater than 370 TBq (10,000 Ci) of byproduct material in the form of sealed sources; manufacturers and distributors of items containing source, byproduct, or special nuclear material in greater than or equal to category 2 quantities of radioactive material; and transportation of source, byproduct, or special nuclear material in greater than or equal to category 1 quantities of radioactive material from the list of categories of licensees subject to the provisions of 10 CFR part 73 for the protection of SGI–M.

Section 73.23 Protection of Safeguards Information—Modified Handling: Specific Requirements

The introductory text in this section is revised to remove panoramic and underwater irradiators that possess greater than 370 TBq (10,000 Ci) of byproduct material in the form of sealed sources; manufacturers and distributors of items containing source, byproduct, or special nuclear material in greater than or equal to category 2 quantities of concern; transportation of more than 1000 TBq (27,000 Ci) but less than or equal to 100 grams of spent nuclear fuel; and transportation of source, byproduct, or special nuclear material in greater than or equal to category 1 quantities of radioactive material from the list of categories of licensees subject to the provisions of 10 CFR part 73 for the protection of SGI–M.

Paragraph (a)(2) is revised to remove the security-related information that is associated with the physical protection of shipments of more than 1000 TBq (27,000 Ci) but less than or equal to 100 grams of spent nuclear fuel, source material and byproduct material in category 1 quantities of concern from the SGI–M category.

Appendix I to Part 73—Category 1 and 2 Radioactive Materials

Appendix I, Table I–1—Quantities of Concern Threshold Limits, is removed from the regulations as it is no longer needed.

Section 150.15 Persons Not Exempt

Paragraph (a)(9) is removed from the regulations to remove the reference to the SGI requirements in 10 CFR part 73.

IV. Procedural Background

Because the NRC considers this action to be non-controversial, the NRC is using the direct final rule process for this rule. The amendment to the rule will become effective on January 28, 2015. However, if the NRC receives a significant adverse comment on this direct final rule by October 30, 2014, then the NRC will publish a document that withdraws this action and will address the comments received in a final rule as a response to the companion proposed rule published elsewhere in this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

For detailed instructions on submitting a comment, please see the companion proposed rule published

elsewhere in this issue of the **Federal Register**.

V. Compatibility of Agreement State Regulations

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** (62 FR 46517; September 3, 1997), this direct final rule will be a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among the Agreement States and the NRC requirements. The NRC staff and Agreement State representation analyzed the rule in accordance with the procedure established within Part III, ''Categorization Process for NRC Program Elements,'' of Handbook 5.9 to Management Directive 5.9, ''Adequacy and Compatibility of Agreement State Programs'' (a copy of which may be viewed at *http://www.nrc.gov/reading-rm/doc-collections/management-directives/*).

The NRC program elements (including regulations) are placed into four compatibility categories (see the Compatibility Table in this section). In addition, the NRC program elements can also be identified as having particular health and safety significance or as being reserved solely to the NRC. Compatibility Category A consists of program elements that are basic radiation protection standards and scientific terms and definitions that are necessary to understand radiation protection concepts. An Agreement State should adopt Category A program elements in an essentially identical manner to provide uniformity in the regulation of agreement material on a nationwide basis. Compatibility Category B consists of program elements that apply to activities that have direct and significant effects in multiple jurisdictions. An Agreement State should adopt Category B program elements in an essentially identical manner. Compatibility Category C consists of program elements that do not meet the criteria of Category A or B, but the essential objectives of which an Agreement State should adopt to avoid conflict, duplication, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis. An Agreement State should adopt the essential objectives of the Category C program elements. Compatibility Category D consists of program elements that do not meet any of the criteria of Category A, B, or C, and, therefore, do not need to be adopted by Agreement States for purposes of compatibility.

Health and Safety (H&S) are program elements that are not required for compatibility but are identified as having a particular health and safety role (i.e., adequacy) in the regulation of agreement material within the State. Although not required for compatibility, the State should adopt program elements in this H&S category based on those of the NRC that embody the essential objectives of the NRC program elements because of particular health and safety considerations. Compatibility Category NRC consists of program elements that address areas of regulation that cannot be relinquished to Agreement States under the Atomic Energy Act of 1954, as amended, or provisions of 10 CFR. These program elements are not adopted by Agreement States. The following table lists the parts and sections that will be revised and their corresponding categorization under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs.''

COMPATIBILITY TABLE FOR DIRECT FINAL RULE

Section	Change	Subject	Compatibility	
			Existing	New
10 CFR Part 30				
30.4	Remove	Definition of ''quantities of concern.''	NRC.	
30.32(k)	Remove	Application for specific licenses	NRC.	
30.34(l)	Remove	Terms and conditions of licenses	NRC.	
10 CFR Part 37				
37.29(a)(10)	Amend	Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials.	B	B
37.43(d)(1)	Amend	Remove reference to § 37.43(d)(9).	NRC.	
37.43(d)(9)	Remove	General security program requirements	NRC.	
37.77(f)	Revise	Advance notification of shipment of category 1 quantities of radioactive material.	NRC	C
10 CFR Part 73				
73.2	Remove	Definition of ''quantities of concern.''	NRC.	
73.21	Amend	Protection of safeguards information: performance requirements	NRC	NRC
73.23	Amend	Protection of safeguards information-modified handling: specific requirements.	NRC	NRC
Appendix I	Remove	Category 1 and category 2 radioactive materials	NRC.	
10 CFR Part 150				
150.15(a)(9)	Remove	Persons not exempt	NRC.	

VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883).

VII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113), requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the categories of licensees subject to the provision of 10 CFR part 73 for the protection of SGI–M by removing panoramic and underwater irradiator licensees that possess more than 370 TBq (10,000 Ci) of radioactive material, M&D licensees, licensees that transport category 1 quantities of radioactive material, and licensees that transport irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel from the listing. This action does not constitute the establishment of a standard that establishes generally applicable requirements.

VIII. Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. The rule changes the information protection requirements for 112 licensees. The rule will affect neither radiological or nonradiological releases nor occupational or public exposure. The NRC has determined that there is no significant environmental impact associated with the rulemaking action

The environmental assessment (ADAMS Accession No. ML13046A330) is available for inspection at the NRC's PDR, 11555 Rockville Pike, Rockville, Maryland 20852.

IX. Paperwork Reduction Act Statement

This direct final rule decreases the burden on record-keepers to mark documents containing Safeguards Information designated as SGI–M as specified in 10 CFR 73.23 (b), (d), and (f). The burden reduction for this information collection is estimated to average 5.5 hours per record-keeper. Further information about information collection requirements associated with this direct final rule can be found in the companion proposed rule published elsewhere in this issue of the **Federal Register**.

This direct final rule is being issued prior to approval by the Office of Management and Budget (OMB) of these information collection requirements, which were submitted under OMB control number 3150–0002. When OMB notifies us of its decision, we will publish a document in the **Federal Register** providing notice of the effective date of the information collections or, if approval is denied, providing notice of what action we plan to take.

Send comments on any aspect of these information collections, including suggestions for reducing the burden, to the Information Services Branch, Mail Stop T–5 F53, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *Infocollects.Resource@NRC.gov* and to the Desk Officer, Danielle Jones, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0002), Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection request unless the requesting document displays a currently valid OMB control number.

X. Regulatory Analysis

The Commission has prepared a regulatory analysis (ADAMS Accession No. ML13046A332) for this direct final rule. The regulatory analysis examines the costs and benefits of the alternatives considered by the Commission. The rule will reduce the burden on affected licensees as they will no longer be required to protect security-related information as SGI–M. The analysis is available for inspection in the NRC's PDR, 11555 Rockville Pike, Rockville, Maryland 20852.

XI. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. The direct final rule will impact 112 licensees, 27 are licensed by the NRC and 85 are licensed by Agreement States. These licensees include large irradiators, M&Ds, any licensee that ships category 1 quantities of radioactive material, and any licensee that transports irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel. Most of the companies that own these facilities do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810). However, some of the licensees may. The rule will reduce the burden on affected licensees as they will no longer be required to protect security-related information as SGI–M.

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rules (§§ 50.109, 70.76, 72.62, or 76.76) and the issue finality provisions in 10 CFR part 52 do not apply to this direct final rule because this amendment does not involve any provisions that will either impose backfits as defined in 10 CFR chapter I, or represent non-compliance with the issue finality of provisions in 10 CFR part 52. Therefore, a backfit analysis is not required for this direct final rule, and the NRC did not prepare a backfit analysis for this direct final rule.

XIII. Congressional Review Act

In accordance with the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 37

Byproduct material, Criminal penalties, Export, Hazardous materials transportation, Import, Licensed material, Nuclear materials, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 30, 37, 73, and 150.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

■ 1. The authority citation for part 30 continues to read as follows:

Authority: Atomic Energy Act secs. 81, 82, 161, 181, 182, 183, 186, 223, 234 (42 U.S.C. 2111, 2112, 2201, 2231, 2232, 2233, 2236, 2273, 2282); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 549 (2005).

Section 30.7 also issued under Energy Reorganization Act sec. 211, Pub. L. 95–601, sec. 10, as amended by Pub. L. 102–486, sec. 2902 (42 U.S.C. 5851). Section 30.34(b) also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234). Section 30.61 also issued under Atomic Energy Act sec. 187 (42 U.S.C. 2237).

§ 30.4 [Amended]

■ 2. In § 30.4, remove the definition for ''Quantities of concern.''

§ 30.32 [Amended]

■ 3. In § 30.32, remove paragraph (k).

§ 30.34 [Amended]

■ 4. In § 30.34, remove paragraph (l).

PART 37—PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

■ 5. The authority citation for part 37 continues to read as follows:

Authority: Atomic Energy Act secs. 53, 81, 103, 104, 147, 148, 149, 161, 182, 183, 223, 234 (42 U.S.C. 2073, 2111, 2133, 2134, 2167, 2168, 2169, 2201a., 2232, 2233, 2273, 2282).

■ 6. In § 37.29, revise paragraph (a)(10) to read as follows:

§ 37.29 Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials.

(a) * * *

(10) Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;

* * * * *

■ 7. In § 37.43, revise paragraph (d)(1) and remove paragraph (d)(9) to read as follows:

§ 37.43 General security program requirements.

* * * * *

(d) *Protection of information.* (1) Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.

* * * * *

■ 8. In § 37.77, revise paragraph (f) to read as follows:

§ 37.77 Advance notification of shipment of category 1 quantities of radioactive material.

* * * * *

(f) *Protection of information.* State officials, State employees, and other individuals, whether or not licensees of the Commission or an Agreement State, who receive schedule information of the kind specified in § 37.77(b) shall protect that information against unauthorized disclosure as specified in § 37.43(d) of this part.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

■ 9. The authority citation for part 73 continues to read as follows:

Authority: Atomic Energy Act secs. 53, 147, 161, 223, 234, 1701 (42 U.S.C. 2073, 2167, 2169, 2201, 2273, 2282, 2297(f), 2210(e)); Energy Reorganization Act sec. 201, 204 (42 U.S.C. 5841, 5844); Government Paperwork Elimination Act sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 594 (2005).

Section 73.1 also issued under Nuclear Waste Policy Act secs. 135, 141 (42 U.S.C. 10155, 10161).

Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

§ 73.2 [Amended]

■ 10. In § 73.2, remove the definition for ''Quantities of concern.''

■ 11. In § 73.21, revise paragraph (a)(1)(ii) to read as follows:

§ 73.21 Protection of Safeguards Information: Performance Requirements.

(a) * * *

(1) * * *

(ii) Establish, implement, and maintain an information protection system that includes the applicable measures for Safeguards Information specified in § 73.23 related to: Research and test reactors that possess special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

* * * * *

■ 12. In § 73.23, revise the introductory text of the section and the introductory text of paragraph (a)(2) to read as follows:

§ 73.23 Protection of Safeguards Information-Modified Handling: Specific Requirements.

This section contains specific requirements for the protection of Safeguards Information in the hands of any person subject to the requirements of § 73.21(a)(1)(ii) and research and test reactors that possess special nuclear material of moderate strategic significance or special nuclear material of low strategic significance. The requirements of this section distinguish Safeguards Information requiring modified handling requirements (SGI–M) from the specific Safeguards Information handling requirements applicable to facilities and materials needing a higher level of protection, as set forth in § 73.22.

(a) * * *

(2) *Physical protection in transit.* Information not classified as Restricted Data or National Security Information related to the physical protection of shipments of special nuclear material in less than a formula quantity (except for those materials covered under § 73.22), including:

* * * * *

Appendix I to Part 73—[Removed]

■ 13. Remove Appendix I to part 73.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

■ 14. The authority citation for part 150 continues to read as follows:

Authority: Atomic Energy Act secs. 161, 181, 223, 234 (42 U.S.C. 2201, 2021, 2231, 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504

note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 594 (2005).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under Atomic Energy Act secs. 11e(2), 81, 83, 84 (42 U.S.C. 2014e(2), 2111, 2113, 2114).

Section 150.14 also issued under Atomic Energy Act sec. 53 (42 U.S.C. 2073).

Section 150.15 also issued under Nuclear Waste Policy Act secs. 135 (42 U.S.C. 10155, 10161).

Section 150.17a also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152).

Section 150.30 also issued under Atomic Energy Act sec. 234 (42 U.S.C. 2282).

§ 150.15 [Amended]

■ 15. In § 150.15, remove paragraph (a)(9).

Dated at Rockville, Maryland, this 23rd day of September, 2014.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2014–23256 Filed 9–29–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2013–0269]

RIN 3150–AJ30

List of Approved Spent Fuel Storage Casks: Transnuclear, Inc. NUHOMS® HD Cask System, Certificate of Compliance No. 1030, Amendment No. 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of October 14, 2014, for the direct final rule that was published in the **Federal Register** on July 31, 2014. This direct final rule amended the NRC's spent fuel storage regulations by revising the Transnuclear, Inc. NUHOMS® HD Cask System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 2 to Certificate of Compliance (CoC) No. 1030.

DATES: *Effective date:* The effective date of October 14, 2014, for the direct final rule published July 31, 2014 (79 FR 44264), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2013–0269 when contacting the NRC about the availability of information for this direct final rule. You may obtain publicly-available information related to this direct final rule by any of the following methods:

- *Federal Rulemaking Web site:* Go to: *http://www.regulations.gov* and search for Docket ID NRC–2013–0269. 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.
- *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: Gregory Trussell, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6445, email: *Gregory.Trussell@nrc.gov.*

SUPPLEMENTARY INFORMATION: On July 31, 2014 (79 FR 44264), the NRC published a direct final rule amending its regulations at § 72.214 of Title 10 of the *Code of Federal Regulations* by revising the Transnuclear, Inc. NUHOMS® HD Cask System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 2 to CoC No. 1030. In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on October 14, 2014. The NRC did not receive any comments on the direct final rule. Therefore, this direct final rule will become effective as scheduled.

Dated at Rockville, Maryland, this 24th day of September, 2014.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2014–23220 Filed 9–29–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No. FAA–2010–0982]

RIN 2120–AJ53

Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations; Clarification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; clarification.

SUMMARY: This document provides clarification of the intent of the Approach/Departure IFR Transitions regulation contained in the Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations final rule, published on February 22, 2014. After publication, the FAA received comments and questions from intended users and industry advocacy groups about the clarity of terms used in this regulation, specifically, regarding the use of published instrument approaches and departures and the visibility limitations and differences between the terms ''proceed visually'' and ''proceed VFR''. The FAA is clarifying the terms and intent of this regulation in order to increase situational awareness and enhance Helicopter Air Ambulance safety. This clarification is intended for Part 135 air carriers engaged in helicopter air ambulance operations, and Principal Inspectors with oversight responsibility for helicopter air ambulance operations.

DATES: *Effective* September 30, 2014.

FOR FURTHER INFORMATION CONTACT: For technical questions, contact Andrew C. Pierce, Air Transportation Division, Flight Standards Service, Federal Aviation Administration; telephone (202) 267–8238; email *andy.pierce@faa.gov.* For legal questions contact Nancy Sanchez, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration; telephone (202) 267–3073; email *nancy.sanchez@faa.gov.*

SUPPLEMENTARY INFORMATION: On February 21, 2014, the FAA published a final rule entitled, ''Helicopter Air

Ambulance, Commercial Helicopter, and part 91 Helicopter Operations'' (79 FR 9932) (effective date delayed on April 21, 2014, at 79 FR 22012; final rule corrected at 79 FR 41125, July 15, 2014). In that final rule, the FAA addressed helicopter air ambulance operations and all commercial helicopter operations conducted under part 135. The FAA also established new weather minimums for helicopters operating under part 91 in Class G airspace. In the February 21, 2014, final rule, the FAA, among other things, added § 135.613 to Title 14, Code of Federal Regulations. Section 135.613, Approach/departure IFR transitions, describes the required weather minimums to transition into and out of the IFR environment, aiding in the transition from the minimum descent altitude on an instrument approach procedure, to the point of intended landing.

Background

Copter Point-in-Space Instrument Approach Procedures with a final visual segment are designed to accommodate one of two types of visual transitions between the missed approach point (MAP) and the intended point of landing. The approach procedure may depict a visual transition noted as ''proceed visually'' or a visual transition noted as ''proceed VFR''. ''Proceed visually'' transition segments are designed with relatively short distances between the MAP and the intended landing site and are considered a continuation of the IFR procedure. ''Proceed VFR'' transition segments span longer distances and/or require turns from the final approach course toward a landing facility and therefore require commensurately greater ceilings and visibilities as defined within 14 CFR 135.613. The same may be said about departures from landing facilities to enter the IFR flight environment. Obstacle Departure Procedures (ODP) may provide takeoff minimum weather conditions for IFR departures from the landing site. Other landing facility departures that do not have published takeoff minimums on an ODP must observe higher ceiling and visibility minimums in accordance with 14 CFR 135.613.

Discussion

The FAA received a summary of comments and input from associations and various operators in the helicopter air ambulance industry on the Helicopter Air Ambulance, Commercial Helicopter, and Part 91 Helicopter Operations final rule. The summary paper was prepared by Helicopter Association International (HAI), American Medical Operators Association (AMOA) and the Association of Air Medical Services (AAMS). The various operators stated that the title of 135.613 is misleading and will cause confusion. The commenters explained that the title of the regulation references IFR transitions when it should be referencing VFR transitions.

The FAA clarifies that the regulation addresses IFR clearances and visual or VFR transitions into or out of the IFR flight environment, thus the regulation correctly characterizes the transitions as elements of the IFR environment.

Multiple industry commenters also voiced concerns regarding technical differences between the terms ''proceed visually'' and ''proceed VFR'' as applied to transitions for instrument approaches and instrument departures. The following provides further explanation to assist industry in understanding what the difference is between the two terms.

Copter Point-in-Space approaches provide an instrument descent along a predetermined course to safely allow IFR helicopter traffic to descend to a minimum descent altitude (MDA) prior to or upon arriving at MAP. At the MAP, the pilot must assess whether or not the flight can safely and legally proceed to the destination in the meteorological conditions present. Continuation of the flight beyond the MAP must be accomplished via a visual transition segment in accordance with the design of the Instrument Approach Procedure (IAP).

There are two types of visual transition segments associated with continued flight beyond the MAP to one or more nearby landing facilities clustered around the MAP. The published approach procedure will indicate either ''proceed visually'' or ''proceed VFR'' along this transition segment. The presence of obstructions and terrain, combined with the distance between the MAP and the landing facility, determine the type of transition and the visibility required to legally and safely make the transition from the MAP to the destination.

If a published approach depicts a ''proceed visually'' segment, that segment is conducted on a clearance under IFR and is not the subject of discussion under § 135.613. This case is analogous to the visual transition from a MAP to a runway on an IFR approach, which is conducted visually. In the case of the ''proceed visually'' transition, the minimum required visibility will be indicated on the published procedure. Generally, this means the pilot should be able to see the destination heliport from the MAP. The minimum distance between the MAP and a destination landing facility for a ''proceed visually'' transition is 0.65 nautical miles. This minimum segment distance is intended to facilitate avoidance of adverse consequences of combined high descent rates and deceleration rates. The minimum visibility for the ''proceed visually'' transition segment is ¾ nautical mile, so that the pilot should always be able to visually acquire the point of intended landing before beginning the visual segment of the instrument approach. The required visibility is commensurately greater for ''proceed visually'' transition segments that are longer than 0.65 nautical miles.

If a published approach depicts a ''proceed VFR'' segment, the visual segment must be conducted under VFR. 14 CFR 135.613 pertains to the ''proceed VFR'' transition when depicted on the published approach. If the distance between the MAP and the landing facility is less than or equal to one nautical mile, § 135.613(a)(1) sets the minimum visibility to 1 statute mile. If the distance between the MAP and the intended landing site is between one nautical mile and three nautical miles, § 135.613(a)(2) sets the day ceiling and visibility requirements to 600′ and 2 nautical miles, and sets the night ceiling and visibility requirements to 600′ and 3 nautical miles. If the distance between the MAP and the intended landing site is greater than three nautical miles, § 135.613(a)(3) requires the ceiling and visibility to meet either the helicopter air ambulance Class G VFR weather minimums shown in Table 1 of § 135.609, or, if within Class B, C, D, or E airspace, to meet the weather minimums referenced in § 135.205.

With respect to instrument departures, § 135.613(b) addresses only VFR to IFR transitions, not departures conducted under an IFR clearance with takeoff minimums published on an ODP. If a departing flight obtains an IFR clearance valid from lift off and weather meets or exceeds the published ODP takeoff minimums, the pilot can ''proceed visually'' under the IFR clearance to the Initial Departure Fix (IDF). In this case, there is no VFR segment, the published takeoff weather requirements are in effect, and § 135.613(b) does not apply.

If, however, the departing flight must lift off VFR and ''proceed VFR'' via an ODP to a point where an IFR clearance becomes effective or to a point where the IFR clearance may be obtained on the way to the IDF, § 135.613(b)(1) applies. This requires a minimum visibility of 1 nautical mile prior to lift off if the IDF is no more than 1 nautical

mile away from the point of lift off. If the departure involves a VFR to IFR transition and does not meet the requirements of § 135.613(b)(1), (there is no ODP, and/or the IDF is more than 1 nautical mile from the point of lift off), the VFR weather minimums required by the class of airspace apply. If the flight is within Class G airspace, refer to § 135.609; if it is within Class B, C, D, or E airspace, refer to § 135.205.

Issued in Washington, DC, on September 24, 2014.

Michael J. Zenkovich,

Deputy Director, Flight Standards Service.

[FR Doc. 2014–23250 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 232, 239, 240, 243, and 249

[Release Nos. 33–9638; 34–72982; File No. S7–08–10]

RIN 3235–AK37

Asset-Backed Securities Disclosure and Registration

Correction

In rule document 2014–21375 appearing on pages 57184 through 57346 in the issue of Wednesday, September 24, 2014, make the following corrections:

§ 229.601 (Item 601) Exhibits [Corrected]

■ 1. On page 57312, in ''Exhibit Table'', in column''10–Q'', the entry corresponding with number ''(31)'' should read ''X''.

Appendix to § 229.1125—Schedule AL [Corrected]

■ 2. On page 57328, in column three, on lines 29–33, the entry for paragraph ''(b)'' should read ''If the asset pool includes asset-backed securities issued after November 23, 2016, provide the asset-level information specified in § 229.1111(h) for the assets backing each security in the asset pool.''

[FR Doc. C1–2014–21375 Filed 9–29–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 25

[Docket No. TTB–2012–0006; T.D. TTB–123; Re: Notice No. 131 and T.D. TTB–109]

RIN 1513–AB94

Small Brewers Bond Reduction and Requirement To File Tax Returns, Remit Tax Payments and Submit Reports Quarterly

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) is adopting as a permanent regulatory change a flat $1,000 penal sum for the brewer's bond for brewers whose excise tax liability is reasonably expected to be not more than $50,000 in a given calendar year and who were liable for not more than $50,000 in such taxes in the preceding calendar year. TTB originally set forth this change in a temporary rule issued on December 7, 2012. In addition, TTB is adopting as a final rule its proposal, also issued on December 7, 2012, to require small brewers to file Federal excise tax returns, pay tax, and submit reports of operations quarterly. TTB expects these amendments to reduce the regulatory burdens on such brewers, reduce their administrative costs, and create administrative efficiencies for TTB.

DATES: This final rule is effective on January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Ramona Hupp, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone 202–453–1039, ext. 110, or email *BeerRegs@ttb.gov.*

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

Chapter 51 of the Internal Revenue Code of 1986 (IRC) pertains to the taxation of distilled spirits, wines, and beer (see title 26 of the United States Code (U.S.C.), chapter 51 (26 U.S.C. chapter 51)). With regard to beer, IRC section 5051 (26 U.S.C. 5051) imposes a Federal excise tax on all beer brewed or produced, and removed for consumption or sale, within the United States, or imported into the United States. The rate of the Federal excise tax on beer is $18 for every barrel containing not more than 31 gallons, and a like rate for any other quantity or for fractional parts of a barrel, with an exception that the rate of tax is $7 a barrel for the first 60,000 barrels of beer for a domestic brewer that does not produce more than 2 million barrels of beer in a calendar year. Section 5054 (26 U.S.C. 5054) provides that, in general, the tax imposed on beer under section 5051 shall be determined at the time the beer is removed for consumption or sale, and shall be paid by the brewer in accordance with section 5061 (26 U.S.C. 5061).

Section 5061 pertains to the time and method for submitting tax returns and payment of the applicable excise taxes. Section 5061 states that Federal excise taxes on distilled spirits, wines, and beer shall be collected on the basis of a return, and that the Secretary of the Treasury (the Secretary) shall, by regulation, prescribe the period or event for which such return shall be filed. Section 5061(d)(1) generally requires that the excise taxes owed on alcohol beverages, including beer, withdrawn under bond be paid no later than the 14th day after the last day of the semimonthly period during which the withdrawal occurs. Under a special rule, September has three return periods (section 5061(d)(5)), resulting in a total of 25 returns due each year. Section 5061(d)(4) provides an exception to the semimonthly rule for taxpayers who reasonably expect to be liable for not more than $50,000 in alcohol excise taxes in a calendar year and who were liable for not more than $50,000 in the preceding calendar year. Under this provision, such taxpayers may pay the excise taxes on alcohol beverages withdrawn under bond on a quarterly basis.

Section 5401(b) (26 U.S.C. 5401(b)) provides that all brewers shall obtain a bond to insure the payment of any taxes owed. The amount of such bond shall be ''in such reasonable penal sum'' as prescribed by the Secretary in regulations ''as necessary to protect and insure collection of the revenue.''

Section 5415 of the IRC (26 U.S.C. 5415) requires brewers to keep records and to make true and accurate ''returns'' of their brewing and associated operations at the times and for such periods as the Secretary prescribes by regulation. The implementing regulations refer to these ''returns'' as ''reports'' of operations.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 of the IRC and its implementing regulations pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The

Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated December 10, 2013, to the TTB Administrator to perform the functions and duties in administration and enforcement of these laws. Regulations that implement the provisions of sections 5051, 5054, 5061, 5401, and 5415 of the IRC, as they relate to beer, are set forth in part 25 of title 27 of the Code of Federal Regulations (27 CFR part 25).

Reducing Burdens on Regulated Industries

Executive Order 13563, Improving Regulation and Regulatory Review (E.O. 13563), signed by the President on January 18, 2011, required Federal agencies to conduct retrospective analyses of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them as appropriate. E.O. 13563 also required each agency to develop plans to review its regulations. The Department of the Treasury (Treasury) issued its Plan for Retrospective Analysis of Existing Rules (the Plan) on August 22, 2011. In developing the Plan, Treasury requested input from its Bureaus and Offices to help identify regulations that should be modified or updated. TTB identified a number of rulemaking proposals that were specifically included in the Plan, one of which concerned revision to the beer regulations contained in 27 CFR part 25. The proposal included in the Plan states:

> Revisions to the Beer Regulations (Part 25): Under the authority of the Internal Revenue Code, TTB regulates activities at breweries. The regulations of Title 27 of the Code of Federal Regulations, Part 25, address the qualification of breweries, bonds and taxation, removals without payment of tax, and records and reporting. Brewery regulations were last revised in 1986 and need to be updated to reflect changes to the industry, including the increased number of small (''craft'') brewers. In an advance notice of proposed rulemaking, TTB plans to solicit comments regarding potential ways to decrease the regulatory burden on industry members (including but not limited to streamlining and/or reducing the reporting and recordkeeping requirements for the industry, including small business members) and increase efficiency for both the industry and TTB. Upon consideration of comments received, TTB intends to develop and propose specific regulatory changes.

In September 2011, TTB met with representatives and members of the Brewers Association, a trade organization that promotes the interests of small and independent brewers in the United States, to discuss reducing the regulatory burdens on smaller brewers. During this meeting, the representatives and members put forth a number of suggestions toward that goal. TTB also met with members of the Oregon Brewers Guild in February 2012 to discuss the current regulatory burdens imposed on smaller brewers.

There is no specific statutory or regulatory definition as to who is a ''small'' brewer. However, for taxpayers who reasonably expect to be liable for not more than $50,000 in alcohol excise taxes in a calendar year, and who were liable for not more than $50,000 in such taxes in the preceding calendar year, there is, under section 5061(d)(4) of the IRC, a quarterly tax return and tax payment exception to the semimonthly rule. TTB believes the requirements to qualify for the quarterly tax return and tax payment exception provide a reasonable standard for determining those brewers for which quarterly filing is appropriate for purposes of the IRC. In 2011, analysis of TTB data revealed that the vast majority of brewers qualified as quarterly taxpayers under this standard. Specifically, this data provided that 2,026 brewers submitted Federal excise tax returns to TTB, and 1,846 of those brewers (91 percent) paid less than $50,000 in excise tax annually. In fact, the vast majority of those 1,846 brewers paid much less than $50,000, given that 1,616 of those brewers (87.5 percent) paid annual taxes of $7,000 or less. Hereafter, when used in this document, the term ''small brewers'' will refer to brewers who are eligible to file excise tax returns, remit tax payments, and submit operations reports on a quarterly basis.

Tax Return Filing, Tax Payment, Bond, and Reporting Requirements

Statutory requirements for brewers include filing tax returns, remitting excise tax payments, obtaining a brewer's bond, and submitting reports of operations. Under TTB's current regulations, there are options that a small brewer must consider. First, the regulations provide that a small brewer may file tax returns and pay taxes either semimonthly or quarterly (27 CFR 25.164(c)). Under § 25.164(c), a brewer must adhere to a semimonthly tax return period unless the brewer qualifies for, and chooses to use, a quarterly tax return period. A brewer has the option to choose to use a quarterly return period if the brewer reasonably expects to be liable for not more than $50,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 in a calendar year and was liable for not more than $50,000 in such taxes in the preceding calendar year.

With regard to submitting reports of operations, the general regulatory rule is that monthly reports are required; but a brewer who produces less than 10,000 barrels of beer a year may opt to submit reports of operations quarterly (27 CFR 25.297). In addition, prior to the publication of the temporary rule on December 7, 2012 (discussed later in this document), 27 CFR 25.93 provided that, for brewers who filed tax returns and remitted tax payments semimonthly, the penal sum of the brewer's bond had to be ''equal to 10 percent of the maximum amount of tax calculated at the rates prescribed by law which the brewer will become liable to pay during a calendar year'' (27 CFR 25.93(a)(1)). For those small brewers who chose to file quarterly, the penal sum of the brewer's bond increased to 29 percent of the maximum amount of that tax (27 CFR 25.93(a)(2)). Under these previous regulatory provisions, a small brewer had to be aware of different eligibility standards regarding tax returns, tax payments, and reporting. TTB believed that these regulatory options, taken in their entirety, were difficult for small brewers to fully understand and use to their best advantage.

Temporary Rule and Notice of Proposed Rulemaking

On December 7, 2012, TTB published in the **Federal Register** a temporary rule (T.D. TTB–109, 77 FR 72939) that provided for a flat $1,000 penal sum for a brewer's bond for small brewers who file excise returns and remit payments quarterly. TTB stated that it was issuing the temporary rule to encourage eligible brewers to file excise tax returns and pay taxes quarterly rather than semimonthly without being required to obtain a bond with a penal sum of more than $1,000. The rule was issued as a temporary rule without prior notice and comment, pursuant to authority under section 4(a) of the Administrative Procedure Act (5 U.S.C. 553(b)), because TTB expected the affected public would benefit from a lower bond amount.

In the same issue of the **Federal Register**, TTB published Notice No. 131 (77 FR 72999) proposing to amend the TTB regulations at § 25.93 and § 25.297 to require that small brewers file tax returns, remit tax payments, and submit reports of operations quarterly.

In Notice No. 131, TTB proposed to adopt as a final rule in § 25.93, the flat $1,000 penal sum for the bond for small brewers as outlined in the temporary rule, which would otherwise expire at the end of 3 years. In that proposed rule, TTB stated that it believed that lowering the required bond amount would

remove the disincentive for small brewers to file excise tax returns and remit tax payments quarterly, and that lessening the number of required excise tax returns and operations reports for small brewers would lessen costs and increase efficiencies for those businesses.

As TTB stated in Notice No. 131, simplifying the bond requirement, and creating consistencies between the tax return and remittance requirement and the operations reporting requirement, will make it easier for small brewers to understand and comply with the TTB regulations. These changes also make it easier for TTB to administer its regulatory program while providing adequate protection to the revenue.

Specifically, TTB estimated that filing tax returns quarterly would reduce a brewer's paperwork burden from 18.75 hours per year (based on an estimate of 45 minutes to prepare and submit a semimonthly return) to just 3 hours per year. If all small brewers file tax returns, remit tax payments, and submit operations reports quarterly, TTB will reduce the overall time it spends processing these submissions.

In Notice No. 131, TTB solicited comments from the public on these proposed amendments and on other changes TTB could make to the part 25 beer regulations that could further reduce the regulatory burden on brewers and at the same time meet statutory requirements and regulatory objectives. The comment period for Notice No. 131 closed February 5, 2013.

Comments Received

In response to Notice No. 131, TTB received 44 comments. In the following discussion of the comments, TTB provides a number in parentheses, such as ''(Comment 1),'' to refer to the number that was assigned to the individual comment when it was submitted through ''Regulations.gov'' (*http://www.regulations.gov*), an online system for individuals to submit comments on proposed regulations and related documents. One comment was sent directly to TTB and was added to the other comments received on this rulemaking action through Regulations.gov.

Forty-two of the 44 comments came from individuals associated with the brewing industry; the remaining two came from the Brewers Association (as described previously) and a surety agency. Forty-three of the comments supported the proposed amendments, and one comment pointed out an error in the preamble of the proposed rule regarding certain figures that TTB had cited, but the commenter expressed neither support for nor opposition to the proposed rule or the temporary rule. Many of the comments from brewers provided information regarding the amount of time they estimate spending to prepare and submit tax returns and operations reports and how the proposed amendments would result in time and cost savings. A detailed discussion of the comments follows.

Correction to the Annual Beer Excise Tax Statistics

One of the commenters (Comment 44) stated that the figures TTB cited in both the proposed rule and temporary rule for excise tax collections on beer for 2010 and 2011 were incorrect according to TTB's monthly statistical reports. Specifically, TTB had stated that small brewers cumulatively paid 5.6 percent (approximately $10.15 million) of the $180.6 million in total excise tax on beer collected in 2010 and, in 2011, small brewers paid just over 6 percent (approximately $11.5 million) of the $177.8 million in excise tax collected on beer that year. The commenter also stated that because the total amount of excise taxes collected for each year was incorrect, the percentages attributed to small brewers were also incorrect.

TTB acknowledges that, in the proposed rule and the temporary rule, it printed incorrect numbers for the total amount of tax collections on beer in 2010 and 2011. TTB inadvertently printed the number of taxable barrels of beer that domestic brewers had reported producing for domestic consumption in 2010 and 2011 as if those numbers were the total amount of excise taxes TTB collected on domestically-produced beer in those years. In 2010, the actual total amount of excise taxes TTB collected on beer produced in the U.S. was approximately $3.2 billion, and in 2011, the total amount was approximately $3.1 billion. However, the amount of those excise taxes contributed by small brewers (approximately $10.15 million in 2010 and approximately $11.5 million in 2011) was correctly stated in the previous documents. Thus, the amount of tax contributed by small brewers represents a far smaller percentage of the total amount of such excise taxes on beer than originally stated. These revised figures further support the statement that although small brewers make up more than 90 percent of the total number of U.S. brewers, they contribute a small amount (approximately 0.3 percent in 2010 and 0.4 percent in 2011) of the total amount of excise taxes collected by TTB on beer.

Reduced Penal Sum for Brewer's Bond

Eighteen of the 44 comments specifically addressed the proposal to reduce the penal sum for a brewer's bond to a flat $1,000. All 18 of these comments supported the proposal to permanently adopt the reduced penal sum as a way to reduce the financial burden on small brewers. The Brewers Association (Comment 43) supports the reduced bond amount, stating that it ''will most certainly ease the financial burden many of these businesses faced previously when choosing to file quarterly.'' Two other commenters described the positive effect that the reduced penal sum would have on newly-opened small breweries. One comment (Comment 1), submitted by a person ''working towards opening a nano-brewery,'' stated that lessening the burden of any operations fees would ''support sustainable success'' for start-up ventures. Another commenter (Comment 25) described recently opening a small brewery and agreed that the reduced bond requirements ''would help out greatly on cash flow that is so desperately needed in these first few years of growth.'' Two additional commenters (Comments 4 and 27) indicated that small breweries do not have the ''economies of scale'' of a larger brewer, meaning, they often may pay more for raw materials than a large-scale brewery does, and added that any way that TTB can reduce overhead costs for small brewers is welcome.

Other commenters stated that the savings incurred from a reduced bond amount would allow them to reinvest in their businesses. For example, one self-identified small brewery owner (Comment 34) stated that the bond reduction would ''save my company . . . thousands of dollars which will in turn allow us to hire the much needed additional employees to run the brewery.'' Two other commenters stated that the savings brought about by a reduced bond amount would go to ''purchasing equipment that could further our ability to produce our beers'' (Comment 35) and would also ''be used to help offset labor and equipment costs'' (Comment 39). Finally, other commenters supported the flat $1,000 bond amount, saying that the ''additional time of recordkeeping and adjusting bonds . . . is currently very time consuming'' (Comment 20), and the time and productivity lost calculating the current ''volume-based'' bond requirement ''is far more significant than the actual dollars involved'' (Comment 37).

One other comment came from a surety company (Comment 21) that

asked for clarification regarding the relationship between the 4-year term of the required bond and the 3-year effective period of the temporary rule. Specifically, the commenter noted that the current required term for surety bonds is 4 years and asked what effect the temporary rule had on the 4-year term of the bond.

TTB notes that temporary rules are issued by TTB under the authority of the IRC at 26 U.S.C. 7805, which states at paragraph (e)(2) that any temporary regulation shall expire within 3 years after the date of issuance of such regulation. TTB stated in Notice No. 131 that the modified bond amount set forth in the temporary rule is effective for 3 years from December 7, 2012. The duration of the required bond is set forth in the IRC at 26 U.S.C. 5401(b) and in the implementing regulations at § 25.91. That regulatory section states in paragraph (a), with regard to the duration of the bond and with exceptions not relevant here, that every brewer intending to continue the business of a brewer shall, once every 4 years execute and file a new bond. As a result, if the temporary rule had remained in effect for 3 years and the regulation had then reverted back to its previous text, a small brewer who had obtained a $1,000 bond and whose quarterly tax liability required a bond higher than $1,000 would have had to obtain either a new bond at the higher amount or a strengthening bond (see 27 CFR 25.94) or prepay the taxes due (see 27 CFR 25.174) when the temporary rule expired at the end of 3 years. However, because this final rule makes the flat $1,000 penal sum for the brewer's bond permanent for small brewers, such bonds obtained under the temporary rule will be valid for the standard term of 4 years.

Requirement To File Tax Returns, Remit Tax Payments, and Submit Reports Quarterly

Thirty-six of the comments TTB received specifically mentioned the proposal to require small brewers to file excise tax returns, remit payments, and submit reports of operations quarterly. In general, all 36 of the comments supported the proposal as a way to increase efficiency and reduce administrative expenses and paperwork burdens for small brewers. Many of the commenters included projected financial savings as a result of filing quarterly, rather than semimonthly. For example, one commenter (Comment 2), who said his company produced about 2,600 barrels of beer in 2012, expected to save $4,000 a year by filing quarterly. A second commenter (Comment 5), who said his company produces 700 to 750 barrels of beer annually, stated that, ''[t]he amount of time necessary to piece together the necessary info, sign and copy the documents, and write the check and mail the forms, usually takes up the brunt of the day for our brewer,'' and switching to the quarterly schedule would save his company approximately $1,000 a year. A third commenter (Comment 9), who reports producing 1,300 barrels of beer a year, believed that the proposal would save her company 9.3 man hours and $558 dollars a year; the savings in time and money, she continued, would ''be spent on improving our operations.'' That commenter stated that her company had previously not even considered filing quarterly ''since that would increase our bond amount.'' Another commenter (Comment 11) stated that his company would ''save over $2,000 in labor cost[s]'' by filing quarterly, money which ''could be otherwise used on new equipment and/or job creation.''

Another commenter (Comment 29), who described his brewery as a ''three person operation,'' said that the three of them ''have our hands more than full just trying to make beer,'' and that filing quarterly will save much-needed time and approximately $1,350 a year. A person who identified himself as the owner and head brewer of a small craft brewery (Comment 41) estimated that the annual administrative costs of filing semimonthly for his business are approximately $3,000, but filing quarterly would save $2,000 a year, which is ''a substantial amount for our budget.'' A person who identified himself as co-owner of a small brewery (Comment 42) with a projected production of 500 barrels of beer this year estimated that filing quarterly would save his company $2,160 annually, which ''represents a significant amount of money given our narrow margins as a startup brewery.'' Finally, the Brewers Association (Comment 43) estimated that, based on information gathered from a sample of its members that would be eligible for quarterly filings and tax payments, ''the average annual individual brewery savings derived from moving to quarterly filings of tax returns and operational reports is approximately 26 hours and $1,200.''

One self-identified small brewer (Comment 17) supported the proposal to allow small brewers to submit taxes and operations reports quarterly because it would be ''an incredible time savings'' for his business. However, he also stated that he would prefer TTB to allow small brewers the option to submit their taxes and operations reports monthly because his State requires State taxes to be paid monthly, and submitting Federal and State taxes on the same schedule would be more efficient for him. In response to this commenter's proposal, TTB notes that the overwhelming response to the Notice No. 131 was that small brewers prefer to submit reports, file tax returns, and remit tax payments as infrequently as possible, with many respondents specifically supporting the quarterly schedule. Therefore, TTB has determined that requiring submissions four times a year will more effectively accomplish the goals of reducing the regulatory burden and creating administrative efficiencies for affected entities than either requiring or allowing more frequent submissions.

Use of the Term ''Small Brewer''

The Brewers Association (Comment 43) supported the proposed quarterly requirement for submitting reports and paying taxes, as well as the proposed flat $1,000 penal sum. The association also noted that there is ''no general agreement on the meanings of the terms 'small brewery' and 'small brewer''' in statutes, regulations, forms, and proposed legislation, and these terms ''are commonly applied to a variety of businesses that vary considerably in size.'' For example, the association pointed out that the IRC provides for a reduced rate of tax for brewers who produce not more than 2 million barrels of beer annually. The association also pointed out that, under a then-proposed change to a TTB form, brewers producing less than 10,000 barrels of beer a year would have been eligible to submit reports of operations quarterly, while the proposed reduction in the brewer's bond amount uses yet another standard of an annual tax liability of $50,000 or less to determine eligibility, a tax liability that equates to only 7,142 barrels of beer a year. The association expressed concern that one of these ''competing'' definitions might become codified as the official definition of the term ''small'' and requested that TTB refrain from using the term in subsequent rulemaking and, instead, use alternate terminology.

In response, TTB notes that, in Notice No. 131, it proposed adopting the same eligibility standards for reporting operations quarterly on Form 5130.26 as apply to filing Federal excise tax returns and remitting tax payments quarterly. TTB made this proposal in order to make it easier for small brewers to understand and comply with the TTB regulations. The ''reasonably expects to be liable for not more than $50,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 in a calendar year

and was liable for not more than $50,000 in such taxes in the preceding calendar year'' standard applicable to quarterly tax payment is set by law in section 5061(d)(4) of the IRC and therefore cannot be changed by regulation. Consequently, TTB chose to adopt this standard for submitting operational reports quarterly and for determining eligibility to use TTB Form 5130.26. With regard to the use of the term ''small brewers,'' and where its meaning is specifically set forth, such as in the preamble to this rulemaking document, TTB uses the phrase only for simplicity. The term does not appear in the text of the TTB regulations, and TTB does not intend to use the term in regulatory text in the future. Additionally, TTB is removing the phrase ''small brewers'' from the proposed new title of Form 5130.26.

Suggested Regulatory and Other Actions

Consistent with the intent of the advanced notice of proposed rulemaking described in the Plan, as discussed earlier in this preamble, TTB also sought comments on other changes regarding part 25 regulations that brewers and other interested parties believe TTB should consider. The Brewers Association (Comment 43) made several suggestions. One suggestion was to eliminate the requirement for TTB approval of formulas for ''non-controversial products.'' Another suggestion was to simplify mandatory label information for bulk containers, such as kegs, and clarify the Certificate of Label Approval requirements for malt beverages intended for sale only within a State. The association also recommended changes to the TTB regulations to allow breweries to begin operation upon the filing of a Brewer's Notice, without requiring prior approval of the notice, and to require ''only persons, not facilities,'' to obtain permits under the Federal Alcohol Administration Act. Finally, the association suggested that TTB revise the current method of ''calculating taxable production.''

With respect to the association's request for TTB to eliminate the requirement for TTB approval of formulas for ''non-controversial products'', TTB notes that it issued TTB Ruling 2014–4, Ingredients and Processes Used in the Production of Beer Not Subject to Formula Requirements on June 5, 2014 (see *http://www.ttb.gov/rulings/2014-4.pdf*).

With respect to the association's request for TTB to clarify the Certificate of Label Approval requirements for malt beverages intended for sale only within a State, TTB notes that it issued TTB Ruling 2013–1, Malt Beverages Sold Exclusively in Intrastate Commerce, on March 28, 2013 (see *http://www.ttb.gov/rulings/2013-1.pdf*). TTB also is considering the Brewers Association's comments to determine if TTB should propose additional regulatory changes or undertake other actions.

TTB Finding

Based on the comments received in response to Notice No. 131, TTB has determined that the proposed regulations contained in that notice should be adopted as final, with a correction to a typographical error in § 25.93(a)(2), as well as minor editorial changes to § 25.297(b)(1) and (c) so that a new regulation will not have to be issued if only a form number or a heading on a form changes. TTB also revised § 25.297(b)(2) to clarify that if a brewer who had been eligible to file quarterly reports becomes liable for more than $50,000 in taxes for the current calendar year, it must commence filing monthly reports beginning with the first month that it will be liable for more than $50,000 in taxes for the current calendar year. The brewer must also concurrently file a report for any previous month of that quarter. These minor changes are for clarity only and do not change the substance of the regulation.

Delayed Effective Date

Although TTB did not receive any comments that discussed concerns regarding the amount of time brewers may need to adjust to quarterly filing and reporting, TTB has decided this final rule will become effective on January 1, 2015. Therefore, affected brewers will be required to file tax returns, remit tax payments, and submit reports of operations on a quarterly basis for the quarter that begins January 1, 2015.

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. chapter 6), TTB certifies that this final rule will not have a significant economic impact on a substantial number of small entities. As discussed below in the Paperwork Reduction Act section of this document, the changes in this final rule will have the effect of lessening current reporting requirements on small businesses. TTB estimates that the amendment requiring small brewers to submit their excise tax returns quarterly rather than semimonthly will reduce their current reporting burden per respondent from 18.75 hours per year to 3 hours per year and that the requirement that small brewers submit their report of operations quarterly will reduce current reporting burdens per respondent from 12 hours per year to 4 hours. Accordingly, a regulatory flexibility analysis is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, TTB submitted the temporary rule (T.D. TTB–109, 77 FR 72939, December 7, 2012) and related notice of proposed rulemaking (Notice No. 131, 77 FR 72999, December 7, 2012) to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for comment on the impact of these regulations. The SBA had no comment on either the temporary rule or the proposed rule.

Executive Order 12866

It has been determined that this document is not a significant regulatory action as defined in E.O. 12866. Therefore, a regulatory assessment is not necessary.

Paperwork Reduction Act

There are two collections of information approved by the Office of Management and Budget (OMB) that are affected by the adoption of these regulatory changes. These collections of information, approved in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), are the Excise Tax Return (TTB Form 5000.24), associated with OMB control number 1513–0083, and the Brewer's Report of Operations and the Quarterly Brewers Report of Operations (TTB Form 5130.9 and TTB Form 5130.26), which are both associated with OMB control number 1513–0007. Under the Paperwork Reduction Act, an agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number.

OMB Control Number 1513–0083

TTB bases the estimated reporting burdens submitted to OMB for the Excise Tax Return (OMB Control Number 1513–0083) on the total number of all TTB-regulated industry members who pay taxes, including beverage alcohol producers and tobacco products manufacturers. In order to estimate the burden-hour savings specific to brewers, TTB based the estimates below solely on the current number of individuals holding Brewer's Notices. TTB estimates that it takes, on average, 45 minutes to complete TTB Form 5000.24. The requirement that small brewers submit their excise tax returns quarterly is estimated to reduce their current reporting burden per respondent from 18.75 hours per year to 3 hours per year.

In addition, it would reduce the estimated total annual reporting burden for brewers to 8,913 hours; this represents an estimated savings of 15,777 hours.

TTB estimates that, as a result of the regulatory amendments (and reflecting the estimated number of semimonthly and quarterly tax return filers), the total annual burden for tax return submissions will be as follows:

- Estimated number of respondents: 2,026 (180 filing semimonthly; 1,846 filing quarterly).
- Estimated annual frequency of responses: 25 for semimonthly reporting; 4 for quarterly reporting.
- Estimated total annual reporting burden: 8,913 hours (3,375 hours filing semimonthly and 5,538 hours filing quarterly).
- Estimated annual burden hours per respondent: 18.75 hours for semimonthly filing; 3 hours for quarterly filing.

OMB Control Number 1513–0007

TTB estimates that it takes an average of one hour to complete either TTB Form 5130.9 or TTB Form 5130.26. Therefore, the requirement that small brewers submit their report of operations quarterly will reduce their current reporting burdens per respondent from 12 hours to 4 hours per year. That is a savings of 8 hours for each small brewer not currently filing these reports quarterly. In addition, it will reduce the estimated total annual reporting burden to 9,544 hours, which is an estimated savings of 2,608 hours.

Based on the current number of individuals holding Brewer's Notices, TTB estimates that, as a result of the regulatory amendments (and reflecting the estimated number of brewers submitting monthly and quarterly operations reports), the total annual burden for the brewers operations reporting will be as follows:

- Estimated number of respondents: 2,026 (180 reporting monthly; 1,846 reporting quarterly).
- Estimated annual frequency of responses: 12 for monthly reporting; 4 for quarterly reporting.
- Estimated total annual reporting burden: 9,544 hours (2,160 hours for monthly reporting; 7,384 hours for quarterly reporting).
- Estimated annual burden hours per respondent: 12 hours for monthly reporting; 4 hours for quarterly reporting.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

List of Subjects in 27 CFR Part 25

Beer, Excise taxes, Reporting and recordkeeping requirements, Surety bonds.

Amendments to the Regulations

Accordingly, for the reasons set forth in the preamble, TTB amends 27 CFR, chapter I, part 25 as set forth below.

PART 25—BEER

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5121, 5122–5124, 5222, 5401–5403, 5411–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

■ 2. In § 25.93, paragraph (a)(2) is revised to read as follows:

§ 25.93 Penal sum of bond.

(a) * * *

(2) *Brewers filing quarterly tax returns.* For brewers who were liable for not more than $50,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 in the preceding calendar year, who reasonably expect to be liable for not more than $50,000 in such taxes during the current calendar year, and who file tax returns and remit taxes quarterly under § 25.164(c)(2), the penal sum of the brewer's bond is $1,000 and covers:

(i) Beer removed for transfer to the brewery from other breweries owned by the same brewer;

(ii) Beer removed without payment of tax for export or for use as supplies on vessels and aircraft;

(iii) Beer removed without payment of tax for use in research, development, or testing; and

(iv) Beer removed for consumption or sale.

* * * * *

§ 25.164 [Amended]

■ 3. In § 25.164:

■ a. The first sentence in paragraph (c)(1) is amended by removing the words ‘‘, and chooses to use,’’; and

■ b. The first sentence in paragraph (c)(2) is amended by removing the words ‘‘may choose to’’ and adding, in their place, the word ‘‘shall’’.

■ 4. In § 25.297, revise the section heading and paragraphs (b) and (c) to read as follows:

§ 25.297 Report of Operations, Form 5130.9 or Form 5130.26.

* * * * *

(b) *Quarterly report of operations.* (1) For calendar quarters commencing on or after January 1, 2015, a brewer who was liable for not more than $50,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 in the preceding calendar year and reasonably expects to be liable for not more than $50,000 in such taxes during the current calendar year shall file quarterly Form 5130.9 or Form 5130.26 (or any successor forms). For purposes of this section, ‘‘reasonably expects’’ means that the brewer was liable for not more than $50,000 in taxes the previous calendar year and that there is no other existing or anticipated circumstance known to the brewer (such as an increase in production capacity) that would cause the brewer's liability to increase beyond that level in the current calendar year.

(2) If a brewer determines that it will be liable for more than $50,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 during the current calendar year, the brewer shall file Form 5130.9 monthly beginning with the first month during which the tax liability exceeds $50,000, and shall concurrently file Form 5130.9 for any previous month of that quarter. When filing the first monthly report, a brewer shall state on the form that it will be liable for more than $50,000 in taxes for the current calendar year and will henceforth submit monthly filings. The brewer shall then continue to file Form 5130.9 for each subsequent month of that calendar year.

(3) The appropriate TTB officer may at any time require a brewer who is filing Form 5130.9 or Form 5130.26 quarterly to file such report monthly on Form 5130.9 if there is a jeopardy to the revenue.

(c) *Retention.* The brewer shall retain a copy of Form 5130.9 or Form 5130.26 (or any successor form) as part of the brewery records.

Signed: July 22, 2014.

John J. Manfreda,

Administrator.

Approved: August 15, 2014.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 2014–22964 Filed 9–29–14; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD–2011–HA–0136]

RIN 0720–AB56

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); TRICARE Uniform Health Maintenance Organization (HMO) Benefit—Prime Enrollment Fee Exemption for Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and Their Dependents

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule creates an exception to the usual rule that TRICARE Prime enrollment fees are uniform for all retirees and their dependents and responds to public comments received to the proposed rule published in the **Federal Register** on June 7, 2013. Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents are part of the retiree group under TRICARE rules. In acknowledgment and appreciation of the sacrifices of these two beneficiary categories, the Secretary of Defense has elected to exercise his authority under the United States Code to exempt Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents enrolled in TRICARE Prime from paying future increases to the TRICARE Prime annual enrollment fees. The Prime beneficiaries in these categories have made significant sacrifices for our country and are entitled to special recognition and benefits for their sacrifices. Therefore, the beneficiaries in these two TRICARE beneficiary categories who enrolled in TRICARE Prime prior to 10/1/2013, and those since that date, will have their annual enrollment fee frozen at the appropriate fiscal year rate: FY2011 rate $230 per single or $460 per family, FY2012 rate $260 or $520, FY2013 rate $269.38 or $538.56, or the FY2014 rate $273.84 or $547.68. The future beneficiaries added to these categories will have their fee frozen at the rate in effect at the time they are classified in either category and enroll in TRICARE Prime or, if not enrolling, at the rate in effect at the time of enrollment. The fee remains frozen as long as at least one family member remains enrolled in TRICARE Prime and there is not a break in enrollment. The fee charged for the dependent(s) of a Medically Retired Uniformed Services Member would not change if the dependent(s) was later re-classified a Survivor.

DATES: This rule is effective October 30, 2014.

FOR FURTHER INFORMATION CONTACT: Ralph (Doug) McBroom, (703) 681–0039, Defense Health Agency, TRICARE Policy and Benefits Office. Questions regarding payment of specific claims under the TRICARE allowable charge method should be addressed to the appropriate TRICARE contractor.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

A. Overview

Title 10 Section 1097(e) of the United States Code says in part, ''The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided by this section.'' This statute was implemented in Title 32 Code of Federal Regulations section 199.18(c), (32 CFR 199.18(c)), which notes that the enrollment fees shall be published annually and, as applicable, uniformly applied to TRICARE beneficiaries. There is no enrollment fee for active duty dependents. The annual enrollment fee for retirees and their dependents since the program began was $230 per person or $460 per family until FY 2012. In FY 2012, the Department of Defense implemented a modest increase ($2.50 per person or $5.00 per family per month) in the enrollment fees for retirees and their dependents to $260 per person or $520 per family, followed by annual indexing. For FY 2013, the fee was increased per the National Defense Authorization Act (NDAA) for FY 2012 using the same Cost of Living Adjustment (COLA) percentage (3.6%) used to increase military retired pay. The fee was adjusted again in FY2014 and FY2015 using the COLA percentage for those respective fiscal years. Future increases will be calculated per the NDAA for FY 2012.

Although the increases have been modest, the Secretary of Defense will exempt from future enrollment fee increases the Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents enrolled in TRICARE Prime. (These two beneficiary categories are part of the retiree group under TRICARE rules.) The enrollment fees for the currently enrolled beneficiaries in these categories will remain at their current rate. The future beneficiaries added to these categories will have their fee frozen at the rate in effect at the time they are classified in either category and enroll in TRICARE Prime or, if not enrolling, at the rate in effect at the time of enrollment. The fee remains frozen as long as at least one family member remains enrolled in TRICARE Prime and there is not a break in enrollment. This rule creates an exception to the ''uniform rate for all retirees'' general rule and is being made to acknowledge, and in appreciation of, the sacrifices made by these unique members of the retiree population of TRICARE beneficiaries. This final rule articulates and implements that change. It provides that as an exception to the requirement for uniformity within the group of retirees and their dependents, the Secretary of Defense may exempt Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents from paying future increase in enrollment fees that occur on or after the effective date of this final rule.

The exemption will apply only to the beneficiaries in the two categories specified above and only if they enroll in TRICARE Prime. If a beneficiary in one of the categories does not enroll in TRICARE Prime, but later elects to enroll, their rate will be frozen at the rate in effect at the time of enrollment. If a beneficiary dis-enrolls from TRICARE Prime and later re-enrolls, their rate will be frozen at the rate in effect at re-enrollment. The fee charged for a dependent of a Medically Retired Uniformed Services Member will not change if the dependent was later re-classified a Survivor and remained enrolled in Prime.

B. Public Comments

We received two online comments. Both supported the rule change to allow Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents, who are enrolled in Prime, to be exempt from future increases in TRICARE Prime enrollment fees.

Regulatory Procedures

Executive Order 12866 requires certain regulatory assessments for any significant regulatory action that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts. The Congressional Review Act establishes certain procedures for major rules, defined as those with similar major impacts. The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have significant impact on a substantial number of small

entities. This final rule will have none of those effects. Nor does it establish information collection requirements under the Paperwork Reduction Act. Nor for purposes of Executive Order 13132, does it have federalism implications affecting States.

List of Subjects in 32 CFR Part 199

Claims, Handicapped, Health insurance, and Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

■ 2. Section 199.18 is amended by adding at the end of paragraph (c)(1) a new sentence to read as follows:

§ 199.18 Uniform HMO Benefit.

* * * * *

(c) *Enrollment fee under the uniform HMO benefit.* (1) * * * As an exception to the requirement for uniformity within the group of retirees and their dependents, the Assistant Secretary of Defense (Health Affairs) may exempt Survivors of Active Duty Deceased Sponsors and Medically Retired Uniformed Services Members and their Dependents from future increases in enrollment fees.

* * * * *

Dated: September 24, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–23065 Filed 9–29–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 80

[Docket No. USCG–2014–0410]

RIN 1625–AC13

Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments

AGENCY: Coast Guard, DHS.

ACTION: Correcting amendment.

SUMMARY: The Coast Guard published a final rule in the **Federal Register** on July 7, 2014, making non-substantive corrections throughout Title 33 of the Code of Federal Regulations. In that final rule, the Coast Guard revised a paragraph because it duplicated the substance of another paragraph within the same section of an existing regulation. In correcting that error, the Coast Guard inadvertently removed four paragraphs from its regulations. This correction resolves that error by replacing the four paragraphs that we inadvertently removed.

DATES: This correction is effective on September 30, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this final rule, call or email Paul Crissy, Office of Standards Evaluation and Development, Coast Guard; telephone 202–372–1093, email *Paul.H.Crissy@uscg.mil.* If you have questions on viewing material on the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: To view the original final rule document, visit *https://www.federalregister.gov/articles/2014/07/07/2014-14897/navigation-and-navigable-waters-technical-organizational-and-conforming-amendments?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.*

Background

On July 7, 2014, the Coast Guard published its annual technical amendment to make non-substantive changes to Title 33 of the Code of Federal Regulations. 79 FR 38422.

Need for Correction

The Coast Guard published a final rule in the **Federal Register** that created the need for this correction. In that final rule, the Coast Guard revised 33 CFR 80.712 because paragraphs (a) and (b) described the same demarcation line for Stono Inlet. The Coast Guard corrected § 80.712 by redesignating paragraph (a) as paragraph (b), and revising paragraph (a) to reflect the latitude and longitude coordinates for the demarcation line across Lighthouse Inlet. Our amendatory instruction, however, resulted in the inadvertent removal of paragraphs (c) through (f) in § 80.712. This correction restores the original paragraphs (c) through (f) in § 80.712.

List of Subjects in 33 CFR Part 80

Navigation (water), Treaties, Waterways.

Accordingly, 33 CFR part 80 is amended by making the following correcting amendment:

PART 80—COLREGS DEMARCATION LINES

■ 1. The authority citation for part 80 continues to read as follows:

Authority: 14 U.S.C. 2; 14 U.S.C. 633; 33 U.S.C. 151(a).

■ 2. Revise § 80.712 to read as follows:

§ 80.712 Morris Island, SC to Hilton Head Island, SC.

(a) A line drawn from the easternmost tip of Folly Island to 32°41′37″ N., 079°53′03″ W. (abandoned lighthouse tower) on the northside of Lighthouse Inlet; thence west to the shoreline of Morris Island.

(b) A line drawn from the seaward tangent of Folly Island across Stono River to the shoreline of Sandy Point.

(c) A line drawn from the southernmost extremity of Seabrook Island 257° true across the North Edisto River Entrance to the shore of Botany Bay Island.

(d) A line drawn from the microwave antenna tower on Edisto Beach charted in approximate position latitude 32°28.3′ N. longitude 80°19.2′ W. across St. Helena Sound to the abandoned lighthouse tower on Hunting Island.

(e) A line formed by the centerline of the highway bridge between Hunting Island and Fripp Island.

(f) A line drawn from the westernmost extremity of Bull Point on Capers Island to Port Royal Sound Channel Range Rear Light, latitude 32°13.7′ N., longitude 80°36.0′ W.; thence 259° true to the easternmost extremity of Hilton Head at latitude 32°13.0′ N., longitude 80°40.1′ W.

Dated: September 23, 2014,

Katia Cervoni,

Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.

[FR Doc. 2014–23251 Filed 9–29–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0845]

Drawbridge Operation Regulation; Trent River, New Bern, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the US 70/Alfred

C. Cunningham Bridge across the Trent River, mile 0.0, at New Bern, NC. The deviation is necessary to allow the annual Neuse River Bridge Run participants to safely complete their race without interruptions from bridge openings. This deviation allows the bridge draw span to remain in the closed-to-navigation position for three hours to accommodate the race.

DATES: This deviation is effective from 6:30 a.m. to 9:30 a.m. on October 18, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0845] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION: The event director for the annual Neuse River Bridge Run, with approval from the North Carolina Department of Transportation, owner of the drawbridge, has requested a temporary deviation from the operating schedule to accommodate the Neuse River Bridge Run.

The US 70/Alfred C. Cunningham Bridge operating regulations are set out in 33 CFR 117.843(a). The US 70/Alfred C. Cunningham Bridge across the Trent River, mile 0.0, a double bascule lift Bridge, in New Bern, NC, has a vertical clearance in the closed position of 14 feet above mean high water.

Under this temporary deviation, the drawbridge will be allowed to remain in the closed-to-navigation position from 6:30 a.m. to 9:30 a.m. on Saturday, October 18, 2014 while race participants are competing in the annual Neuse River Bridge Run.

Under the regular operating schedule where the bridge opens on signal during the timeframe for the race, the bridge opens several times every day for recreational vessels transiting to and from the local marinas located upstream. Although openings occur throughout the day, the morning hours have the fewest vessel transits.

Vessels able to pass through the bridge in the closed position may do so at any time and are advised to proceed with caution. The bridge will be able to open for emergencies and there is no alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: September 17, 2014.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2014–23291 Filed 9–29–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0211, EPA–R03–OAR–2013–0510; FRL–9917–17–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Section 110(a)(2) Prevention of Significant Deterioration Requirements for the 2008 Ozone and 2010 Nitrogen Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Virginia State Implementation Plan (SIP) pursuant to the Clean Air Act (CAA). Whenever new or revised National Ambient Air Quality Standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to, regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. The Commonwealth of Virginia has made two separate submittals addressing the infrastructure requirements for the 2008 ozone and 2010 nitrogen dioxide (NO_2) NAAQS. This action approves the prevention of significant deterioration (PSD) portions of the infrastructure requirements of the CAA for the Commonwealth's SIP submittals for the 2008 ozone and 2010 NO_2 NAAQS.

DATES: This final rule is effective on October 30, 2014.

ADDRESSES: EPA has established two dockets for this action under Docket ID Numbers EPA–R03–OAR–2013–0211 for the 2008 ozone docket and EPA–R03–OAR–2013–0510 for the 2010 NO_2 docket. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, (215) 814–5787, or by email at *schmitt.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 21, 2014, EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. 79 FR 29142. In the NPR, EPA proposed approval of the infrastructure elements of section 110(a)(2)(C), (D)(i)(II), and (J) of the CAA as they relate to Virginia's PSD program for the 2008 ozone and 2010 NO_2 NAAQS. The formal SIP revisions were submitted by Virginia on July 23, 2012 and May 30, 2013 for the 2008 ozone and the 2010 NO_2 NAAQS, respectively.

The July 23, 2012 and May 30, 2013 Virginia infrastructure SIP submissions indicated that the approved Virginia SIP (plus measures submitted but not yet fully approved by EPA for the SIP) addressed requirements for a PSD program as required for section 110(a)(2)(C), (D)(i)(II) and (J) of the

CAA.[1] In Virginia, construction and modification of stationary sources are covered under Article 8, Permits for Major Stationary Sources and Major Modifications Locating in Prevention of Significant Deterioration Areas (9VAC5–80–1605 et seq.) which is included in the approved Virginia SIP. *See* 40 CFR 52.2420(c). Article 8 also requires that construction and modification of major stationary sources will not cause or contribute to a violation of any NAAQS (9VAC5–80–1635, Ambient Air Increments and 9VAC5–80–1645, Ambient Air Ceilings) and requires application of Best Available Control Technology (BACT) to new or modified sources (9VAC5–80–1705, Control Technology Review). On August 5, 2011, Virginia submitted a revision to its SIP which incorporated preconstruction permitting requirements for sources of fine particulate matter ($PM_{2.5}$) into Virginia's PSD program. Subsequent to Virginia's submittal, two decisions by the United States Court of Appeals for the DC Circuit addressed the Federal $PM_{2.5}$ program and impacted EPA's ability to fully approve the PSD SIP revisions submitted by Virginia.[2] Virginia consequently submitted additional revisions to its PSD program addressing preconstruction permitting requirements for sources of $PM_{2.5}$. On February 25, 2014, EPA fully approved these revisions to Virginia's PSD program. 79 FR 10377. With these revisions fully approved, Virginia's SIP-approved PSD program now contains all of the emission limitations, control measures, and other program elements required by the CAA and 40 CFR 51.166 for all required pollutants, including $PM_{2.5}$. *Id.* (also approving Virginia's infrastructure SIP submittals for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS, the 2006 $PM_{2.5}$ NAAQS, and the 2008 lead NAAQS for PSD requirements in section 110(a)(2) of the CAA).

Section 110(a)(2)(C) of the CAA requires each state's SIP to ''include a program to provide for . . . regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to ensure that national ambient air quality standards are achieved, including a permit program as required in . . . this subchapter.'' Similarly, section 110(a)(2)(J) requires that for each NAAQS the state's SIP must ''meet the applicable requirements of . . . part C of this subchapter (relating to prevention of significant deterioration of air quality and visibility protection).'' Section 110(a)(2)(D)(i)(II) of the CAA requires each state's SIP to include provisions which will prevent emissions from within the state interfering with the measures required by another state for implementing PSD. As discussed in EPA's May 21, 2014 NPR, when reviewing infrastructure SIP submittals, EPA focuses on the structural PSD program requirements contained in part C as well as EPA's PSD regulations. These structural requirements call for the PSD program to address all NSR pollutants, including greenhouse gases (GHGs).

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group* v. *Environmental Protection Agency,* 134 S.Ct. 2427. The Supreme Court said that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of BACT. In order to act consistently with its understanding of the Court's decision pending further judicial action to effectuate the decision, EPA is not continuing to apply EPA regulations that would require that SIPs include permitting requirements that the Supreme Court found impermissible. Specifically, EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (*e.g.* 40 CFR 51.166(b)(48)(v)). EPA anticipates a need to revise federal PSD rules in light of the Supreme Court opinion. In addition, EPA anticipates that many states will revise their existing SIP-approved PSD programs in light of the Supreme Court's decision. The timing and content of subsequent EPA actions with respect to EPA regulations and state PSD program approvals are expected to be informed by additional legal process before the United States District Court for the District of Columbia Circuit. At this juncture, EPA is not expecting states to have revised their PSD programs for purposes of infrastructure SIP submissions and is only evaluating such submissions to assure that the state's program correctly addresses GHGs consistent with the Supreme Court's decision.

As discussed in the May 21, 2014 NPR and herein, EPA finds Virginia's approved SIP meets the statutory obligations relating to a PSD permit program required by section 110(a)(2)(C), (D)(i)(II), and (J) of the CAA for the 2008 ozone and 2010 NO_2 NAAQS. *See* 79 FR 10377 (providing full approval to Virginia's PSD program as addressing requirements in the CAA and in 40 CFR 51.166). The detailed rationale for EPA's action is explained in the NPR and will not be restated here. With respect to GHGs, EPA has determined that Virginia's SIP is currently sufficient to satisfy section 110(a)(2)(C), (D)(i)(II), and (J) of the CAA for the 2008 ozone and 2010 NO_2 NAAQS because the PSD permitting program previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT. Although Virginia's approved PSD permitting program may currently contain provisions that are no longer necessary in light of the Supreme Court decision, this does not render the infrastructure SIP submission inadequate to satisfy section 110(a)(2)(C), (D)(i)(II), and (J). As previously mentioned, the Virginia SIP currently contains the necessary PSD requirements and the application of those requirements is not impeded by the presence of other previously approved provisions regarding the permitting of sources of GHGs that, in light of the Supreme Court decision, EPA does not consider necessary at this time. Accordingly, the Supreme Court decision does not affect EPA's proposed approval of Virginia's infrastructure SIP as it relates to section 110(a)(2)(C), (D)(i)(II), and (J).

II. Summary of SIP Revision

On July 2, 2013, EPA proposed approval of the 2008 ozone submittal for

[1] Virginia's July 23, 2012 infrastructure SIP submission for the 2008 ozone NAAQS cited to Virginia's existing approved PSD program to address section 110(a)(2) requirements for PSD. However, the May 30, 2013 infrastructure SIP submission for the 2010 NO_2 NAAQS cited to Virginia's existing approved PSD program plus additional regulatory provisions submitted to EPA but not yet fully approved into the SIP to address section 110(a)(2) requirements for PSD.

[2] *See Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013) (remanding EPA's rules implementing the 1997 $PM_{2.5}$ NAAQS, including the 2008 rule, ''Implementation of New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)''), and *Sierra Club* v. *EPA,* 705 F.3d 458 (D.C. Cir. 2013) (vacating and remanding provisions at 40 CFR 51.166(i)(5), (k)(2) and 52.21(i)(5), (k)(2) relating to $PM_{2.5}$ significant impact levels and significant monitoring concentrations for PSD).

the following infrastructure elements: Section 110(a)(2)(A), (B), (C) (for enforcement and regulation of minor sources and minor modifications), (D)(i)(II) (for visibility protection), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J) (relating to consultation, public notification, and visibility protection requirements), (K), (L), and (M). 78 FR 39651. Subsequently, EPA published a Final Rulemaking Notice (FRN) on March 27, 2014, which approved the Virginia 2008 ozone submittal for those specific elements. 79 FR 17043.

On August 5, 2013, EPA proposed approval of the 2010 NO_2 submittal for the following infrastructure elements: Section 110(a)(2)(A), (B), (C) (for enforcement and regulation of minor sources and minor modifications), (D)(i)(II) (for visibility protection), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J) (relating to consultation, public notification, and visibility protection requirements), (K), (L), and (M). 78 FR 47264. Subsequently, on March 18, 2014, EPA published a FRN which approved the Virginia 2010 NO_2 submittal for those specific elements. 79 FR 15012.

In both EPA's March 27, 2014 and March 18, 2014 FRNs, EPA indicated that it was taking separate action on certain infrastructure elements from Virginia's infrastructure SIP submittals as they related to PSD and section 128 of the CAA. This final rulemaking action approves the infrastructure elements of section 110(a)(2)(C), (D)(i)(II), and (J) of the CAA as they relate to Virginia's PSD program for the 2008 ozone and 2010 NO_2 NAAQS. EPA will take later separate action on section 110(a)(2)(E)(ii) of the CAA as it relates to section 128 for the 2008 ozone and 2010 NO_2 NAAQS.

III. Public Comments

EPA received two comments on the May 21, 2014 NPR proposing approval of Virginia's July 23, 2012 and May 30, 2013 SIP submissions addressing the PSD infrastructure elements for the 2008 ozone and 2010 NO_2 NAAQS. A full set of the comments is provided in the docket for this final rulemaking action. A summary of each comment and the EPA's response is provided in this section.

Comment: One commenter stated, ''[t]hese regulations will destroy the cheap coal energy for our population'' and requested a new President to reverse EPA's climate change policies. The commenter also suggested EPA should ''go through Congress,'' presumably on climate change issues.

EPA Response: EPA thanks the commenter for the concerns expressed. However, the comments are not germane to the present rulemaking. This rulemaking action approves Virginia's infrastructure SIP submittals for the 2008 ozone and 2010 NO_2 NAAQS as fully addressing the PSD program requirements in section 110(a)(2)(C), (D)(i)(II), and (J) of the CAA for the 2008 ozone and 2010 NO_2 NAAQS. While Virginia's SIP-approved PSD program includes greenhouse gases as a regulated pollutant, EPA is not approving those provisions in this rulemaking action. The commenter's concerns regarding coal energy and EPA's actions on climate change issues are irrelevant to this rulemaking action, and therefore no further response is required.

Comment: Another commenter remarked on Virginia's environmental assessment (audit) ''privilege'' discussed in Section III of EPA's May 21, 2014 NPR under ''General Information Pertaining to SIP Submittals from the Commonwealth of Virginia,'' which is also included in Section IV of this rulemaking action. The commenter stated he wrote ''to support the docket as written'' and stated there needs to be a sufficient level of disclosure of emissions in environmental law to ensure emission limits are met. The commenter also stated that the Commonwealth of Virginia's laws seem to meet this standard, and therefore the commenter supported ''their proposal.''

EPA Response: In this rulemaking action, EPA is approving Virginia's infrastructure SIP submissions as meeting PSD requirements in section 110(a)(2)(C), (D)(i)(II) and (J) of the CAA for the 2008 ozone and 2010 NO_2 NAAQS. EPA is not approving any Virginia privilege or immunity law into the Virginia SIP nor taking any rulemaking action on any such Virginia provisions. As discussed in the NPR and in Section V of this rulemaking action, Virginia's law regarding an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity provides a privilege that protects from disclosure documents and information that are the product of a voluntary environmental assessment. As discussed in the NPR and in Section IV of this rulemaking action, the Virginia Attorney General's January 12, 1998 opinion stated that Virginia's audit privilege law is inapplicable to enforcement of any Federally authorized program, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.'' EPA has determined that Virginia's privilege and immunity statutory provision will not preclude the Commonwealth from enforcing its PSD program consistent with the Federal requirements, and EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and has no impact on Federal enforcement authorities. However, in this rulemaking action, EPA is not approving any of Virginia's privilege and immunity statutory provisions into the Virginia SIP, and our discussion merely provides EPA's long-held interpretation of Virginia's statutory privilege provision as not impacting enforcement of the CAA or interfering with Federally required programs such as a PSD permits program. While the commenter is mistaken regarding the substance of our rulemaking action here, the commenter did not disagree with EPA. Thus, EPA thanks the commenter for his input. As the comment is not related to this rulemaking action which approves Virginia's SIP submissions as meeting PSD requirements of section 110(a)(2) of the CAA for the 2008 ozone and 2010 NO_2 NAAQS, no further response is required.

IV. Final Action

EPA is approving the formal SIP revisions submitted by Virginia on July 23, 2012 for the 2008 ozone NAAQS and May 30, 2013 for the 2010 NO_2 NAAQS as they meet the infrastructure requirements relating to a PSD permit program pursuant to section 110(a)(2)(C), (D)(i)(II), and (J) of the CAA.

V. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure

documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its PSD program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

VI. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 1, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, approving Virginia's July 23, 2012 SIP submission for the 2008 ozone NAAQS and May 30, 2013 SIP submission for the 2010 NO_2 NAAQS as meeting the PSD elements in section 110(a)(2) of the CAA, 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 9, 2014.

William C. Early,

Acting Regional Administrator, Region III.

Therefore, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart VV—Virginia

■ 2. In § 52.2420:

■ a. In the table in paragraph (e), revise the entry for ''Section 110(a)(2) Infrastructure Requirements for the 2010 Nitrogen Dioxide NAAQS.''

■ b. In the table in paragraph (e), revise the entry for ''Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS.''

The revisions read as follows:

§ 52.2420 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Section 110(a)(2) Infrastructure Requirements for the 2010 Nitrogen Dioxide NAAQS.	Statewide	5/30/13	3/18/14, 79 FR 15012	This action addresses the following CAA elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M) with the exception of PSD elements.
			9/30/14 [Insert **Federal Register** citation].	This action addresses the following CAA elements, or portions thereof: 110(a)(2)(C), (D)(i)(II), and (J) with respect to the PSD elements.
Section 110(a)(2) Infrastructure Requirements for the 2008 Ozone NAAQS.	Statewide	7/23/12	3/27/14, 79 FR 17043	This action addresses the following CAA elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M) with the exception of PSD elements.
			9/30/14 [Insert **Federal Register** citation].	This action addresses the following CAA elements, or portions thereof: 110(a)(2)(C), (D)(i)(II), and (J) with respect to the PSD elements.
*	*	*	*	*

[FR Doc. 2014–23106 Filed 9–29–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–TRI–2012–0110; FRL–9915–59–OEI]

RIN 2025–AA34

Addition of Nonylphenol Category; Community Right-To-Know Toxic Chemical Release Reporting

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is adding a nonylphenol category to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 and section 6607 of the Pollution Prevention Act (PPA) of 1990. EPA is adding this chemical category to the EPCRA section 313 list pursuant to its authority to add chemicals and chemical categories because EPA has determined that this category meets the EPCRA section 313(d)(2)(C) toxicity criterion.

DATES: This final rule is effective on September 30, 2014, and shall apply for the reporting year beginning January 1, 2015 (reports due July 1, 2016).

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–TRI–2012–0110. 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 OEI Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility 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 OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Environmental Analysis Division, Office of Information Analysis and Access (2842T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–0743; fax number: 202–566–0677; email: *bushman.daniel@epa.gov,* for specific information on this notice. For general information on EPCRA section 313, contact the Emergency Planning and Community Right-to-Know Hotline, toll free at (800) 424–9346 (select menu option 3) or (703) 412–9810 in Virginia and Alaska or toll free, TDD (800) 553–7672, *http://www.epa.gov/superfund/contacts/infocenter/.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this notice apply to me?

You may be potentially affected by this action if you manufacture, process, or otherwise use nonylphenol. Potentially affected categories and entities may include, but are not limited to:

Category	Examples of potentially affected entities
Industry	Facilities included in the following NAICS manufacturing codes (corresponding to SIC codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 211112*, 212324*, 212325*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*, 511191, 511199, 512220, 512230*, 519130*, 541712*, or 811490*. *Exceptions and/or limitations exist for these NAICS codes. Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 212111, 212112, 212113 (correspond to SIC 12, Coal Mining (except 1241)); or 212221, 212222, 212231, 212234, 212299 (correspond to SIC 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221119, 221121, 221122, 221330 (Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (corresponds to SIC 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC 5171, Petroleum Bulk Terminals and Plants); or 562112 (Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC 7389, Business Services, NEC)); or 562211, 562212, 562213, 562219, 562920 (Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 et seq.) (corresponds to SIC 4953, Refuse Systems).
Federal Government	Federal facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Some of the entities listed in the table have exemptions and/or limitations regarding coverage, and other types of entities not listed in the table could also be affected. To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372 subpart B of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Introduction

A. What is the statutory authority for this final rule?

This rule is issued under EPCRA section 313(d) and section 328, 42 U.S.C. 11023 *et seq.*. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986.

B. What is the background for this action?

Section 313 of EPCRA, 42 U.S.C. 11023, requires certain facilities that manufacture, process, or otherwise use listed toxic chemicals in amounts above reporting threshold levels to report their environmental releases and other waste management quantities of such chemicals annually. These facilities must also report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the PPA, 42 U.S.C. 13106. Congress established an initial list of toxic chemicals that comprised more than 300 chemicals and 20 chemical categories.

EPCRA section 313(d) authorizes EPA to add or delete chemicals from the list and sets criteria for these actions. EPCRA section 313(d)(2) states that EPA may add a chemical to the list if any of the listing criteria in Section 313(d)(2) are met. Therefore, to add a chemical, EPA must demonstrate that at least one criterion is met, but need not determine whether any other criterion is met. Conversely, to remove a chemical from the list, EPCRA section 313(d)(3) dictates that EPA must demonstrate that none of the listing criteria in Section 313(d)(2)(A)–(C) are met. The EPCRA section 313(d)(2)(A)–(C) criteria are:

- The chemical is known to cause or can reasonably be anticipated to cause significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases.
- The chemical is known to cause or can reasonably be anticipated to cause in humans:
  - ○ cancer or teratogenic effects, or
  - ○ serious or irreversible—
    - ▪ reproductive dysfunctions,
    - ▪ neurological disorders,
    - ▪ heritable genetic mutations, or
    - ▪ other chronic health effects.
- The chemical is known to cause or can be reasonably anticipated to cause, because of:
  - ○ its toxicity,
  - ○ its toxicity and persistence in the environment, or
  - ○ its toxicity and tendency to bioaccumulate in the environment, a significant adverse effect on the environment of sufficient seriousness, in the judgment of the Administrator, to warrant reporting under this section.

EPA often refers to the section 313(d)(2)(A) criterion as the ''acute human health effects criterion;'' the section 313(d)(2)(B) criterion as the ''chronic human health effects criterion;'' and the section 313(d)(2)(C) criterion as the ''environmental effects criterion.''

EPA published in the **Federal Register** of November 30, 1994 (59 FR 61432), a statement clarifying its interpretation of the section 313(d)(2) and (d)(3) criteria for modifying the section 313 list of toxic chemicals.

III. Summary of Proposed Rule

A. What chemical did EPA propose to add to the EPCRA section 313 list of toxic chemicals?

EPA proposed to add a nonylphenol category to the EPCRA section 313 list of toxic chemicals. As discussed in the proposed rule (78 FR 37176, June 20, 2013) because there is no one Chemical Abstract Service Registry Number (CASRN) that adequately captures what is referred to as nonylphenol and because of the apparent confusion that has resulted from the use of multiple CASRNs, EPA proposed to add nonylphenol as a category defined by a structure. EPA proposed to define the

nonylphenol category using the structure and text presented below.

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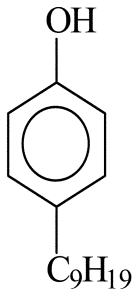

Where C_9H_{19} = Branched or linear alkyl chain

BILLING CODE 6560–50–C

B. What was EPA's rationale for proposing to list nonylphenol?

As EPA stated in the proposed rule (78 FR 37176, June 20, 2013), nonylphenol is highly toxic to numerous species of aquatic organisms. EPA's technical evaluation of nonylphenol showed that it can reasonably be anticipated to cause, because of its toxicity, significant adverse effects in aquatic organisms. The observed effects from nonylphenol exposure occur at very low concentrations demonstrating that nonylphenol is highly toxic to aquatic organisms. Data summarized in the proposed rule included acute toxicity values for freshwater organisms ranging from 21 micrograms per liter (µg/L) for a detritivorous amphipod to 774 µg/L for an algal grazing snail. Acute toxicity values for freshwater fish ranged from 110 µg/L for the fountain darter to 128 to 360 µg/L for the fathead minnow. Acute toxicity values for saltwater organisms ranged from 17 µg/L for the winter flounder to 310 µg/L for the sheepshead minnow. The proposed rule also cited chronic toxicity values for several aquatic species ranging from 5 µg/L for growth effects in mysid shrimp to 377 µg/L for survival effects in water fleas. Chronic toxicity values for rainbow trout ranged from 8 µg/L for effects on growth to 53 µg/L for abnormal development. Reproductive, developmental, and estrogenic effects on aquatic organisms have also been reported for nonylphenol with some effects observed at concentrations of 4 µg/L or less. In the proposed rule EPA stated it believes that the evidence is sufficient for listing the nonylphenol category on the EPCRA section 313 toxic chemical list pursuant to EPCRA section 313(d)(2)(C) based on the available ecological toxicity data.

IV. What comments did EPA receive on the proposed rule and what are EPA's responses to those comments?

EPA received three comments on the proposed rule to add a nonylphenol category to the EPCRA section 313 list of toxic chemicals. The comments received were from the following groups, the Alkylphenols & Ethoxylates Research Council (APERC) (Reference (Ref.) 1), Intel Corporation (Ref. 2), and the National Council for Air and Stream Improvement (NCASI) (Ref. 3). Summaries of the most significant comments and EPA's response are discussed below. The complete set of comments and EPA's detailed responses can be found in the response to comments document in the docket for this rulemaking (Ref. 4).

All three commenters requested that EPA define the nonylphenol category by chemical name and CASRN rather than by a chemical structure. The commenters were concerned that reporting by chemical structure would be difficult for some reporters who lacked detailed knowledge of the chemicals they use. The commenters felt that using chemical names and CASRNs would simplify reporting and be less burdensome.

There are several TRI chemical categories listed based on chemical structures or chemical formulas and reporting has not been a significant issue for those listings. EPA continues to believe that listing nonylphenol as a category defined by structure would be an appropriate way to list the category. However, since there are a limited number of CASRNs used to identify nonylphenol mixtures, EPA has decided to modify the category listing to address the commenter's concerns. EPA is listing nonylphenol as a delimited category defined by the existing names and CASRNs. The nonylphenol category will be listed as:

NONYLPHENOL

[This category includes only those chemicals listed below]

CAS No.	Chemical name
104–40–5	4-Nonylphenol.
11066–49–2 ...	Isononylphenol.
25154–52–3 ...	Nonylphenol.
26543–97–5 ...	4-Isononylphenol.
84852–15–3 ...	4-Nonylphenol, branched.
90481–04–2 ...	Nonylphenol, branched.

The category includes all of the CASRNs and chemical names that the commenters cited as having been used to define nonylphenol. In addition, EPA has identified one additional CASRN (26543–52–3) that is covered by the category. This limited set of chemical names and CAS numbers covers all the chemicals we are aware of that would have been in the category as described by chemical structure. At this time, EPA does not expect that reports will be filed for any of the identified CASRNs other than 84852–15–3 and 25154–52–3, which were used to estimate the cost of the proposed nonylphenol category (Ref. 5). Nevertheless, the other CASRNs are included in order to cover the complete nonylphenol category that has been identified at this time. As noted by one commenter, this type of category listing is similar to the current listings for diisocyanates, dioxin and dioxin-like compounds, and polycyclic aromatic compounds. While listing nonylphenol as a chemical structure based category would be appropriate, listing the category by name and CASRN should eliminate the potential reporting issues the commenters identified with a structure based category.

APERC stated that EPA proposed to list nonylphenol based on its toxicity and tendency to bioaccumulate in the environment under EPCRA section (d)(2)(C)(iii). APERC noted that nonylphenol is not persistent or

bioaccumulative and suggested that be recognized in EPA's hazard review for determining whether nonylphenol represents a sufficiently serious hazard to warrant significant nation-wide reporting under EPCRA section 313. APERC stated that EPA should rely on definitions for ''persistence'' and ''bioaccumulative'', which are consistent with those established for EPCRA section 313 (64 FR 58666, October 29, 1999). APERC also stated that nonylphenol was mischaracterized in the proposed rule as persistent based on statements previously made in the EPA Action Plan (Ref. 6). APERC requested that EPA correct the record for the proposed rule and Action Plan to reflect that nonylphenol is not persistent or bioaccumulative.

APERC is mistaken in their understanding of the basis EPA cited to support the listing of the nonylphenol category. EPA did not propose to list the nonylphenol category under EPCRA section (d)(2)(C)(iii). While bioaccumulation data was discussed in the technical section of the proposed rule, the rationale that EPA cited for listing the nonylphenol category was:

> ''EPA's technical evaluation of nonylphenol shows that it can reasonably be anticipated to cause, because of its toxicity, significant adverse effects in aquatic organisms. Toxicity values for nonylphenol are available for numerous species of aquatic organisms. The observed effects from nonylphenol exposure occur at very low concentrations demonstrating that nonylphenol is highly toxic to aquatic organisms. Data summarized in this document include acute toxicity values for freshwater organisms ranging from 21 µg/L for a detritivorous amphipod to 774 µg/L for an algal grazing snail. Acute toxicity values for freshwater fish ranged from 110 µg/L for the fountain darter to 128 to 360 µg/L for the fathead minnow. Acute toxicity values for saltwater organisms ranged from 17 µg/L for the winter flounder to 310 µg/L for the sheepshead minnow. Chronic toxicity values are also available for several aquatic species ranging from 5 µg/L for growth effects in mysid shrimp to 377 µg/L for survival effects in water fleas. Chronic toxicity values for rainbow trout ranged from 8 µg/L for effects on growth to 53 µg/L for abnormal development. Reproductive, developmental, and estrogenic effects on aquatic organisms have also been reported for nonylphenol with some effects observed at concentrations of 4 µg/L or less. Therefore, EPA believes that the evidence is sufficient for listing the nonylphenol category on the EPCRA section 313 toxic chemical list pursuant to EPCRA section 313(d)(2)(C) based on the available ecological toxicity data.'' (78 FR 37176, June 20, 2013)

The above rationale discussed only the toxicity data for nonylphenol, not the bioaccumulation data. EPA's stated rationale for listing is based on the toxicity data for nonylphenol not a combination of toxicity and bioaccumulation. Nonylphenol is highly toxic to aquatic organisms and is sufficiently toxic as to meet the EPCRA section 313(d)(2)(C) criteria without consideration of bioaccumulation potential.

With regards to persistence and bioaccumulation, these are not properties that a chemical is required to have in order to meet the EPCRA section 313(d)(2)(C) listing criteria. As noted in Unit II, the EPCRA section 313(d)(2)(C) listing criteria is comprised of three separate parts:

- The chemical is known to cause or can be reasonably anticipated to cause, because of:
  - ○ its toxicity,
  - ○ its toxicity and persistence in the environment, or
  - ○ its toxicity and tendency to bioaccumulate in the environment, a significant adverse effect on the environment of sufficient seriousness, in the judgment of the Administrator, to warrant reporting under this section.

Under EPCRA section 313(d)(2)(C), a chemical may be added based on its toxicity, its toxicity and persistence in the environment, or its toxicity and tendency to bioaccumulate in the environment. A chemical only needs to meet one of these three criteria to be added.

Regarding the general use of the terms persistence and bioaccumulative, these terms are not absolutes. Chemicals that have persistence or bioaccumulation values below criteria established by EPA or some other organization for categorizing chemicals as Persistent, Bioaccumulative, and Toxic (PBT) chemicals does not mean that the chemicals are not persistent or bioaccumulative. For example, a chemical with a bioconcentration factor (BCF) of 500 bioaccumulates, just not to the extent that a chemical with a BCF of 1,000 does. Similarly, a chemical that persists in the environment with a half-life of 40 days is persistent just not as persistent as a chemical with a half-life of 60 days. As noted in the proposed rule, some of the nonylphenol BCF values for fish range from 203 to 344 with a BCF value of 2,168 for the blue mussel. As discussed in the Water Quality Criteria (WQC) document (Ref. 7), many studies have shown that nonylphenol is present in the environment, which indicates some level of persistence. EPA cited language from EPA's Action Plan for nonylphenol and nonylphenol ethoxylates that described nonylphenol as persistent and moderately bioaccumulative (Ref. 6). Given the available data, those characterizations were correct. EPA did not address the issue of whether the persistence and bioaccumulation data were sufficient to classify nonylphenol as a PBT chemical under EPA's established EPCRA section 313 PBT criteria since EPA was not attempting to classify nonylphenol as a PBT chemical.

APERC also stated that in the proposed rule EPA proposed listing nonylphenol based on the following reasoning:

> ''Nonylphenol is toxic to aquatic organisms and has been found in ambient waters. Because of nonylphenol's toxicity, chemical properties, and widespread use as a chemical intermediate, concerns have been raised over the potential risks to aquatic organisms from exposure to nonylphenol. All of the hazard information presented here has been adapted from EPA's 2005 Criteria document for nonylphenol, which was previously peer reviewed (Ref. 3). Water Quality'' (78 FR 37176, June 20, 2013).

APERC stated that there is no discussion of the numeric WQC developed for nonylphenol and that EPA does not consider whether concentrations in U.S. waters represent a risk based on those WQC. APERC stated that this approach provides that best method to assess whether a compound can be reasonably anticipated to cause significant adverse effects in aquatic organisms.

The text quoted by APERC is from the introduction to the unit in the proposed rule entitled ''IV. What Is EPA's evaluation of the environmental toxicity of nonylphenol?'' and is not the basis for the addition of nonylphenol. The quoted text simply states why EPA has developed concerns for potential releases of nonlyphenol. The basis for the addition of nonylphenol was discussed under ''Unit V. Rationale for Listing,'' which summarized the extensive aquatic toxicity data for nonylphenol (see previous comment response).

With regards to the use of EPA's 2005 WQC document for nonylphenol (Ref. 7), EPA relied on the hazard information contained in the WQC document and not the numeric WQC values developed for nonylphenol. The numeric WQC values are not toxicity values; they are concentrations that, if not exceeded, should not unacceptably affect aquatic organisms and their uses. For nonylphenol, the numeric WQC values are:

''**9.1. Freshwater**

The procedures described in the ''Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses'' (Stephan et al. 1985) indicate that, except possibly where a locally important species is very

sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the one-hour average concentration of nonylphenol does not exceed 28 µg/L more than once every three years on the average and if the four-day average concentration of nonylphenol does not exceed 6.6 µg/L more than once every three years on the average.

9.2. Saltwater

The procedures described in the ''Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses'' (Stephan et al. 1985) indicate that, except possibly where a locally important species is very sensitive, [saltwater] aquatic organisms and their uses should not be affected unacceptably if the one-hour average concentration of nonylphenol does not exceed 7.0 µg/L more than once every three years on the average and if the four-day average concentration of nonylphenol does not exceed 1.7 µg/L more than once every three years on the average.'' (Page 34, Ref. 7)

Since, as discussed in other responses, EPA is not required to consider exposure or risk in the listing of chemicals that are highly ecotoxic, there was no need to discuss the numeric WQC values in the proposed rule. However, EPA notes that the numeric WQC values are very low for nonylphenol, ranging from just 1.7 to 28 µg/L, which indicates a very high level of concern for this chemical.

With regards to the criteria language ''a significant adverse effect on the environment of sufficient seriousness, in the judgment of the Administrator, to warrant reporting under this section'' chemicals that are highly ecotoxic meet this determination. Chemicals that are highly ecotoxic are considered to meet all the listing requirements of EPCRA section 313(d)(2)(C) since they can cause significant adverse effects at very low concentrations.

APERC contends that a probabilistic risk assessment of the extensive monitoring of nonylphenol in U.S. waters indicates a low likelihood that this compound will exceed EPA's WQC. APERC stated that there are extensive monitoring data on the occurrence and concentrations of nonylphenol in U.S. surface water, much of it conducted by EPA and the United States Geological Survey. APERC contends that based on available data the likelihood that concentrations of nonylphenol and other metabolites of nonylphenol ethoxylates in United States surface waters will exceed EPA's chronic WQC (6.6 µg/L) for nonylphenol is low.

EPA does not consider potential exposures or risks under the EPCRA section 313(d)(2)(C) criteria when adding a chemical that is highly toxic to aquatic organisms. With regard to the use of exposure or risk assessments in the listing of chemicals under the EPCRA section 313(d)(2) criteria, EPA has stated its policy:

''The Agency believes that exposure considerations are not appropriate in making determinations (1) under section 313(d)(2)(B) for chemicals that exhibit moderately high to high human toxicity (These terms, which do not directly correlate to the numerical screening values reflected in the Draft Hazard Assessment Guidelines, are defined in unit II.) based on a hazard assessment, and (2) under section 313(d)(2)(C) for chemicals that are highly ecotoxic or induce well-established adverse environmental effects. For chemicals which induce well-established serious adverse effects, e.g., chlorofluorocarbons, which cause stratospheric ozone depletion, EPA believes that an exposure assessment is unnecessary. EPA believes that these chemicals typically do not affect solely one or two species but rather cause changes across a whole ecosystem. EPA believes that these effects are sufficiently serious because of the scope of their impact and the well documented evidence supporting the adverse effects. EPA, however, disagrees with those commenters who suggest that EPA must include a risk assessment component to EPCRA section 313 determinations. Specifically, EPA does not agree with the commenters about the extent to which exposure must be considered in making determinations under sections 313(d)(2)(B) and (C). This is primarily because EPA does not agree with the commenters' understanding of EPCRA section 313. Risk assessment may be pertinent and appropriate for use under statutes that control the manufacture, use, and/or disposal of a chemical, such as the Clean Air Act or the Toxic Substances Control Act. However, EPCRA section 313 is an information collection provision that is fundamentally different from other environmental statutes that control or restrict chemical activities. EPCRA section 313 charges EPA with collecting and disseminating information on releases, among other waste management data, so that communities can estimate local exposure and local risks; risks which can be significantly different than those which would be assessed using generic exposure considerations. The intent of EPCRA section 313 is to move the determination of what risks are acceptable from EPA to the communities in which the releases occur. This basic local empowerment is a cornerstone of the right-to-know program.'' (59 FR 61432, November 30, 1994)

EPA went on to state that:

''Therefore, to meet its obligation under section 313(d)(2)(C), in cases where a chemical is low or moderately ecotoxic, EPA may look at certain exposure factors (including pollution controls, the volume and pattern of production, use, and release, environmental fate, as well as other chemical specific factors, and the use of estimated releases and modeling techniques) to determine if listing is reasonable, i.e., could the chemical ever be present at high enough concentrations to cause a significant adverse effect upon the environment to warrant listing under section 313(d)(2)(C). Of the chemicals being added in today's action pursuant to section 313(d)(2)(C), all but one are highly ecotoxic. These highly ecotoxic chemicals are being added to the EPCRA section 313 list pursuant to section 313(d)(2)(C) based on their hazard. The other chemical, which is moderately ecotoxic, is being added to the EPCRA section 313 list pursuant to section 313(d)(2)(C) based on both its hazard and an exposure assessment for this chemical.'' (59 FR 61432, November 30, 1994)

EPA also noted that its established exposure policy is consistent with the legislative history of ECRCA section 313:

''EPA believes that its position regarding the use of hazard; exposure, and risk in listing decisions is consistent with the purpose and legislative history of EPCRA section 313, as illustrated in the following passage from the Conference report:

The Administrator, in determining to list a chemical under any of the above criteria, may, but is not required to conduct new studies or risk assessments or perform site specific analyses to establish actual ambient concentrations or to document adverse effects at any particular location. (H. Rep. 99–962, 99th Cong., 2nd Sess., p. 295 (Oct. 3, 1986)).

This passage indicates Congress did not intend to require EPA to conduct new studies, such as exposure studies, or perform risk assessments, and therefore did not consider these activities to be mandatory components of all section 313 decisions. EPA believes that this statement combined with the plain language of the statutory criteria clearly indicate that Congress intended that the decision of whether and how to consider exposure under EPCRA section 313(d)(2)(B) and (C) should be left to the Agency's discretion. EPA has carefully considered when and how to use exposure to fully implement the right-to-know provisions of EPCRA. The Agency believes that in this final rule, EPA has appropriately used the discretion provided to it to assure the addition of chemicals that meet the right-to-know objectives of EPCRA section 313 while not unduly burdening the regulated community.'' (59 FR 61441, November 30, 1994)

More recently, EPA again explained its policy on the use of exposure in a **Federal Register** notice on the lifting of the reporting stay for hydrogen sulfide:

''Hydrogen sulfide has also been determined to cause ecotoxicity at relatively low concentrations, and thus is considered to have high ecotoxicity. EPA believes that chemicals that induce death or serious adverse effects in aquatic organisms at relatively low concentrations (i.e., they have high ecotoxicity) have the potential to cause significant changes in the population of fish and other aquatic organisms, and can therefore reasonably be anticipated to cause a significant adverse effect on the environment of sufficient seriousness to

warrant reporting. EPA does not believe that it is required to consider exposure for chemicals that have high ecotoxicity based on a hazard assessment when determining if a chemical can be listed for effects pursuant to EPCRA section 313(d)(2)(C) (see 59 FR 61432, 61433, 61440–61442).'' (75 FR 8889, February. 26, 2010)

Additional discussion of EPA's use of exposure in chemical listing actions can be found in the final notice that lifted the reporting stay for hydrogen sulfide (76 FR 64022, October 17, 2011). Nonylphenol is one of the most ecotoxic chemicals that EPA has proposed to add to the EPCRA section 313 chemical list. EPA did not consider exposure or risk in its assessment of nonylphenol since it is toxic to numerous aquatic organisms at very low concentrations and thus is considered to be highly toxic to aquatic organisms.

V. Summary of Final Rule

EPA is finalizing the addition of a nonylphenol category to the EPCRA section 313 list of toxic chemicals. EPA has determined that nonylphenol meets the listing criteria under EPCRA section 313(d)(2)(C) based on the available ecological toxicity data. However, based on the comments received on the propose rule, the nonylphenol category will be defined by a list of chemical names and CASRNs rather than by a chemical structure. The category definition will be:

NONYLPHENOL

[This category includes only those chemicals listed below]

104–40–5	4-Nonylphenol.
11066–49–2 ...	Isononylphenol.
25154–52–3 ...	Nonylphenol.
26543–97–5 ...	4-Isononylphenol.
84852–15–3 ...	4-Nonylphenol, branched.
90481–04–2 ...	Nonylphenol, branched.

VI. References

EPA has established an official public docket for this action under Docket ID No. EPA–HQ–TRI–2012–0110. The public docket includes information considered by EPA in developing this action, including the documents listed below, which are electronically or physically located in the docket. In addition, interested parties should consult documents that are referenced in the documents that EPA has placed in the docket, regardless of whether these referenced documents are electronically or physically located in the docket. For assistance in locating documents that are referenced in documents that EPA has placed in the docket, but that are not electronically or physically located in the docket, please consult the person listed in the above **FOR FURTHER INFORMATION CONTACT** section.

1. Alkylphenols & Ethoxylates Research Council. Comments on US EPA Proposed Rule for Addition of Nonylphenol Category To Community Right-to-Know Toxic Chemical Release Reporting under Section 313 of the Emergency Planning and Community Right-to-Know Act. Docket ID No. EPA–HQ–TRI–2012–0110. August 19, 2013.
2. Intel Corporation. Comments on the Proposed Addition of Nonylphenol Category; Community Right-to-Know Toxic Chemical Release Reporting (78 FR 37176-37186; June 20, 2013). July 9, 2013.
3. National Council for Air and Stream Improvement. RE: Docket ID No. EPA–HQ–TRI–2012–0110, Addition of Nonylphenol Category; Community Right-to-Know Toxic Chemical Release Reporting (78 **Federal Register** 37176, June 20, 2013). August 19, 2013.
4. USEPA, OEI, Response to Comments Received on the June 20, 2013 Proposed Rule (78 FR 37176): Addition of Nonylphenol Category; Community Right-to-Know Toxic Chemical Release Reporting. U.S. Environmental Protection Agency, Office of Environmental Information, Office of Information Analysis and Access. May 14, 2014.
5. USEPA, OEI. Economic Analysis of the Final Rule to add Nonylphenol to the EPCRA Section 313 List of Toxic Chemicals. May 7, 2014.
6. USEPA. 2010. Nonylphenol (NP) and Nonylphenol Ethoxylates (NPEs) Action Plan (RIN 2070–ZA09). United States Environmental Protection Agency, Washington, DC. August 18, 2010.
7. USEPA. 2005. Aquatic Life Ambient Water Quality Criteria—Nonylphenol Final. United States Environmental Protection Agency, Washington, DC. Office of Water. EPA–822–R–05–005. December 2005.

VII. What are the statutory and Executive Order reviews associated with this action?

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

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This final rule does not contain any new information collection requirements that require additional approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et. seq. Currently, the facilities subject to the reporting requirements under EPCRA 313 and PPA 6607 may use either the EPA Toxic Chemicals Release Inventory Form R (EPA Form 1B9350–1), or the EPA Toxic Chemicals Release Inventory Form A (EPA Form 1B9350–2). The Form R must be completed if a facility manufactures, processes, or otherwise uses any listed chemical above threshold quantities and meets certain other criteria. For the Form A, EPA established an alternative threshold for facilities with low annual reportable amounts of a listed toxic chemical. A facility that meets the appropriate reporting thresholds, but estimates that the total annual reportable amount of the chemical does not exceed 500 pounds per year, can take advantage of an alternative manufacture, process, or otherwise use threshold of 1 million pounds per year of the chemical, provided that certain conditions are met, and submit the Form A instead of the Form R. In addition, respondents may designate the specific chemical identity of a substance as a trade secret pursuant to EPCRA section 322 42 U.S.C. 11042: 40 CFR part 350.

OMB has approved the reporting and recordkeeping requirements related to Forms A and R, supplier notification, and petitions under OMB Control number 2025–0009 (EPA Information Collection Request (ICR) No. 1363) and those related to trade secret designations under OMB Control 2050–0078 (EPA ICR No. 1428). As provided in 5 CFR 1320.5(b) and 1320.6(a), 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 OMB control number. The OMB control numbers relevant to EPA's regulations are listed in 40 CFR part 9, 48 CFR chapter 15, and displayed on the information collection instruments (e.g., forms, instructions).

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

entity is defined as: (1) A business that is classified as a ''small business'' by the Small Business Administration 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 today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Of the 54 entities estimated to be impacted by this rule, 39 are small businesses. Of the affected small businesses, all 39 have cost-to-revenue impacts of less than 1% in both the first and subsequent years of the rulemaking. No small businesses are projected to have a cost impact in the first year of 1% or greater. Facilities eligible to use Form A (those meeting the appropriate activity threshold which have 500 pounds per year or less of reportable amounts of the chemical) will have a lower burden. No small governments or small organizations are expected to be affected by this action. Thus, this rule is not expected to have a significant adverse economic impact on a substantial number of small entities. A more detailed analysis of the impacts on small entities is located in EPA's economic analysis support document (Ref. 5).

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA's economic analysis indicates that the total cost of this rule is estimated to be $183,953 in the first year of reporting (Ref. 5). Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. Small governments are not subject to the EPCRA section 313 reporting requirements.

E. Executive Order 13132 (Federalism)

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action relates to toxic chemical reporting under EPCRA section 313, which primarily affects private sector facilities. Thus, Executive Order 13132 does not apply to this action.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action relates to toxic chemical reporting under EPCRA section 313, which primarily affects private sector facilities. Thus, Executive Order 13175 does not apply to this action.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA did not consider 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 rule adds an additional chemical to the EPCRA section 313 reporting requirements. By adding a chemical to the list of toxic chemicals subject to reporting under section 313 of EPCRA, EPA would be providing communities across the United States (including minority populations and low income populations) with access to data which they may use to seek lower exposures and consequently reductions in chemical risks for themselves and their children. This information can also be used by government agencies and others to identify potential problems, set priorities, and take appropriate steps to reduce any potential risks to human health and the environment. Therefore, the informational benefits of the rule will have a positive impact on the human health and environmental impacts of minority populations, low-income populations, and children.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective September 30, 2014.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: September 23, 2014.

Gina McCarthy,

Administrator.

Therefore, 40 CFR part 372 is amended as follows:

PART 372—TOXIC CHEMICAL RELEASE REPORTING: COMMUNITY RIGHT-TO-KNOW

■ 1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

■ 2. In § 372.65, paragraph (c) is amended by adding in the table the entry for ''Nonylphenol'' in alphabetical order to read as follows:

§ 372.65 Chemicals and chemical categories to which this part applies.

* * * * *

(c) * * *

Category name	Effective date
* * * * * * *	
Nonylphenol (This category includes only those chemicals listed below)	1/1/15
104–40–5 4-Nonylphenol.	
11066–49–2 Isononylphenol.	
25154–52–3 Nonylphenol.	
26543–97–5 4-Isononylphenol.	
84852–15–3 4-Nonylphenol, branched.	
90481–04–2 Nonylphenol, branched.	
* * * * * * *	

* * * * *

[FR Doc. 2014–23255 Filed 9–29–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 175 and 181

46 CFR Parts 160 and 169

[Docket No. USCG–2013–0263]

RIN 1625–AC02

Personal Flotation Devices Labeling and Standards

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard published a final rule in the **Federal Register** on September 22, 2014, which removes references to type codes in its regulations on the carriage and labeling of Coast Guard-approved personal flotation devices. Two extra characters were included in the phone number for the Coast Guard person to contact for more information about that rule. This document corrects that phone number.

DATES: This correction is effective September 30, 2014.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Ms. Brandi Baldwin, Lifesaving and Fire Safety Division, Coast Guard; telephone 202–372–1394, email *brandi.a.baldwin@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard published a final rule in the **Federal Register** on September 22, 2014 (79 FR 56491), which when it becomes effective on October 22, 2014, will remove references to type codes in regulations on the carriage and labeling of Coast Guard-approved personal flotation devices. In the **FOR FURTHER INFORMATION CONTACT** section of the document, two characters, ''–2'' were erroneously inserted between the area code and last seven digits of the phone number. This document corrects the phone number to read ''202–372–1394.''

Correction

In rule FR Doc. 2014–22373, published on September 22, 2014, (79 FR 56491), make the following correction:

On page 56491, in the second column, fourth line from the bottom, remove ''–2''.

Dated: September 24, 2014.

Katia Cervoni,

Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.

[FR Doc. 2014–23187 Filed 9–29–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 202, 207, 209, 216, and 234

RIN 0750–AI16

Defense Federal Acquisition Regulation Supplement: Limitation on Use of Cost-Reimbursement Line Items (DFARS Case 2013–D016)

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

ACTION: Final rule.

SUMMARY: DoD has adopted as final, with changes, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 811 of the National Defense Authorization Act for Fiscal Year 2013, which prohibits DoD from entering into cost-type contracts for production of major defense acquisition programs (MDAPs). In implementing section 811 of the NDAA for FY 2013, DoD further defined the prohibition on entering into cost-type contracts to explicitly state the prohibition also applies to entering into cost-reimbursement line items for the production of MDAPs.

DATES: Effective September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Janetta Brewer, telephone 571–372–6104.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published an interim rule at 79 FR 4631 on January 29, 2014, to implement section 811 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239), which was enacted January 2, 2013. Two comments were submitted on the interim rule.

Section 811(a) instructs DoD to modify the acquisition regulations to prohibit DoD from entering into cost-type contracts for the production of major defense acquisition programs (MDAPs) for contracts entered into on or after October 1, 2014, with one exception in section 811(b). Under section 811(b), the Under Secretary of Defense for Acquisition, Technology, and Logistics may submit to the congressional defense committees: (1) A written certification that the particular cost-type contract is needed to provide a required capability in a timely, cost-effective manner; and (2) An explanation of the steps taken to ensure that the use of cost-type pricing is limited to only those line items or portions of the contract where such pricing is needed to achieve the purpose of the exception. In implementing section 811 of the NDAA for FY 2013, DoD further defined the prohibition on entering into cost-type contracts to explicitly state the prohibition also applies to entering into cost-reimbursement line items for the production of MDAPs.

II. Discussion and Analysis

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

Comment: The respondent stated that the term ''cost-type reimbursement contract'' at DFARS 234.004(2)(i)(C) was ambiguous and recommended that the term ''cost-reimbursement contract'' be used instead to maintain consistency with other references within the acquisition regulations.

Response: The text at DFARS 234.004(2)(i)(C) has been revised to replace the term ''cost-type reimbursement contract'' with ''cost-reimbursement type contract.''

Comment: The respondent stated that the reference to DFARS 201.101 within Section II, Discussion and Analysis, of the **Federal Register** Notice published for the proposed rule should be DFARS 202.101.

Response: The respondent is correct. However, the comment did not necessitate changes to the interim rule as the rule itself cited DFARS 202.101 accurately.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD has prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule amends the DFARS to implement section 811 of the NDAA for FY 2013, which prohibits the DoD from entering into cost-type contracts for the production of major defense acquisition programs (MDAPs) unless the Under Secretary of Defense for Acquisition, Technology, and Logistics submits an exception to the congressional defense committees. In implementing section 811 of the NDAA for FY 2013, DoD further defined the prohibition on entering into cost-type contracts to explicitly state the prohibition also applies to entering into cost-reimbursement line items for the production of MDAPs.

Small entities do not have or are exempt from having the complex, expensive business and management systems required to manage the complex, higher risk, and expensive major defense acquisition programs (MDAPs). Small entities do play a significant role in performing as subcontractors and component manufacturers for MDAPs, but this rule does not apply to subcontractors and component manufacturers.

No comments were received from the public in response to the initial regulatory flexibility analysis.

This rule does not impose new recordkeeping or reporting requirements and does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternative approaches to the rule that would meet the requirements of the statute.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 202, 207, 209, 216, and 234

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, DoD adopts as final the interim rule published at 79 FR 4631 on January 29, 2014, with the following changes:

PART 234—MAJOR SYSTEM ACQUISITION

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

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

234.004 [Amended]

■ 2. Section 234.004(2)(i)(C) introductory text is amended by removing ''cost-type reimbursement contact'' and adding ''cost-reimbursement type contract'' in its place.

[FR Doc. 2014–22858 Filed 9–29–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 225, 232, and 252

RIN 0750–AI14

Defense Federal Acquisition Regulation Supplement; Payment in Local Currency (Afghanistan) (DFARS Case 2013–D029)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to incorporate into the DFARS policies and procedures concerning payment for contracts for performance in Afghanistan.

DATES: Effective September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Hawes, telephone 571–372–6115.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 4647 on January 29, 2014, to amend the DFARS to provide policy and procedures at DFARS 212.301 and 232.72 on the use of a new solicitation provision at 252.232–7014, Notification of Payment in Local Currency (Afghanistan). This provision provides notification that the payment currency to be used for contracts for performance in Afghanistan shall be dependent on the nationality of the vendor. Two respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in development of the final rule. One minor change is made to the final rule as a result of one of the comments. A discussion of the comments is provided below.

Comment: The respondent stated that if the U.S. Government solicited the use of security forces in Afghanistan, any resulting contract would be required to be awarded to the Afghan Public Protection Force (APPF) and use APPF procurement terms.

Response: This comment is outside the scope of this final rule. The rule only addresses contracts awarded to vendors and not state-owned Afghani governmental entities for the provision of security services.

Comment: The respondent noted that section 212.301(f)(lii) referred to 252.232–70XX as a clause rather than a provision.

Response: The final rule correctly refers to 252.232–7014 as a provision.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

This final rule amends the DFARS by incorporating policies and procedures at DFARS 212.301 and 232.72 on the use of a new DFARS solicitation provision 252.232–7014, Notification of Payment in Local Currency (Afghanistan). This rule implements the payment currency procedures contained in the U.S. Central Command's Fragmentary Orders 09–1567 and 10–143. The provision provides notification that the payment currency to be used for contracts for performance in Afghanistan shall be dependent on the nationality of the vendor. Additionally, DFARS 225.7703–1 provides direction to contracting officers to follow the procedures at DFARS Procedures, Guidance, and Information 225.7703–1(c) when issuing solicitations and contracts for performance in Afghanistan.

No comments were received from the public in response to the initial regulatory flexibility analysis. DoD does not expect this rule to have an economic impact on a substantial number of small entities because this rule merely provides requirements for payments to host nation vendors for performance in Afghanistan.

This rule does not add any new information collection, reporting, or recordkeeping requirements. No alternatives were identified that will accomplish the objectives of the rule.

V. Paperwork Reduction Act

The rule does not contain information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 212, 225, 232, and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 212, 225, 232, and 252 are amended as follows:

■ 1. The authority citation for parts 212, 225, 232, and 252 continues to read as follows:

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

PART 212—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Amend section 212.301 by redesignating paragraphs (f)(lviii) through (lxxiii) as (f)(lix) through (lxxiv) and adding a new paragraph (f)(lviii) to read as follows:

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(f) * * *

(lviii) Use the provision at 252.232–7014, Notification of Payment in Local Currency (Afghanistan), as prescribed in 232.7202.

* * * * *

PART 225—FOREIGN ACQUISITIONS

■ 3. Amend section 225.7703–1 by adding paragraph (c) to read as follows:

225.7703–1 Acquisition procedures.

* * * * *

(c) When issuing solicitations and contracts for performance in Afghanistan, follow the procedures at PGI 225.7703–1(c).

PART 232—CONTRACT FINANCING

■ 4. Add subpart 232.72 to read as follows:

Subpart 232.72—Payment in Local Currency (Afghanistan)

Sec.
232.7200 Scope of subpart.
232.7201 Policy and procedures.
232.7202 Solicitation provision.

SUBPART 232.72—PAYMENT IN LOCAL CURRENCY (AFGHANISTAN)

232.7200 Scope of subpart.

This subpart prescribes policies and procedures concerning the payment of contracts for performance in Afghanistan.

232.7201 Policy and procedures.

Payment currency used for contracts performed in Afghanistan shall be dependent on the nationality of the vendor pursuant to the authority of USCENTCOM Fragmentary Orders (FRAGOs) 09–1567 and 10–143. If the contract is awarded to a host nation vendor (Afghan), the contractor will be paid in Afghani (local currency) via electronic funds transfer to a local (Afghan) banking institution. Contracts shall not be awarded to host nation vendors who do not bank locally. If awarded to other than a host nation vendor, the contract will be awarded in U.S. dollars.

232.7202 Solicitation provision.

Use the provision at 252.232–7014, Notification of Payment in Local Currency (Afghanistan), in all solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, for performance in Afghanistan.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Add section 252.232–7014 to read as follows:

252.232–7014 Notification of Payment in Local Currency (Afghanistan).

As prescribed in 232.7202, use the following provision:

NOTIFICATION OF PAYMENT IN LOCAL CURRENCY (AFGHANISTAN) (SEP 2014)

(a) The contract resulting from this solicitation will be paid in Afghani (local currency) if the contract is awarded to a host nation vendor (Afghan), pursuant to the authority of USCENTCOM Fragmentary Order (FRAGO) 09–1567 and FRAGO 10–143. Contract payment will be made in Afghani (local currency) via electronic funds transfer (EFT) to a local (Afghan) banking institution, unless an exception in paragraph (c) applies. Contracts shall not be awarded to host nation vendors who do not bank locally. If award is made to other than a host nation vendor, the contract will be awarded in U.S. dollars.

(b) Vendors shall submit quotations and offers in U.S. dollars. If the contract is awarded to an Afghan vendor, the quotation or offer will be converted to Afghani using a Government budget rate of *[Insert current budget rate here.]* Afghani per U.S. dollar.

(c) By exception, the following forms of payment are acceptable, in the following order of priority, when the local finance office determines that EFT using ITS.gov is not available:

(1) EFT using Limited Depository Account (LDA).

(2) Check from the local finance office LDA.

(3) Local currency cash payments in Afghani (must be approved in writing by the local finance office and contracting office prior to contract award). Payments in cash are restricted to contracts when—

(i) The vendor provides proof via a letter from the host nation banking institution that it is not EFT capable; and

(ii) The local finance office validates that the vendor's banking institution is not EFT capable. Cash payments will be made in Afghani.

(End of provision)

[FR Doc. 2014–22861 Filed 9–29–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 217

RIN 0750–AI35

Defense Federal Acquisition Regulation Supplement: Contract Period for Task and Delivery Order Contracts—Deletion of Congressional Reporting Requirement (DFARS Case 2014–D018)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delete an obsolete congressional reporting requirement.

DATES: Effective September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Janetta Brewer, telephone 571–372–6104.

SUPPLEMENTARY INFORMATION:

I. Background

On December 9, 2005, the DFARS was amended to implement section 813 of the National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108–375), which required the Secretary of Defense to submit to Congress a report setting forth when an ordering period of a task or delivery order contract awarded pursuant to section 2304(a) of title 10, United States Code, was extended beyond ten years. The reporting requirement applied to fiscal years 2005 through 2009.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations'', 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it deletes an obsolete congressional reporting requirement imposed on DoD. These requirements affect only the internal operating procedures of the Government.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 217

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 217 is amended as follows:

PART 217—SPECIAL CONTRACTING METHODS

■ 1. The authority citation for 48 CFR part 217 continues to read as follows:

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

217.204 [Amended]

■ 2. Amend section 217.204 by removing paragraph (e)(ii) and redesignating paragraphs (e)(iii) and (iv) as paragraphs (e)(ii) and (iii), respectively.

[FR Doc. 2014–22862 Filed 9–29–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 223 and 252

RIN 0750–AI07

Defense Federal Acquisition Regulation Supplement: Storage, Treatment, and Disposal of Toxic or Hazardous Materials—Statutory Update (DFARS Case 2013–D013)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to conform with statute, amend the clause prescriptions, and update the basic and alternate clause for the prohibition on storage, treatment, and disposal of toxic or hazardous materials.

DATES: Effective September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Lee Renna, telephone 571–372–6095.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 4648 on January 29, 2014, to amend DFARS subpart 223.71 and the associated clause 252.223–7006, Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials. No public comments were submitted in response to the proposed rule.

II. Discussion and Analysis

This final rule amends DFARS subpart 223.71 to better align the DFARS with the current provisions set forth in 10 U.S.C. 2692 concerning storage, treatment, and disposal of nondefense toxic and hazardous materials. Additionally, the contract clause at 252.223–7006 is reformatted to facilitate the use of automated contract writing systems for clauses with alternates.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

This final rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to conform the DFARS with the statute (10 U.S.C. 2692) regarding the storage, treatment, or disposal of toxic or hazardous materials not owned by DoD on DoD installations. The rule also applies the new paradigm for clauses with alternates to facilitate the use of automated contract writing systems.

No comments were received from the public in response to the initial regulatory flexibility analysis.

This rule affects contractors and subcontractors performing contracts that involve the storage, treatment, or disposal of toxic or hazardous materials not owned by DoD on a DoD installation. The Federal Procurement Data System does not provide identification of how many contractors and subcontractors (whether large or small) may be affected.

This rule does not add any new information collection, reporting, or record keeping requirements. No alternatives were identified that will accomplish the objectives of the rule.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 223 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 223 and 252 are amended as follows:

■ 1. The authority citation for parts 223 and 252 continues to read as follows:

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

PART 223—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 2. Revise subpart 223.71 to read as follows:

Subpart 223.71—Storage, Treatment, and Disposal of Toxic or Hazardous Materials

Sec.
223.7101 Definitions.
223.7102 Policy.
223.7103 Procedures.
223.7104 Exceptions.
223.7105 Reimbursement.
223.7106 Contract clause.

Subpart 223.71—Storage, Treatment, and Disposal of Toxic or Hazardous Materials

223.7101 Definitions.

As used in this subpart, the terms *storage* and *toxic or hazardous materials* are defined in the clause at 252.223–7006, Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials.

223.7102 Policy.

(a) 10 U.S.C. 2692 prohibits storage, treatment, or disposal on DoD installations of toxic or hazardous materials that are not owned either by DoD or by a member of the armed forces (or a dependent of the member) assigned to or provided military housing on the installation, unless an exception in 223.7104 applies.

(b) When storage of toxic or hazardous materials is authorized based on an imminent danger, the storage provided shall be temporary and shall cease once the imminent danger no longer exists. In all other cases of storage or disposal, the storage or disposal shall be terminated as determined by the Secretary of Defense.

223.7103 Procedures.

(a)(1) Storage, treatment, or disposal of toxic or hazardous materials not owned by DoD on a DoD installation is prohibited unless—

(i) One or more of the exceptions set forth in 223.7104(a) is met including requisite approvals; or

(ii) Secretary of Defense authorization is obtained under the conditions set forth in 223.7104(b).

(2) When storage, treatment, or disposal of toxic or hazardous materials not owned by DoD is authorized in accordance with this subpart, the contract shall specify the types and quantities of toxic or hazardous materials that may be temporarily stored, treated, or disposed of in

connection with the contract or as a result of the authorized use of a DoD facility or space launch facility. All solicitations and contracts shall specify the conditions under which storage, treatment, or disposal is authorized.

(b) If the contracting officer is uncertain as to whether particular activities are prohibited or fall under one of the exceptions in 223.7104, the contracting officer should seek advice from the cognizant office of counsel.

223.7104 Exceptions.

(a) The prohibition of 10 U.S.C. 2692 does not apply to any of the following:

(1) The storage, treatment, or disposal of materials that will be or have been used in connection with an activity of DoD or in connection with a service to be performed on a DoD installation for the benefit of DoD.

(2) The storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services Administration.

(3) The temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal, State, or local law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made in accordance with an agreement between the Secretary of Defense and the head of the Federal, State, or local agency concerned.

(4) The temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities.

(5) The disposal of excess explosives produced under a DoD contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements.

(6) The temporary storage of nuclear materials or nonnuclear classified materials in accordance with an agreement with the Secretary of Energy.

(7) The storage of materials that constitute military resources intended to be used during peacetime civil emergencies in accordance with applicable DoD regulations.

(8) The temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency.

(9) The storage of any material that is not owned by DoD, if the Secretary of the military department concerned determines that the material is required or generated in connection with the authorized and compatible use of a facility of DoD, including the use of such a facility for testing material or training personnel.

(10) The treatment and disposal of any toxic or hazardous materials not owned by DoD, if the Secretary of the military department concerned determines that the material is required or generated in connection with the authorized and compatible use of a facility of that military department and the Secretary enters into a contract or agreement with the prospective user that—

(i) Is consistent with the best interest of national defense and environmental security; and

(ii) Provides for the prospective user's continued financial and environmental responsibility and liability with regard to the material.

(11) The storage of any material that is not owned by DoD if the Secretary of the military department concerned determines that the material is required or generated in connection with the use of a space launch facility located on a DoD installation or on other land controlled by the United States.

(b) The Secretary of Defense may grant an exception to the prohibition in 10 U.S.C. 2692 when essential to protect the health and safety of the public from imminent danger if the Secretary otherwise determines the exception is essential and if the storage or disposal authorized does not compete with private enterprise.

223.7105 Reimbursement.

The Secretary of Defense may assess a charge for any storage or disposal provided under this subpart. If a charge is to be assessed, then such assessment shall be identified in the contract with payment to the Government on a reimbursable cost basis.

223.7106 Contract clause.

Use the basic or the alternate of the clause at 252.223–7006, Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials, in all solicitations and contracts which require, may require, or permit contractor access to a DoD installation.

(a) Use the basic clause, unless a determination is made under 223.7104(a)(10).

(b) Use the alternate I clause when the Secretary of the military department issues a determination under the exception at 223.7104(a)(10).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Section 252.223–7006 is revised to read as follows:

252.223–7006 Prohibition on Storage, Treatment, and Disposal of Toxic or Hazardous Materials.

As prescribed in 223.7106, use the basic clause or its alternate:

Basic. As prescribed at 223.7106(a), use the following clause.

PROHIBITION ON STORAGE, TREATMENT, AND DISPOSAL OF TOXIC OR HAZARDOUS MATERIALS—BASIC (SEP 2014)

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

Storage means a non-transitory, semi-permanent or permanent holding, placement, or leaving of material. It does not include a temporary accumulation of a limited quantity of a material used in or a waste generated or resulting from authorized activities, such as servicing, maintenance, or repair of Department of Defense (DoD) items, equipment, or facilities.

Toxic or hazardous materials means—

(i) Materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of CERCLA (42 U.S.C. 9602) (40 CFR Part 302);

(ii) Materials that are of an explosive, flammable, or pyrotechnic nature; or

(iii) Materials otherwise identified by the Secretary of Defense as specified in DoD regulations.

(b) In accordance with 10 U.S.C. 2692, the Contractor is prohibited from storing, treating, or disposing of toxic or hazardous materials not owned by DoD on a DoD installation, except to the extent authorized by a statutory exception to 10 U.S.C. 2692 or as authorized by the Secretary of Defense. A charge may be assessed for any storage or disposal authorized under any of the exceptions to 10 U.S.C. 2692. If a charge is to be assessed, then such assessment shall be identified elsewhere in the contract with payment to the Government on a reimbursable cost basis.

(c) The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts that require, may require, or permit a subcontractor access to a DoD installation, at any subcontract tier.

(End of clause)

Alternate I. As prescribed in 223.7106(b), use the following clause, which adds a new paragraph (c) and revises and redesignates paragraph (c) of the basic clause as paragraph (d).

PROHIBITION ON STORAGE, TREATMENT, AND DISPOSAL OF TOXIC OR HAZARDOUS MATERIALS—ALTERNATE I (SEP 2014)

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

Storage means a non-transitory, semi-permanent or permanent holding, placement, or leaving of material. It does not include a temporary accumulation of a limited quantity of a material used in or a waste generated or resulting from authorized activities, such as servicing, maintenance, or repair of Department of Defense (DoD) items, equipment, or facilities.

Toxic or hazardous materials means—

(i) Materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of CERCLA (42 U.S.C. 9602) (40 CFR Part 302);

(ii) Materials that are of an explosive, flammable, or pyrotechnic nature; or

(iii) Materials otherwise identified by the Secretary of Defense as specified in DoD regulations.

(b) In accordance with 10 U.S.C. 2692, the Contractor is prohibited from storing, treating, or disposing of toxic or hazardous materials not owned by DoD on a DoD installation, except to the extent authorized by a statutory exception to 10 U.S.C. 2692 or as authorized by the Secretary of Defense. A charge may be assessed for any storage or disposal authorized under any of the exceptions to 10 U.S.C. 2692. If a charge is to be assessed, then such assessment shall be identified elsewhere in the contract with payment to the Government on a reimbursable cost basis.

(c) With respect to treatment or disposal authorized pursuant to DFARS 223.7104(10) (10 U.S.C. 2692(b)(10), and notwithstanding any other provision of the contract, the Contractor assumes all financial and environmental responsibility and liability resulting from any treatment or disposal of toxic or hazardous materials not owned by DoD on a military installation. The Contractor shall indemnify, defend, and hold the Government harmless for all costs, liability, or penalties resulting from the Contractor's treatment or disposal of toxic or hazardous materials not owned by DoD on a military installation.

(d) The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that require, may require, or permit a subcontractor access to a DoD installation, at any tier. Inclusion of the substance of this clause in subcontracts does not relieve the prime Contractor of liability to the Government under paragraph (c) of this clause.

(End of clause)

[FR Doc. 2014–22847 Filed 9–29–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 229 and 252

RIN 0750–AI19

Defense Federal Acquisition Regulation Supplement: Clauses With Alternates—Taxes (DFARS Case 2013–D025)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to create an overarching prescription for a tax-related clause with an alternate and add a separate prescription for the basic clause. The rule also includes in the regulation the full text of the alternate clause.

DATES: Effective September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Hawes, telephone 571–372–6115.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 79 FR 11381 on February 28, 2014, to revise the presentation of the DFARS part 229 clause with an alternate. No public comments were submitted in response to the proposed rule.

II. Discussion

This final rule revises the single DFARS part 229 clause, 252.229–7001, Tax Relief, which has an alternate. The naming convention results in proposed new clause titles, i.e., Tax Relief—Basic and Tax Relief—Alternate I. An umbrella prescription contains the elements common to the basic clause and the alternate. The specific prescriptions for the basic clause and the alternate address only the requirements for their use that enable the selection of the basic or the alternate.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

This final rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to (1) create an umbrella prescription for the elements common to the basic clause and the alternate of DFARS clause 252.229–7001, Tax Relief, (2) create a specific prescription for the basic clause and alternate clause that address only the requirements for their use, and (3) include the full text of the alternate clause.

No comments were received from the public in response to the initial regulatory flexibility analysis.

There will be no impact on small business entities since DFARS clause 252.229–7001 is used only in solicitations and contracts when award is made to a foreign concern and performance is in a foreign country.

This rule does not add any new information collection, reporting, or record keeping requirements. No alternatives were identified that will accomplish the objectives of the rule.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 229 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 229 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 229 and 252 continues to read as follows:

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

PART 229—TAXES

■ 2. Amend section 229.402–70 by revising paragraph (a) to read as follows:

229.402–70 Additional clauses.

(a) Use the basic or the alternate of the clause at 252.229–7001, Tax Relief, in solicitations and contracts when a contract will be awarded to a foreign concern for performance in a foreign country.

(1) Use the basic clause in solicitations and contracts when the contract will be performed in a foreign country other than Germany.

(2) Use the alternate I clause in solicitations and contracts when the contract will be performed in Germany.

* * * * *

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 252.229–7001 by—

■ a. Revising the introductory text, clause title and date; and

■ b. Revising Alternate I.

The revisions read as follows:

252.229–7001 Tax Relief.

As prescribed in 229.402–70(a), use one of the following clauses:

Basic. As prescribed at 229.402–70(a)(1), use the following clause.

TAX RELIEF—BASIC (SEP 2014)

* * * * *

Alternate I. As prescribed at 229.402–70(a)(2), use the following clause, which adds a paragraph (d) not included in the basic clause.

TAX RELIEF—ALTERNATE I (SEP 2014)

(a) Prices set forth in this contract are exclusive of all taxes and duties from which the United States Government is exempt by virtue of tax agreements between the United States Government and the Contractor's government. The following taxes or duties have been excluded from the contract price:

NAME OF TAX: *[Offeror insert]*

RATE (PERCENTAGE): *[Offeror insert]*

(b) The Contractor's invoice shall list separately the gross price, amount of tax deducted, and net price charged.

(c) When items manufactured to United States Government specifications are being acquired, the Contractor shall identify the materials or components intended to be imported in order to ensure that relief from import duties is obtained. If the Contractor intends to use imported products from inventories on hand, the price of which includes a factor for import duties, the Contractor shall ensure the United States Government's exemption from these taxes. The Contractor may obtain a refund of the import duties from its government or request the duty-free import of an amount of supplies or components corresponding to that used from inventory for this contract.

(d) Tax relief will be claimed in Germany pursuant to the provisions of the Agreement Between the United States of America and Germany Concerning Tax Relief to be Accorded by Germany to United States Expenditures in the Interest of Common Defense. The Contractor shall use Abwicklungsschein fuer abgabenbeguenstigte Lieferungen/Leistungen nach dem Offshore Steuerabkommen (Performance Certificate for Tax-Free Deliveries/Performance according to the Offshore Tax Relief Agreement) or other documentary evidence acceptable to the German tax authorities. All purchases made and paid for on a tax-free basis during a 30-day period may be accumulated, totaled, and reported as tax-free.

(End of clause)

[FR Doc. 2014–22860 Filed 9–29–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 900124–0127]

RIN 0648–XD515

Atlantic Surfclam and Ocean Quahog Fisheries; 2015 Fishing Quotas for Atlantic Surfclams and Ocean Quahogs; and Suspension of Minimum Atlantic Surfclam Size Limit

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

ACTION: Temporary reule.

SUMMARY: NMFS suspends the minimum size limit for Atlantic surfclams for the 2015 fishing year. NMFS also announces that the quotas for the Atlantic surfclam and ocean quahog fisheries for 2015 will remain status quo. Regulations governing these fisheries require NMFS to notify the public in the **Federal Register** of the allowable harvest levels for Atlantic surfclams and ocean quahogs from the Exclusive Economic Zone if the previous year's quota specifications remain unchanged.

DATES: Effective January 1, 2015, through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, 978–281–9341.

SUPPLEMENTARY INFORMATION: The regulations implementing the fishery management plan (FMP) for the Atlantic surfclam and ocean quahog fisheries at 50 CFR 648.75(b)(3), authorize the Administrator, Greater Atlantic Region, NMFS (Regional Administrator), to suspend annually, by publication of a notification in the **Federal Register**, the minimum size limit for Atlantic surfclams. This action may be taken unless discard, catch, and biological sampling data indicate that 30 percent or more of the Atlantic surfclam resource have a shell length less than 4.75 inches (120 mm), and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors.

At its June 2014 meeting, the Mid-Atlantic Fishery Management Council voted to recommend that the Regional Administrator suspend the minimum size limit for Atlantic surfclams for the 2015 fishing year. Commercial surfclam data for 2014 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 5.9 percent of the overall commercial landings were composed of surfclams that were less than 4.75 in (120 mm). Based on these data, the Regional Administrator concurs with the Council's recommendation, and suspends the minimum size limit for Atlantic surfclams from January 1 through December 31, 2015.

The FMP for the Atlantic surfclam and ocean quahog fisheries requires that NMFS issue notification in the **Federal Register** of the upcoming year's quota, even in cases where the quota remains unchanged from the previous year. At its June 2014 meeting, the Council also voted that no action be taken to change the quota specifications for Atlantic surfclams and ocean quahogs for the 2015 fishing year, and recommended maintaining the 2014 quota levels of 3.4 million bu (181 million L) for Atlantic surfclams, 5.3 million bu (284 million L) for ocean quahogs, and 100,000 Maine bu (3.524 million L) for Maine ocean quahogs, as announced in the **Federal Register** on December 20, 2013 (78 FR 77005).

Classification

This action is authorized by 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: September 24, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–23267 Filed 9–29–14; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 79, No. 189

Tuesday, September 30, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 37, 73, and 150

[NRC–2012–0140]

RIN 3150–AJ18

Safeguards Information—Modified Handling Categorization; Change for Materials Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to remove the Safeguards Information—Modified Handling (SGI–M) designation of the security-related information for large irradiators, manufacturers and distributors, and for transport of category 1 quantities of radioactive material. The rulemaking would also result in the removal of the SGI–M designation of the security-related information for the transportation of irradiated reactor fuel that weighs 100 grams or less in net weight of irradiated fuel. The security-related information for these facilities and the transportation of certain materials would no longer be designated as SGI–M and would be protected under the information protection requirements that apply to other materials licensees that possess category 1 and category 2 quantities of radioactive material.

DATES: Submit comments on the proposed rule by October 30, 2014. Submit comments specific to the information collections aspects of this proposed rule by October 30, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments related to this proposed rule by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0140. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Email comments to: *Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Vanessa Cox, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8342; email: *Vanessa.Cox@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2012–0140 when contacting the NRC about the availability of information for this proposed rule. You may obtain publicly-available information related to this proposed rule by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0140.
- 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 (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2012–0140 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Procedural Background

Because the NRC considers this action non-controversial, the NRC is publishing this proposed rule concurrently as a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. The direct final rule will become effective on January 28, 2015. However, if the NRC receives a significant adverse comment on this proposed rule by October 30, 2014, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the

comments received in response to these proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rules underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

For additional information see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

This proposed rule decreases the burden on recordkeepers to mark documents containing Safeguards Information designated as SGI–M as specified in § 73.23(b), (d), and (f). The NRC is requesting comment on this decrease in recordkeepers' burden in Section III, Paperwork Reduction Act Statement, of this proposed rule.

III. Paperwork Reduction Act Statement

This proposed rule contains new or amended information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). This proposed rule has been submitted to the Office of Management and Budget for review and approval of the information collection requirements.

Type of submission, new or revision: Revision.

The title of the information collection: Parts 30, 37, 73, and 150 of Title 10 of the *Code of Federal Regulations* (10 CFR), Safeguards Information—Modified Handling Categorization Change for Materials Facilities.

The form number if applicable: Not applicable.

How often the collection is required: The proposed rule would reduce annual recordkeeping requirements.

Who will be required or asked to report: The proposed rule would affect panoramic and underwater irradiators that possess greater than 370 TBq of byproduct materials; manufacturers and distributors of items containing source, byproduct, or special nuclear material in greater than or equal to category 2 quantities of concern; and transportation of source, byproduct, or special nuclear material in greater than or equal to category 1 quantities of concern.

An estimate of the number of annual responses: A reduction of 112 recordkeeping responses.

The estimated number of annual respondents: A reduction of 112 recordkeepers subject to 10 CFR part 73, Physical Protection of Plants and Materials.

An estimate of the total number of hours needed annually to complete the requirement or request: A reduction of 616 recordkeeping hours.

Abstract: The proposed rule would decrease burden on 112 recordkeepers to mark documents containing Safeguards Information designated as SGI–M as specified in § 73.23(b), (d), and (f). These 112 licensees include panoramic and underwater irradiators that possess greater than 370 TBq of byproduct materials; manufacturers and distributors of items containing source, byproduct, or special nuclear material in greater than or equal to category 2 quantities of concern; and transportation of source, byproduct, or special nuclear material in greater than or equal to category 1 quantities of concern.

The NRC is seeking public comment on the potential impact of the information collections contained in this proposed rule and on the following issues:

1. Is the proposed information collection necessary for the proper performance of the functions of the NRC, including whether the information will have practical utility?

2. Is the estimate of burden accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques?

A copy of the OMB clearance package may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. The OMB clearance package and proposed rule will be available on the NRC's Web site, *http://www.nrc.gov/public-involve/doc-comment/omb/index.html,* for 60 days after the signature date of this document.

Send comments on any aspect of these proposed information collections, including suggestions for reducing the burden and on the previously stated issues, by October 30, 2014 to the FOIA, Privacy, and Information Collections Branch (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *INFOCOLLECTS.RESOURCE@NRC.GOV* and to the Desk Officer, Danielle Y. Jones, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0002), Office of Management and Budget, Washington, DC 20503. You may also email comments to *Danielle_Y_Jones@omb.eop.gov* or comment by telephone at 202–395–1741. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

IV. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, well-organized manner that also follows other best practices appropriate to the subject or field and the intended audience. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to clarity and effectiveness of the language used.

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 37

Byproduct material, Criminal penalties, Export, Hazardous materials transportation, Import, Licensed material, Nuclear materials, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 150

Criminal penalties, Hazardous materials transportation, Intergovernmental relations, Nuclear materials, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 30, 37, 73, and 150.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

■ 1. The authority citation for part 30 continues to read as follows:

Authority: Atomic Energy Act secs. 81, 82, 161, 181, 182, 183, 186, 223, 234 (42 U.S.C. 2111, 2112, 2201, 2231, 2232, 2233, 2236, 2273, 2282); Energy Reorganization Act secs. 201, 202, 206 (42 U.S.C. 5841, 5842, 5846); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 549 (2005).

Section 30.7 also issued under Energy Reorganization Act sec. 211, Pub. L. 95–601, sec. 10, as amended by Pub. L. 102–486, sec. 2902 (42 U.S.C. 5851). Section 30.34(b) also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234). Section 30.61 also issued under Atomic Energy Act sec. 187 (42 U.S.C. 2237).

§ 30.4 [Amended]

■ 2. In § 30.4, remove the definition for ''Quantities of concern.''

§ 30.32 [Amended]

■ 3. In § 30.32, remove paragraph (k).

§ 30.34 [Amended]

■ 4. In § 30.34, remove paragraph (l).

PART 37—PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL

■ 5. The authority citation for part 37 continues to read as follows:

Authority: Atomic Energy Act secs. 53, 81, 103, 104, 147, 148, 149, 161, 182, 183, 223, 234 (42 U.S.C. 2073, 2111, 2133, 2134, 2167, 2168, 2169, 2201a., 2232, 2233, 2273, 2282).

■ 6. In § 37.29, revise paragraph (a)(10) to read as follows:

§ 37.29 Relief from fingerprinting, identification, and criminal history records checks and other elements of background investigations for designated categories of individuals permitted unescorted access to certain radioactive materials.

(a) * * *

(10) Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;

* * * * *

■ 7. In § 37.43, revise paragraph (d)(1) and remove paragraph (d)(9) to read as follows:

§ 37.43 General security program requirements.

* * * * *

(d) *Protection of information.* (1) Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.

* * * * *

■ 8. In § 37.77, revise paragraph (f) to read as follows:

§ 37.77 Advance notification of shipment of category 1 quantities of radioactive material.

* * * * *

(f) *Protection of information.* State officials, State employees, and other individuals, whether or not licensees of the Commission or an Agreement State, who receive schedule information of the kind specified in § 37.77(b) shall protect that information against unauthorized disclosure as specified in § 37.43(d) of this part.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

■ 9. The authority citation for part 73 continues to read as follows:

Authority: Atomic Energy Act secs. 53, 147, 161, 223, 234, 1701 (42 U.S.C. 2073, 2167, 2169, 2201, 2273, 2282, 2297(f), 2210(e)); Energy Reorganization Act sec. 201, 204 (42 U.S.C. 5841, 5844); Government Paperwork Elimination Act sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 594 (2005).

Section 73.1 also issued under Nuclear Waste Policy Act secs. 135, 141 (42 U.S.C, 10155, 10161).

Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note).

§ 73.2 [Amended]

■ 10. In § 73.2, remove the definition for ''Quantities of concern.''

■ 11. In § 73.21, revise paragraph (a)(1)(ii) to read as follows:

§ 73.21 Protection of Safeguards Information: Performance Requirements.

(a) * * *

(1) * * *

(ii) Establish, implement, and maintain an information protection system that includes the applicable measures for Safeguards Information specified in § 73.23 related to: research and test reactors that possess special nuclear material of moderate strategic significance or special nuclear material of low strategic significance.

* * * * *

■ 12. In § 73.23, revise the introductory text of the section and the introductory text of paragraph (a)(2) to read as follows:

§ 73.23 Protection of Safeguards Information-Modified Handling: Specific Requirements.

This section contains specific requirements for the protection of Safeguards Information in the hands of any person subject to the requirements of § 73.21(a)(1)(ii) and research and test reactors that possess special nuclear material of moderate strategic significance or special nuclear material of low strategic significance. The requirements of this section distinguish Safeguards Information requiring modified handling requirements (SGI–M) from the specific Safeguards Information handling requirements applicable to facilities and materials needing a higher level of protection, as set forth in § 73.22.

(a) * * *

(2) *Physical protection in transit.* Information not classified as Restricted Data or National Security Information related to the physical protection of shipments of special nuclear material in less than a formula quantity (except for those materials covered under § 73.22), including:

* * * * *

Appendix I to Part 73—[Removed]

■ 13. Remove appendix I to part 73.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

■ 14. The authority citation for part 150 continues to read as follows:

Authority: Atomic Energy Act secs. 161, 181, 223, 234 (42 U.S.C. 2201, 2021, 2231, 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 594 (2005).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under Atomic Energy Act secs. 11e(2), 81, 83, 84 (42 U.S.C. 2014e(2), 2111, 2113, 2114).

Section 150.14 also issued under Atomic Energy Act sec. 53 (42 U.S.C. 2073).

Section 150.15 also issued under Nuclear Waste Policy Act secs. 135 (42 U.S.C. 10155, 10161).

Section 150.17a also issued under Atomic Energy Act sec. 122 (42 U.S.C. 2152).

Section 150.30 also issued under Atomic Energy Act sec. 234 (42 U.S.C. 2282).

§ 150.15 [Amended]

■ 15. In § 150.15, remove paragraph (a)(9).

Dated at Rockville, Maryland, this 23rd day of September, 2014.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2014–23257 Filed 9–29–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 730, 732, 738, 743, 748, 752, 762, 772, and 774

[Docket No. 140613501–4501–01]

RIN 0694–AG13

Proposed Amendments to the Export Administration Regulations: Removal of Special Comprehensive License Provisions

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Proposed rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) proposes to continue updating export controls under the Export Administration Regulations (EAR) consistent with the Retrospective Regulatory Review Initiative that directs BIS and other Federal Government Agencies to streamline regulations and reduce unnecessary regulatory burdens on the public. Specifically, in this rule, BIS proposes to amend the EAR by removing the Special Comprehensive License authorization. This rule also proposes conforming amendments.

DATES: Comments must be received no later than October 30, 2014.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* The identification number for this rulemaking is BIS–2014–0021.
- By email directly to *publiccomments@bis.doc.gov.* Include RIN 0694–AG13 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694–AG13.

FOR FURTHER INFORMATION CONTACT: Thomas Andrukonis, Director, Export Management and Compliance Division, Office of Exporter Services, Bureau of Industry and Security, by telephone at (202) 482–8016 or by email at *Thomas.Andrukonis@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Origin and Historical Advantages of the Special Comprehensive License

The restructuring and reorganizing of the Export Administration Regulations (EAR) that were finalized in 1997 established provisions for the Special Comprehensive License (SCL) in part 752 of the EAR (61 FR 12714, March 25, 1996, as amended by 62 FR 25451, May 9, 1997).

In keeping with the purpose of those reforms, which was to ''simplify, clarify and make regulations more user-friendly,'' the SCL made licensing more efficient and practical by consolidating authorizations for activities (e.g., bulk exports and reexports of items as well as certain other activities) and extending periods that had been authorized under the following special licenses: Project, Distribution, Service Supply, Service Facilities, Aircraft and Vessel Repair Station Procedure, and Special Chemical Licenses. With the implementation of the SCL, those special licenses were discontinued. BIS was confident that the more flexible SCL and a pre-approved internal control program (ICP) would advance the agency's fundamental mission of ensuring national security without unduly burdening legitimate global trade.

When introduced, SCLs presented certain advantages to exporters and consignees that could not be met by the Validated Licenses (formerly referred to as Individual Validated Licenses), which was the other licensing option at that time. In return for committing to enhanced administrative responsibilities and compliance requirements, the SCL authorized, among other things:

- Exports and reexports of multiple shipments of all items subject to the EAR, with the exception of items prohibited by statute or regulation (*inter alia,* items controlled for missile technology and short supply reasons) and items identified as being of significant strategic and proliferation concern;
- Exports and reexports of multiple shipments of items to all destinations, except to embargoed and terrorist supporting destinations (i.e., destinations in Country Groups E:1 and E:2 in Supplement No. 1 to Part 740 of the EAR), and countries that BIS may designate on a case-by-case basis;
- Possible authorization by prior approved consignees abroad of servicing, support services, stocking spare parts, maintenance, capital expansion, scientific data acquisition support, reselling and reexporting items in the form received, and other activities, on a case-by-case basis;
- Exports and reexports of items for a period of four years; and
- Exports and reexports by an SCL holder to approved consignees and directly to the consignees' customers, the end-users (known as drop shipping).

In a recent review of the SCL, it became apparent that the purposes served by an SCL and the advantages it provided have been overtaken by changes to the EAR, including changes that have occurred since the implementation of the President's Export Control Reform (ECR) (See ''Initial Implementation of Export Control Reform Rule'' (73 FR 22660, April 16, 2013), effective October 15, 2013; ''Improving Regulatory Review'' (Executive Order 13563 of January 18, 2011); and BIS's ''Notice of Inquiry: Retrospective Regulatory Review Under E.O. 13563'' (76 FR 47527, August, 5, 2011.).

At the direction of the President, in August, 2009, BIS in conjunction with other agencies that have export control-related jurisdiction began an interagency initiative to reform the export control system. The reform's objective has been to help strengthen our national security and the competitiveness of key U.S. manufacturing and technology sectors while simultaneously enabling export control officials to better focus government resources on transactions that pose the most concern. Some of the

results of this reform effort include broadening EAR provisions so that they are not more restrictive than similar provisions in the International Traffic in Arms Regulations. Such broadening included extending the validity period of most BIS licenses from two years to four years, and allowing shipments to and among approved end-users.

For purposes of the Retrospective Regulatory Review, the President reaffirmed the principles, structures, and definitions that were established in Executive Order 12866 of September 30, 1993, and which govern present-day regulatory review. Further, the President directed agencies to improve their regulations by pursuing regulatory reviews that ensure public participation, the best regulatory tools, weighing the benefits and costs of regulations, and making regulations consistent, easier to read and focused on measurable results.

BIS's proposal to discontinue the SCL authorization advances the objectives of the Retrospective Regulatory Review. Additionally, this proposed rule addresses concerns about the utility and unduly burdensome requirements associated with the SCL expressed by the exporting public in comments submitted in response to the August 5, 2011, BIS ''Notice of Inquiry, Retrospective Regulatory Review Under E.O. 13563.'' One commenter responding to that Notice of Inquiry stated that the SCL rule is the most rigorous and burdensome license. The commenter claimed that the SCL rule needs ''greater regulatory clarity, less administrative burden and greater return on resource.'' The commenter went on to note that SCL holders and consignees could get a better return on the resources expended for the license and on compliance efforts if more activities were authorized, such as manufacturing, if eligible items were expanded and if small changes or edits to an SCL could be made without the need for multiple forms and without the extensive processing time of the interagency license review. Finally, the commenter stated that the time and costs associated with the management and administrative burden of the SCL outweigh the benefit of the license especially when a license must be obtained for items that are not SCL eligible. Another commenter recommended the ''deletion'' of the SCL provision and stated that the provision ''may no longer be practical'' because of the creation of License Exception STA.

BIS has issued fewer than a dozen SCLs, and this limited number of license holders and the low volume of trade under SCLs are further indicators that the present and future value of an SCL is outweighed by the burdens exporters experience in applying for and administering an SCL. Included among these burdens are the high monetary and resource cost incurred by the SCL holders and their consignees related to:

—Applying for the SCL or an amendment, which involves large volumes of detailed documentation to support that application or amendment;

—Developing, administering, and maintaining ICPs, which requires extensive time and resources to implement and revise; and

—Traveling and conducting internal audits or preparing for U.S. Government audits overseas or domestically, which involves several weeks per year of company staff time to prepare for, conduct and assess, in addition to the travel expenses necessary to carry out the overseas audits of consignees.

The U.S. Government also incurs high costs in administering and enforcing the SCL program internationally for such a limited number of SCL holders, whose licenses involve a low volume of trade, which could otherwise be more efficiently administered under the EAR.

Augmented Advantages of the EAR's Licenses and Other Authorizations

BIS's implementation of the President's initiatives has increased the scope of the availability, ease of applying for, and practical and economic usefulness of export licenses and license exceptions under the EAR, while facilitating better compliance by the exporting public through expanded outreach. The President's initiatives have included the following changes to the EAR:

• A four-year export or reexport validity period with agency consideration of a request for an extended validity period on a case-by-case basis;

• The option to export, reexport, or transfer (in-country) to and among approved end-users on a license, under certain conditions; and

• The expansion of License Exception Temporary imports, exports, and reexports, and transfers (in-country) (TMP) (Section 740.9), which now authorizes temporary exports to a U.S. person's foreign subsidiary, affiliates, or facility abroad outside of Country Group B, and will, upon request, authorize the retention of items abroad beyond one year, up to a total of four years.

Also worth noting are other potentially beneficial changes over time under the EAR. They include:

• Easier license application-filing procedures where exporters now have the ability to save and work on license information that they then can submit to BIS via the Simplified Network Application Process—Redesign System, or SNAP–R;

• Shorter license application processing times, typically without pre-license consultations, ICP requirements, or post-license system reviews;

• No requirement for reports for all items exported or reexported;

• Licenses that could include items controlled for Missile Technology, Short Supply and other reasons excluded from the SCL; and

• No expiration for an authorization allowing U.S., foreign, affiliated or unaffiliated parties to export and reexport approved items to approved validated end-users (VEUs).

These streamlined, more flexible and varied authorizations are available, as appropriate, to facilitate more efficient and practical means of exporting, reexporting and transferring (in-country) items subject to export controls under the EAR without the burdens imposed by an SCL. More importantly, the amendments proposed in this rule eventually will lead to more efficient administration and enforcement of export controls under the EAR.

Description of Proposed Changes

Primary Provisions for the SCL: Part 752—Special Comprehensive License

BIS proposes to discontinue the SCL authorization, and therefore remove the text of the SCL provisions located at part 752 (Sections 752.1 through 752.17 and Supplements No. 1 through No. 5 to part 752) of the EAR. In addition, BIS proposes to reserve part 752.

Conforming Amendments

BIS also proposes conforming amendments that would remove references to the SCL authorization in other parts of the EAR. The SCL-related provisions that BIS proposes to remove from the EAR are set out according to part number as follows:

Part 730—General Information

• The reference to the SCL in the second sentence of paragraph (a)(5) of section 730.8 (How to proceed and where to get help); and

• In Supplement No. 1 to Part 730—Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers:

• References to the SCL in control numbers 0694–0088 (Simplified Network Application Processing + System (SNAP+) and the Multipurpose Export License Application) and 0607–0152 (Automated Export System (AES) Program); and

• The collection of information authorized under control number 0694–0089 (Special Comprehensive License Procedure).

Part 732—Steps for Using the EAR

• The reference to the SCL with regard to Destination Control Statements in paragraph (b) of section 732.5 (Steps regarding shipper's export declaration or automated export system record, Destination Control Statements, And Recordkeeping); and

• The specific obligations imposed on parties to an SCL that appear in paragraph (d) of section 732.6 (Steps for other requirements).

Part 738—Commerce Control List Overview and the Country Chart

• References to the SCL in paragraph (b)(3) of section 738.4 (Determining whether a license is required), which provides a sample CCL entry for determining whether a license is required.

Part 743—Special Reporting and Notification

• The reporting requirement for exports of certain commodities, software, and technology controlled under the Wassenaar Arrangement when the items are authorized under the SCL procedure from paragraph (b)(2) of section 743.1 (Wassenaar Arrangement); and

• The reporting requirement for exports of certain items listed on the Wassenaar Arrangement Munitions List and the UN Register of Conventional Arms when those items are authorized under the SCL procedure from paragraph (b)(2) of section 743.4 (Conventional arms reporting).

Part 748—Applications (Classification, Advisory, and License) and Documentation

References and provisions related to the SCL in the following paragraphs:

• Paragraph (d), introductory text, of section 748.1 (General provisions), which provides that SCL export and reexport license applications are exempted from electronic filing requirements;

• Paragraph (h) of section 748.4 (Basic guidance related to applying for a license), which provides that emergency processing is not available for SCL applications;

• Paragraphs (a) (Scope) and (d) (Role of individual users) of section 748.7 (Registering for electronic submission of license application and related documents);

• Paragraph (a)(6) of section 748.9 (Support documents for license applications), which provides that SCL applications are exempted from the support documents requirement;

• Paragraph (a)(1)(iii) of section 748.12 (Special provisions for support documents), which provides that an item removed from SCL eligibility would have a grace period of 45 days for complying with support documents requirements for a license application for the item; and

• The reference to SCL as a type of application in ''Block 5,'' the entire ''Block 8''of ''Supplement No. 1 to Part 748–BIS–748P, BIS–748P–A; Items Appendix; and BIS–748P–B; End-User Appendix; Multipurpose Application Instructions''.

Part 762—Recordkeeping

References and provisions related to the SCL in the following paragraphs:

• Paragraphs (b)(31) ''§ 752.7, Direct shipment to customers,'' (b)(32) ''§ 752.9, Action on SCL applications,'' (b)(33) ''§ 752.10, Changes to the SCL,'' (b)(34) ''§ 752.11, Internal Control Programs,'' (b)(35) ''§ 752.12, Recordkeeping requirements,'' (b)(36) ''§ 752.13, Inspection of records,'' (b)(37) ''§ 752.14, System reviews,'' and (b)(38) ''§ 752.15, Export clearance'' of section 762.2 (Records to be retained).

Part 772—Definitions of Terms

• The definition of *''Controlled in Fact''* from section 772.1 (Definitions of terms as used in the Export Administration Regulations (EAR).

Part 774—The Commerce Control List

• Reference to the SCL in the ''REPORTING REQUIREMENTS'' section of all applicable ECCNs.

Transition Guidance

BIS proposes that all SCLs would expire one year from the date of publication of a final rule that removes SCL provisions from the EAR, or the expiration date of the SCL under the particular terms of the license, whichever is earlier. During that transition period, which could be up to one year after the publication of the final rule, BIS will not accept amendments, including renewals, to outstanding SCLs. After the publication of the final rule, SCL holders may choose to apply for four-year individual licenses for exporting and reexporting items under the EAR or use available license exceptions. Finally, as with all transactions subject to the EAR, the applicable recordkeeping requirements under 15 CFR part 762 will continue to apply to SCL transactions until the applicable retention requirements are fulfilled.

Request for Comments

BIS seeks comments on this proposed rule. BIS will consider all comments received on or before October 30, 2014. All comments (including any personally identifying information or information for which a claim of confidentially is asserted either in those comments or their transmittal emails) will be made available for public inspection and copying. Parties who wish to comment anonymously may do so by submitting their comments via Regulations.gov, leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. See methods for submitting comments in the **ADDRESSES** section of this rule.

Export Administration Act

Since August 21, 2001, the Export Administration Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and extended most recently by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be a significant regulatory action, although not economically significant, under section 3(f) of Executive Order 12866 for purposes of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. This rule amends collections previously approved by the Office of Management and Budget (OMB) under Control Numbers 0694–0088, ''Simplified Network Application Processing + System (SNAP+) and the

Multi-Purpose Application,'' which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS–748; 0694–0089, ''Special Comprehensive License,'' which carries a burden hour estimate of 40 hours to complete an application, 30 minutes to complete annual extension requests, 4 hours to complete amendments, and six hours to perform recordkeeping and internal control program annual certifications; and 0694–0152, ''Automated Export System (AES) Program,'' which carries a burden hour estimate of three minutes or 0.05 hours per electronic submission. This requirement has been submitted to OMB for approval.

The total burden hours associated with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and the aforementioned OMB Control Numbers would be expected to decrease as a result of this proposed removal of part 752 of the EAR and related provisions this rule if the rule is eventually issued in final form, thereby reducing burden hours associated with approved collections related to the EAR.

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 Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce at the **ADDRESSES** above, and email to OMB at *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to 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.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.). The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities.

Economic Impact. BIS believes this rule will reduce the economic impact on impacted entities because although this rule would eliminate the availability of the SCL, such entities could still obtain individual validated licenses from BIS to export their product. In fact, the other licenses available are less burdensome and require fewer compliance/reporting measures than those associated with SCL. It would be an overall reduction in burden for an SCL holder to transition to one of the other available licenses authorized under the EAR. For example, under the SCL, a license holder was required to implement a specific internal control program (ICP). Under a license established under the ECR, the impacted entities would be measured by their ultimate compliance with the EAR. Also with a license established under the ECR, SCL holders can transition to a four-year license through the validated license process. In addition, they have the availability of license exception Strategic Trade Authorization (STA), which allows shipments of higher-end controlled items than allowed under the SCL, when conditions are met. Also, impacted entities would have the convenience of applying for a license via the Simplified Network Application Process-Redesign (SNAP–R) System, an updated system for electronically filing export and reexport license applications.

Number of Small Entities. The types entities that would be directly impacted by this action include manufactures, oil and gas exploration and production companies, and exporters and reexporters of various equipment. Based on a review of current Special Comprehensive License (SCL) holders, there are less than a dozen entities that have outstanding licenses for items on the CCL. Due to the nature of the SCL, BIS expects that most of the current license holders would be considered large entities under the Small Business Administration's size standards. However, BIS does not collect data on the size or annual revenue of these entities, and thus some of these entities may be considered small under the SBA size standards. Also, although small entities are not the primary users of the SCL, BIS acknowledges that small entities may have been parties to SCL transactions. To assist in the evaluation of a significant economic impact of this rule on a substantial number of small entities, BIS welcomes comments to explain how and to what extent your business or organization could be affected, if your business or organization is a small entity and if adoption of any of the amendments discussed in this proposed rulemaking could have a significant financial impact on your operations.

List of Subjects

15 CFR Part 730

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

15 CFR Parts 732, 748, and 752

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Parts 738 and 772

Exports.

15 CFR Part 743

Administrative practice and procedure, Reporting and recordkeeping requirements.

15 CFR 762

Administrative practice and procedure, Business and industry, Confidential business information, Exports, Reporting and recordkeeping requirements.

15 CFR 774

Exports, Reporting and recordkeeping requirements.

Accordingly, under the authority of 50 U.S.C. 1701 *et seq.,* parts 730, 732, 738, 743, 748, 752, 762, 772 and 774 of the Export Administration Regulations (15 CFR parts 730–774) are proposed to be amended as follows:

PART 730—[AMENDED]

■ 1. The authority citation for part 730 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998

Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); Notice of September 18, 2013, 78 FR 58151 (September 20, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013); Notice of January 21, 2014, 79 FR 3721 (January 22, 2014); Notice of May 7, 2014, 79 FR 26589 (May 9, 2014); Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 730.8 [Amended]

■ 2. Section 730.8 is amended by removing the next to last sentence in paragraph (a)(5).

Supplement No. 1 to Part 730 [Amended]

■ 3. Supplement No. 1 to Part 730 is amended by:

■ a. Revising the entry in the ''Reference in the EAR'' Column for ''Collection number'' ''0694–0088'' to read ''parts 746 and 748; § 762.2(b).'';

■ b. Removing the entire entry for ''Collection number'' ''0694–0089''; and

■ c. Removing the citations to ''752.7(b)'' and ''752.15(a)'' from the ''Reference in the EAR'' Column for ''Collection number'' ''0607–0152''.

PART 732—[AMENDED]

■ 4. The authority citation for part 732 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

■ 5. Section 732.5 is amended by revising the next to last sentence of paragraph (b) to read as follows:

§ 732.5 Steps Regarding Shipper's Export Declaration or Automated Export System Record, Destination Control Statements, And Recordkeeping.

* * * * *

(b) *Step 28: Destination Control Statement* * * * DCS requirements do not apply to reexports * * *

* * * * *

§ 732.6 [Amended]

■ 6. Section 732.6 is amended by removing and reserving paragraph (d).

PART 738—[AMENDED]

■ 7. The authority citation for 15 CFR part 738 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 738.4 [Amended]

■ 8. Section 738.4 is amended by removing the phrase ''or Special Comprehensive License'' at the end of the sixth sentence in paragraph (b)(3).

PART 743—[AMENDED]

■ 9. The authority citation for part 743 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); 78 FR 16129 ; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 743.1 [Amended]

■ 10. Section 743.1 is amended by removing and reserving paragraph (b)(2).

§ 743.4 [Amended]

■ 11. Section 743. 4 is amended by removing and reserving paragraph (b)(2).

PART 748—[AMENDED]

■ 12. The authority citation for part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 748.1 [Amended]

■ 13. Section 748.1 is amended by removing the phrase ''Special Comprehensive License or'' from the parenthetical in the first sentence in paragraph (d), introductory text.

§ 748.4 [Amended]

■ 14. Section 748.4 is amended by removing the next to last sentence in paragraph (h).

§ 748.7 [Amended]

■ 15. Section 748.7 is amended by removing the phrase ''Special Comprehensive License and'' from the parenthetical in the second sentence in paragraph (a) and from the parenthetical in the first sentence in paragraph (d).

§ 748.9 [Amended]

■ 16. Section 748.9 is amended by removing and reserving paragraph (a)(6).

§ 748.12 [Amended]

■ 17. Section 748.12 is amended by:

■ a. Removing the semicolon and the word ''or'' at the end of paragraph (a)(1)(ii)

■ b. Adding a period at the end of paragraph (a)(1)(ii); and

■ c. Removing paragraph (a)(1)(iii).

Supplement No. 1 to Part 748 [Amended]

■ 18. Supplement No. 1 to Part 748 is amended by:

■ a. Removing the next to last sentence and the caption, ''*Special Comprehensive License''* that precedes it in paragraph ''Block 5:'' and

■ b. Removing and reserving paragraph ''Block 8''.

PART 752—[REMOVED AND RESERVED]

■ 19. Remove and reserve part 752.

PART 762—[AMENDED]

■ 20. The authority citation for part 762 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 762.2 [Amended]

■ 21. Section 762.2 is amended by removing and reserving paragraphs (b)(31) through (38).

PART 772—[AMENDED]

■ 22. The authority citation for part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

§ 772.1 [Amended]

■ 23. Section 772.1 is amended by removing the definition ''*Controlled In Fact.*''

PART 774—[AMENDED]

■ 24. The authority citation for part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014).

Supplement No. 1 to Part 774 [Amended]

■ 25. Supplement No. 1 to part 774 (the Commerce Control List) is amended by removing the phrase ''Special

Comprehensive Licenses,'' wherever it is found.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–23078 Filed 9–29–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM14–13–000]

Communications Reliability Standards

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to approve Communications Reliability Standard COM–001–2 and Operating Personnel Communications Protocols Reliability Standard COM–002–4, developed by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards. The Commission believes that the proposed Reliability Standards will enhance reliability over the currently-effective COM standards in several respects by, among other things, requiring adoption of predefined communication protocols, annual assessment of those protocols and operating personnel's adherence thereto, training on the protocols, and use of three-part communications. However, the Commission proposes to direct NERC to modify proposed Reliability Standard COM–001–2 to include internal communications capabilities.

DATES: Comments are due December 1, 2014.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215 of the Federal Power Act (FPA),[1] the Commission proposes to approve two Reliability Standards, COM–001–2 (Communications) and COM–002–4 (Operating Personnel Communications Protocols), developed by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards. In addition, the Commission proposes to approve three new terms to be added to the NERC Glossary of Terms, and the violation risk factors, violation severity levels, and proposed implementation plan for both revised standards.

2. Proposed Reliability Standard COM–001–2 is intended to establish a clear set of requirements for the communications capabilities that applicable functional entities must have in place and maintain. Proposed Reliability Standard COM–002–4 requires applicable entities to develop communication protocols with certain minimum requirements, including use of three-part communication when issuing Operating Instructions.[2] Proposed Reliability Standard COM–002–4 also sets out certain communications training requirements for all issuers and recipients of Operating Instructions, and establishes a flexible enforcement approach for failure to use three-part communication during non-emergencies and a ''zero-tolerance'' enforcement approach for failure to use three-part communications during an emergency.

3. The Commission believes that the proposed Reliability Standards will enhance reliability over the currently-effective COM standards in several respects. For example, the proposed Reliability Standards expand applicability to include generator operators and distribution providers and eliminate certain ambiguities in the currently-effective standard. Thus, the Commission proposes to approve the modified COM standards. However, the Commission seeks additional information and explanation on responsibility for use of three-part communication by transmission owners and generation owners that receive Operating Instructions. In addition, the Commission proposes to direct NERC to modify proposed Reliability Standard COM–001–2 to include internal communication capabilities, and seeks additional information on the lack of a testing requirement for distribution providers and generator operators in COM–001–2 and on the intended meaning and use of the proposed terms Interpersonal Communication and Alternative Interpersonal Communication.

I. Background

A. Regulatory Background

4. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.[3] Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or by the Commission independently.[4] In 2006, the Commission certified NERC as the ERO pursuant to FPA section 215.[5]

5. The Commission approved Reliability Standard COM–001–1 in

[1] 16 U.S.C. 824o (2012).

[2] NERC proposes to define Operating Instruction as ''[a] command by operating personnel responsible for the Real-time operation of the interconnected Bulk Electric System to change or preserve the state, status, output, or input of an Element of the Bulk Electric System or Facility of the Bulk Electric System. (A discussion of general information and of potential options or alternatives . . . is not considered an Operating Instruction.)''

[3] 16 U.S.C. 824o(c) and (d).

[4] *See id.* 824o(e).

[5] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g & compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

Order No. 693.[6] In addition, the Commission directed NERC to develop modifications to (1) expand the applicability of the standard to include generator operators and distribution providers, (2) identify specific requirements for telecommunications facilities for use in normal and emergency conditions that reflect the roles of the applicable entities, and (3) include adequate flexibility for compliance to allow for the adoption of new technologies and cost-effective solutions.[7]

6. In Order No. 693, the Commission also approved Reliability Standard COM–002–2. In addition, the Commission directed NERC to develop modifications to (1) include distribution providers as applicable entities and (2) establish tightened communications protocols, especially for communications during alerts and emergencies.[8]

7. NERC initiated Project 2006–06 to address the Order No. 693 directives related to Reliability Standards COM–001 and COM–002, resulting in two proposed Reliability Standards, COM–001–2 and COM–002–3. NERC also initiated Project 2007–02 to develop a new Reliability Standard (COM–003) that would require real-time system operators to use standardized communication protocols during normal and emergency operations, in order to improve situational awareness and shorten response time. The two projects ultimately merged when drafts of Reliability Standard COM–002–3 and COM–003–1 were combined into a single proposed Reliability Standard, COM–002–4.

B. NERC Petition

8. On May 14, 2014, NERC filed a petition seeking approval of two revised communication standards, COM–001–2 (Communications) and COM–002–4 (Operating Personnel Communications Protocols).[9] Proposed Reliability Standard COM–001–2 establishes a set of requirements for the communications capabilities various functional entities must maintain to enable communications with identified functional entities. Proposed Reliability Standard COM–002–4 requires applicable entities to develop documented communications protocols. NERC states that the proposed standards are intended to address all relevant Commission directives from Order No. 693.[10] In addition, NERC states that the revisions reflected in proposed COM–002–4 are intended to address Recommendation No. 26 from the final report on the August 2003 blackout issued by the U.S.-Canada Power System Outage Task Force (Blackout Report) concerning the need to ''[t]ighten communications protocols, especially for communications during alerts and emergencies.'' [11]

Proposed Reliability Standard COM–001–2

9. NERC states in its petition that proposed Reliability Standard COM–001–2 is intended to establish requirements for Interpersonal Communication capabilities necessary to maintain reliability.[12] NERC explains that proposed Reliability Standard COM–001–2 applies to reliability coordinators, balancing authorities, transmission operators, generator operators, and distribution providers. The proposed Reliability Standard includes eleven requirements and two new defined terms, ''Interpersonal Communication'' and ''Alternative Interpersonal Communication,'' that, according to NERC, collectively provide a comprehensive approach to establishing communications capabilities necessary to maintain reliability.[13] NERC states that the definitions provide clarity that an entity's communication capability must be redundant and that each of the capabilities must not utilize the same medium.[14] According to NERC, the definitions improve the language used in the current Reliability Standard by eliminating the use of the more ambiguous phrases ''adequate and reliable'' and ''redundant and diversely routed'' that relate to ''telecommunications facilities for the exchange of Interconnection and operating information.'' [15]

10. The first six requirements address the Interpersonal Communication capability and Alternative Interpersonal Communication capability of the reliability coordinator, transmission operator, and balancing authority. Requirement R1 requires each reliability coordinator to have Interpersonal Communication capability with all transmission operators and balancing authorities within its reliability coordinator area, and with each adjacent reliability coordinator within the same interconnection. Requirement R2 requires each reliability coordinator to designate Alternative Interpersonal Communication capability with those same identified entities. Requirements R3 and R4 set out the communications capability requirements for a transmission operator. Under Requirement R3, Interpersonal Communication capability is required between the transmission operator's reliability coordinator, each balancing authority within its transmission operator area, each distribution provider and generator operator within its transmission operator area, and each adjacent transmission operator whether synchronously or asynchronously connected. Under Requirement R4, Alternative Interpersonal Communication capability must be designated between the transmission operator's reliability coordinator, each balancing authority within its transmission operator area, and each adjacent transmission operator. Requirements R5 and R6 set out similar requirements for each balancing authority, again identifying the specific functional entities for which the balancing authority must maintain Interpersonal Communication capability and for which it must designate Alternative Interpersonal Communication capability.

11. Requirements R7 and R8 address the communications capability that distribution providers and generator operators must maintain, with each required to have Interpersonal Communications capability with its balancing authority and its transmission operator.

12. Requirement R9 requires each reliability coordinator, transmission operator, and balancing authority to test its Alternative Interpersonal Communication capability at least once each calendar month, and to initiate action to repair or designate a

[6] *See Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, at P 508, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007); *see also North American Electric Reliability Corp.,* Docket No. RD09–2–000 (2009) (delegated letter order accepting Reliability Standard COM–001–1.1).

[7] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 508.

[8] *Id.* PP 531–535, 540.

[9] The proposed COM Reliability Standards are not attached to the NOPR. The complete text of the proposed Reliability Standards is available on the Commission's eLibrary document retrieval system in Docket No. RM14–13 and is posted on the ERO's Web site, *available at http://www.nerc.com.*

[10] NERC Petition at 3.

[11] *Id.* (quoting *U.S.-Canada Power System Outage Task Force, Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations* at 3 (April 2004), *available at http://energy.gov/sites/prod/files/oeprod/DocumentsandMedia/BlackoutFinal-Web.pdf*).

[12] *Id.* at 15.

[13] *Id.* NERC defines Interpersonal Communication as ''[a]ny medium that allows two or more individuals to interact, consult, or exchange information'' and Alternative Interpersonal Communication as ''[a]ny Interpersonal Communication that is able to serve as a substitute for, and does not utilize the same infrastructure (medium) as, Interpersonal Communication used for day-to-day operation.'' *Id.*

[14] *Id.*

[15] *Id.* at 15–16.

replacement if the test is unsuccessful. Requirement R10 requires the same entities to notify applicable entities (as identified in R1, R3 and R5) of the detection of an Interpersonal Communication capability failure that lasts 30 minutes or longer. Finally, Requirement R11 requires distribution providers and generator operators to consult with affected balancing authorities and transmission operators when a failure is detected in their Interpersonal Communication capability, and to determine a mutually agreeable action for the restoration of that capability.

13. NERC states in its petition that proposed Reliability Standard COM–001–2 improves the currently-effective Reliability Standard by: (1) Eliminating terms that do not adequately specify the desired actions that applicable entities are expected to take in relation to their telecommunication facilities; (2) clearly identifying the need for applicable entities to be capable of Interpersonal Communication and Alternative Interpersonal Communication; (3) not requiring specific technology or systems to be utilized; and (4) including the distribution provider and generator operator as applicable entities.[16] NERC adds that the proposed Reliability Standard also addresses the Commission's directives from Order No. 693 related to COM–001 by (1) adding generator operators and distribution providers as applicable entities; (2) identifying specific requirements for telecommunications capabilities for use in all operating conditions that reflect the roles of the applicable entities and their impact on reliability; and (3) including adequate flexibility to permit the adoption of new technologies.[17]

14. NERC proposes to retire the currently effective COM–001 Reliability Standard when proposed Reliability Standard COM–001–2 becomes effective, with the exception of Requirement R4, which addresses communications protocols. NERC requests that Requirement R4 be retired when proposed Reliability Standard COM–002–4 becomes effective.[18]

Proposed Reliability Standard COM–002–4

15. NERC states that proposed Reliability Standard COM–002–4 improves communications surrounding the issuance of Operating Instructions by requiring use of predefined communications protocols to reduce the possibility of miscommunication that could lead to action or inaction harmful to reliability.[19] NERC notes that the proposed standard requires use of the same protocols regardless of operating condition (i.e., Emergency or non-emergency), but requires operating personnel to use the documented communication protocols for three-part communications ''without exception'' during an Emergency.[20] As NERC explains:

> [T]he proposed Reliability Standard employs the phrase ''Operating Instruction during an Emergency'' in certain requirements (R5, R6, R7) to provide a demarcation for what is subject to a zero-tolerance compliance approach and what is not.[21]

NERC explains that, for Operating Instructions issued during non-emergency operations, ''an entity will be assessed under a compliance approach that focuses on whether an entity meets the initial training Requirement (either R2 or R3) and whether an entity performed the assessment and took corrective actions according to Requirement R4.'' [22]

16. Finally, NERC states that the proposed Reliability Standard includes distribution providers and generator operators as applicable entities, in accordance with the Commission's directive in Order No. 693, and in recognition of the fact that these types of entities can be recipients of Operating Instructions.[23]

17. Proposed Reliability Standard COM–002–4 includes seven requirements. Requirement R1 requires entities that can both issue and receive Operating Instructions (balancing authorities, reliability coordinators and transmission operators) to have documented communications protocols that include a minimum set of elements, including use of the English language unless otherwise specified, and required use of three-part communications for issuance and receipt of Operating Instructions.[24] Requirement R2 requires these same entities to conduct initial training on the communications protocols for each of their operating personnel responsible for the real-time operation of the bulk electric system. Requirement R3 requires distribution providers and generator operators (who generally only receive but do not issue Operating Instructions) to conduct initial training on three-part communication for each of their operating personnel who can receive an oral two-party, person-to-person Operating Instruction, prior to that individual operator receiving an oral two-party, person-to-person Operating Instruction.

18. Requirement R4 requires each balancing authority, reliability coordinator and transmission operator to assess, at least once every twelve months, its operating personnel's adherence to the documented communication protocols required in Requirement R1, and to provide feedback to its operating personnel on their performance.

19. Requirement R5 requires balancing authorities, reliability coordinators and transmission operators that issue an oral two-party, person-to-person ''Operating Instruction during an Emergency'' to use three-part communication, and to take an alternative action if a confirmation is not received. Requirement R6 requires all applicable entities (balancing authorities, distribution providers, generator operators, and transmission operators) that receive an oral two-party, person-to-person ''Operating Instruction during an Emergency'' to use three-part communication, i.e., to repeat the Operating Instruction and receive confirmation from the issuer that the response was correct, or request that the issuer reissue the Operating Instruction. Both Requirement R5 and R6 include the clarification that the requirement does not apply to single-party to multiple-party ''burst'' Operating Instructions. As noted above, NERC explains that Requirements R5 and R6 require use of three-part communication during an Emergency without exception, because ''use of three-part communication is critically important if

[16] NERC Petition at 18.

[17] NERC Petition at 4; *see also supra* n.6 and accompanying text.

[18] *Id.* at 22. NERC notes that the substance of Requirement R5 in the currently effective standard, COM–001–1.1, is addressed by Requirement R1 of EOP–008–1. Accordingly, NERC explains that the requirement has not been carried forward in proposed COM–001–2. In addition, NERC notes that Requirement R6 in the currently effective standard, which requires adherence to certain policies when using NERCnet, is not being carried forward, as NERC is in the process of transitioning NERCnet to industry, and in order to preserve NERC's ability to respond to new technologies without requiring modification of a Reliability Standard. *Id.* at 22–23.

[19] *Id.* at 23. NERC states that COM–002–3 (which was adopted by the NERC Board but not submitted to the Commission for approval) is proposed for retirement in the Implementation Plan because the proposed Reliability Standard has been combined with proposed COM–003–1 to create proposed Reliability Standard COM–002–4. NERC states that Reliability Standard COM–002–3 has not been submitted to the Commission for approval, therefore, the currently effective version of COM–002 is COM–002–2. *Id.* at 23 n.43. The proposed Reliability Standard combines proposed Reliability Standard COM–002–3 and the former draft COM–003–1 into a single standard that addresses communications protocols for operating personnel in Emergency and non-emergency conditions. *Id.* at 23–24.

[20] *Id.* at 3.

[21] *Id.* at 25.

[22] *Id.* at 26.

[23] *Id.* at 27–28.

[24] *See id.* at 29.

an Emergency condition already exists, as further action or inaction could increase the harmful effects to the Bulk Electric System.'' [25] NERC further explains, however, that applicable entities are expected to use three-part communications at all times when issuing and receiving Operating Instructions.[26]

20. Finally, Requirement R7 requires that when a balancing authority, reliability coordinator, or transmission operator issues a written or oral single-party to multiple-party ''burst'' Operating Instruction during an Emergency, they must confirm or verify that at least one receiver received the Operating Instruction.

21. NERC requests that proposed Reliability Standard COM–002–4 become effective on the first day of the first calendar quarter that is twelve months after the date that the standard is approved.

II. Discussion

22. Pursuant to section 215(d)(2) of the FPA, the Commission proposes to approve proposed Reliability Standards COM–001–2 and COM–002–4, the three new definitions referenced in the proposed standards (Operating Instruction, Interpersonal Communication, and Alternative Interpersonal Communication), and the assigned violation risk factors and violation severity levels and proposed implementation plan for each standard. We believe that proposed COM–001–2 will enhance reliability by expanding the applicability of currently effective COM–001–1.1 to include generator operators and distribution providers. Further, this modification to the applicability provision satisfies the Commission's directive in Order No. 693.

23. Likewise, we believe that proposed Reliability Standard COM–002–4 enhances reliability by expanding the applicability of the standard to include distribution providers that receive Operating Instructions, in accordance with the directive in Order No. 693. Moreover, proposed COM–002–4 requires the development of communication protocols for operating personnel that issue or receive Operating Instructions that require the use of three-part communication, and adopts a zero-tolerance approach in enforcing the use of three-part communications during an Emergency. While the zero-tolerance approach applies only during an Emergency, Requirement R4 imposes an important requirement for an entity to assess, at least once every twelve months, its operating personnel's adherence to the documented communication protocols required in Requirement R1, and to provide feedback to its operating personnel on their performance. This requirement should help ensure a high level of compliance with three-part communication at all times, not just during an Emergency. Without this mechanism, poor performance at routine times could eventually lead to poor performance at critical times. The Commission believes that the establishment of clear communication protocols based on three-part communication provides a fundamental element of maintaining Bulk-Power System reliability. Thus, the revisions reflected in proposed Reliability Standard COM–002–4 appear to address Recommendation No. 26 from the final report on the August 2003 blackout issued by the U.S.-Canada Power System Outage Task Force (Blackout Report) concerning the need to ''[t]ighten communications protocols, especially for communications during alerts and emergencies.'' [27] Finally, COM–002–4 eliminates the ambiguity surrounding the meaning of ''directive'' in the currently-effective version of COM–002–2.

24. While we propose to approve COM–001–2 and COM–002–4 for the reasons stated above, we also have questions regarding specific provisions of the proposed Reliability Standards, and we seek further explanation or comment from NERC and others. Accordingly, we discuss below the following issues: (1) Responsibility for use of three-part communication by transmission owners and generation owners that receive Operating Instructions; (2) whether proposed COM–001–2 should be modified to address internal communication capability requirements, or to address testing requirements for distribution providers and generator operators; and (3) clarifications regarding the proposed terms Interpersonal Communication and Alternative Interpersonal Communication.

A. Applicability of Communications Standard Requirements to Transmission Owners and Generator Owners

25. Consistent with the Commission directives in Order No. 693, proposed Reliability Standard COM–001–2 will apply to generator operators and distribution providers (in addition to transmission operators, balancing authorities, and reliability coordinators). Likewise, proposed Reliability Standard COM–002–4 will apply to distribution providers (in addition to balancing authorities, reliability coordinators, transmission operators, and generator operators).

26. Proposed Reliability Standards COM–001–2 and COM–002–4 do not identify transmission owners or generator owners as applicable entities. Are there instances, however, in which transmission owners or generation owners may receive and act on ''Operating Instructions,'' such as in areas operated by Regional Transmission Organizations or Independent System Operators?

27. We seek an explanation from NERC and other commenters regarding the obligations of an applicable entity identified in COM–001–2 and COM–002–4 when communicating with a transmission owner or generator owner. For example, if a transmission operator, presumably required to use three-part communication under the proposed standards, communicates an Operating Instruction to a transmission owner or generation owner, which entity (if any) is responsible if the transmission owner or generation owner fails to perform three-part communication properly? [28] Among other things, NERC should explain its auditing practices in reviewing operating agreements between transmission operators and transmission owners and generation owners (or other agreements for assigning operational and compliance responsibility), and its approach in reviewing the protocols of any transmission owner or generator owner that acts on Operating Instructions to ascertain that they use three-part communication when and as required under proposed COM–002–4.

B. Scope of COM–001–2—Internal Communications Capability and Testing Requirements for Distribution Providers and Generator Operators

28. Requirement R1.1 of currently-effective Reliability Standard COM–001–1.1 states that each reliability coordinator, transmission operator, and balancing authority ''shall provide

[25] *Id.* at 39.

[26] *Id.* at 25–26.

[27] *U.S.-Canada Power System Outage Task Force, Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations* at 3 (April 2004) (Blackout Report), *available at http://www.ferc.gov/industries/electric/indus-act/blackout.asp.*

[28] We understand that NERC has issued a Compliance Bulletin that discusses, in a general manner, the compliance obligations of registered entities and various contractual mechanisms for sharing or assigning compliance responsibility. *See* NERC Compliance Bulletin #2010–004 (Guidance for Entities that Delegate Reliability Tasks to a Third Party Entity). Here, however, we seek a better understanding of such obligations in the specific context of the proposed COM standards.

adequate and reliable telecommunication facilities for the exchange of Interconnection and operating information . . . internally.'' Thus, COM–001–1.1 explicitly requires applicable entities to have adequate infrastructure for *internal* communications. We believe such a requirement is appropriate, since internal communications can have an impact on reliability, including certain communications between a control center and a generating unit operator and other field personnel or between two control centers (where operated by a single entity).

29. Proposed Reliability Standard COM–001–2 does not carry forward the explicit requirement with respect to internal communications. Instead, it requires applicable entities to have ''Interpersonal Communication'' [29] capability with other identified functional entities, as specified in the individual requirements. For example, Requirement R1 provides:

> Each Reliability Coordinator shall have Interpersonal Communication capability with the following entities * * *.
>
> 1.1. All Transmission Operators and Balancing Authorities within its Reliability Coordinator Area.
>
> 1.2. Each adjacent Reliability Coordinator within the same Interconnection.

NERC's petition does not address the elimination of the explicit requirement related to internal communications capability.

30. The Commission believes that maintaining adequate internal communications capability can be critical to reliability. For example, the 2003 Blackout Report recommended improvements in internal communication effectiveness along with improvements to external communications.[30] Moreover, the Blackout Report listed as one of the causes of the blackout that First Energy's ''control center computer support staff and operations staff did not have effective internal communications procedures'' and ''lacked procedures to ensure that its operators were continually aware of the functional state of their critical monitoring tools.'' [31] The Blackout Report found that these factors contributed to First Energy's ''inadequate situational awareness'' and its failure ''to recognize or understand the deteriorating condition of its system'' during that event.[32] However, the proposed Reliability Standard does not retain an explicit requirement with respect to internal communications capability. We accordingly propose to direct NERC to develop modifications to COM–001 (or to develop a separate standard) that ensures that entities maintain adequate internal communications capability, at least to the extent that such communications could involve the issuance or receipt of Operating Instructions or other communications that could have an impact on reliability. Alternatively, a requirement for internal communications capability may be implicit in the proposed requirements for communications capability between functional entities such as Reliability Coordinators and Transmission Operators, since the proposed requirements are not explicitly limited to functional entities that are different utilities and could be understood as including communications capability within a utility performing and registered for multiple functions. We seek comment on whether the proposed requirements can and should be understood this way.

31. In addition, the Requirement 9 monthly testing requirement in COM–001–2 applies to reliability coordinators, balancing authorities, and transmission operators, but not generator operators and distribution providers. We seek comment on why generator operators and distribution providers should not have some form of requirement to test or actively monitor vital primary and emergency telecommunication facilities, particularly given the assumptions the Commission made in Order No. 749 when approving Reliability Standard EOP–005–2 (System Restoration from Blackstart Resources).[33] In that order, the Commission relied on NERC's assurances not only that COM–001–2 would be revised to include distribution providers and generator operators, but that such revisions would address the Commission's concerns about the lack of certain testing requirements in EOP–005–2:

> The Commission believes the objectives of [the project to revise COM–001–1.1] in managing, alarming, testing and/or actively monitoring vital primary and emergency telecommunication facilities will close this gap in the Reliability Standard after it is completed and approved.[34]

Is the same objective intended to be addressed by Requirement 11? (''Each Distribution Provider and Generator Operator that detects a failure of its Interpersonal Communication capability shall consult each entity affected by the failure, as identified in Requirement R7 for a Distribution Provider or Requirement R8 for a Generator Operator, to determine a mutually agreeable action for the restoration of its Interpersonal Communication capability.'') If so, we ask NERC to provide support for this approach.

C. Reliability Standard COM–001–2—Definition of Interpersonal Communications and Alternative Interpersonal Communication

32. Finally, we seek clarification regarding the scope and meaning of the proposed definitions of Interpersonal Communication and Alternative Interpersonal Communication. As noted above, NERC proposes to define those terms, respectively, as follows:

> Interpersonal Communication—Any medium that allows two or more individuals to interact, consult, or exchange information.
>
> Alternative Interpersonal Communication—Any Interpersonal Communication that is able to serve as a substitute for, and does not utilize the same infrastructure (medium) as, Interpersonal Communication used for day-to-day operation.

NERC indicates that it developed these definitions to eliminate the ambiguity of the terms ''adequate and reliable'' in requirement R1 of COM–001–1.1, and the terms ''redundant and diversely routed'' in Requirement R1.4.[35]

33. While the Commission understands the need to allow flexibility as to the type of communication medium or infrastructure to be used, the definitions do not state explicitly a minimum expectation of communication performance such as speed and quality to ensure that the communication is sufficient to maintain the reliable operation of the bulk power system. Further, while currently-effective Reliability Standard COM–001–1.1, Requirement R1, addresses ''telecommunications facilities for the exchange of Interconnection and operating information,'' a term that appears to include facilities that directly exchange or transfer data, the proposed definition of Interpersonal Communication refers to exchanges between individual persons. It is

[29] As noted above, NERC proposes to define Interpersonal Communication as ''[a]ny medium that allows two or more individuals to interact, consult, or exchange information.'' NERC Petition at 15.

[30] Blackout Report at 161 (''NERC should work with reliability coordinators and [balancing authorities] to improve the effectiveness of internal and external communications . . . .'').

[31] *Id.* at 18.

[32] *Id.* at 18; *see also id.* at 51–53, 56 and 65–67.

[33] *See System Restoration Reliability Standards,* Order No. 749, 134 FERC ¶ 61,215 at PP 26–28 (2011).

[34] *Id.* P 28.

[35] NERC Petition at 15–16.

unclear whether the definition of Interpersonal Communications includes mediums used directly to exchange or transfer data. Thus, we seek further explanation from NERC and other interested commenters regarding acceptable (and unacceptable) performance of communication for both Interpersonal and Alternative Interpersonal Communications.

III. Information Collection Statement

34. The collection of information contained in this Notice of Proposed Rulemaking is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[36] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[37] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

35. We solicit comments on the need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Specifically, the Commission asks that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

36. This notice proposes to approve Reliability Standards COM–001–2 and COM–002–4, and to retire Reliability Standards COM–001–1.1 and COM–002–2. Proposed Reliability Standard COM–001–2 will establish Interpersonal Communication capability necessary to maintain reliability, while proposed Reliability Standard COM–002–4 will improve communications related to Operating Instructions, requiring issuers of Operating Instructions to adopt predefined communications protocols and requiring both issuers and recipients of Operating Instructions to use three-part communications.

Public Reporting Burden: Proposed Reliability Standards COM–001–2 and COM–002–4 do not require responsible entities to file information with the Commission. However, the proposed Reliability Standards require applicable entities to develop and maintain certain information, subject to audit. In particular, COM–001–2 requires that transmission operators, balancing authorities, reliability coordinators, distribution providers, and generator operators must maintain documentation of Interpersonal Communication capability and designation of Alternate Interpersonal Communication, as well as evidence of testing of the Alternate Interpersonal Communication facilities. COM–002–4 requires balancing authorities, distribution providers, reliability coordinators, transmission operators, and generator operators to develop and maintain documented communication protocols, and to be able to provide evidence of training on the protocols and of their annual assessment of the protocols. Additionally, all applicable entities (balancing authorities, reliability coordinators, transmission operators, generator operators, and distribution providers) must be able to provide evidence of three-part communication when issuing or receiving an Operating Instruction during an Emergency.

Many of the record retention or information collection requirements in proposed COM–001–2 and COM–002–4 are translated in some form from the currently-effective Reliability Standards (COM–001–1 and COM–002–2). For these requirements, the Commission estimates a zero net change in burden. Accordingly, our estimate below shows the increase in record-retention or information collection burden, based on the new requirements to:

(1) Develop communications protocols (a one-time burden under COM–002–4, R1);

(2) maintain evidence of required training, assessments, and use of three-part communications, as applicable (an on-going burden under COM–002–4 R2, R3, R4, R5 and R6); and

(3) maintain evidence to demonstrate Interpersonal Communication capability (a new, on-going burden for distribution providers and generator operators under COM–001–2 R7 and R8).

The Commission's estimate of the number of respondents is based on the NERC compliance registry as of August 15, 2014. According to the NERC compliance registry, NERC has registered 179 transmission operators, 107 balancing authorities, 15 reliability coordinators, 475 distribution providers, and 853 generator operators within the United States. However, under NERC's compliance registration program, entities may be registered for multiple functions, so these numbers incorporate some double counting, which has been accounted for in the table below. The Commission estimates the annual reporting burden and cost as follows:

Information collection requirement	Number and type of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2) = (3)	Average burden & cost per response[38] (4)	Total annual burden hours & total annual cost (3)*(4) = (5)
(One-time) Development of Communication Protocols [COM–002–4 R1].	212 (BA, RC & TOP)	1	212	8 hrs. & $485.60	1,696 hours & $102,947.20.
(On-going) Maintain evidence of Interpersonal Communication capability [COM–001–2 R7 and R8][39].	1,217 (DP & GOP)	1	1,217	4 hrs. & $115.72	4,868 hours & $140,831.24.
(On-going) Maintain evidence of training and assessments [COM–002–4 R2, R4, R5 and R6].	212 (BA, RC & TOP)	1	212	8 hrs. & $231.44	1,696 hours & $102,947.20.
(On-going) Maintain evidence of assessments [COM–002–4 R3, and R6].	1,217 (DP & GOP)	1	1,217	8 hrs. & $231.44	9,736 hours & $281,662.48.

[36] 44 U.S.C. 3507(d) (2012).

[37] 5 CFR 1320.11 (2013).

Information collection requirement	Number and type of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response [38]	Total annual burden hours & total annual cost
	(1)	(2)	(1)*(2) = (3)	(4)	(3)*(4) = (5)
Total			2,858		17,996 hours & $574,506.20.

Title: Mandatory Reliability Standards for the Bulk-Power System: COM Reliability Standards.

Action: Proposed FERC–725V.

OMB Control No: To be determined.

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: One-time and ongoing.

Necessity of the Information: Reliability Standard COM–001–2 and COM–002–4, if adopted, would implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, the purpose of the proposed Reliability Standards is to establish Interpersonal Communication capability necessary to maintain reliability, and to improve communications for the issuance of Operating Instructions with predefined communications protocols. The proposed Reliability Standards require entities to maintain records subject to review by the Commission and NERC to ensure compliance with the Reliability Standards.

Internal Review: The Commission has reviewed the requirements pertaining to the proposed Reliability Standards for the Bulk-Power System and determined that the proposed requirements are necessary to meet the statutory provisions of the Energy Policy Act of 2005. These requirements conform to the Commission's plan for efficient information collection, communication and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

37. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

38. Comments concerning the information collections proposed in this NOPR and the associated burden estimates should be sent to the Commission in these dockets and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov.* Please reference FERC–725V and the docket numbers of this Notice of Proposed Rulemaking (Docket No. RM14–13–000) in your submission.

IV. Regulatory Flexibility Act Certification

39. The Regulatory Flexibility Act of 1980 (RFA) [40] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. Proposed Reliability Standard COM–001–2 is expected to impose burdens for the first time on 1,217 entities (i.e., distribution providers and generator operators). Proposed Reliability Standard COM–002–4 may apply to as many as 1,279 entities.[41] Comparison of the applicable entities with FERC's small business data indicates that approximately 934 of the 1,279 entities are small entities.[42]

40. Proposed Reliability Standard COM–002–4 will serve to enhance reliability by, among other things, requiring adoption of predefined communication protocols, annual assessment of those protocols and operating personnel's adherence thereto, training on the protocols, and use of three-part communications. The Commission estimates that each small balancing authority, reliability coordinator, and transmission operator subject to proposed Reliability Standard COM–002–4 will incur one-time compliance costs of about $486 (i.e. development of communication protocols), plus on-going annual costs of about $717 (i.e. performing training and maintaining evidence of training and assessments).[43] The Commission estimates that each of the small distribution provider and generator operator entities potentially subject to proposed Reliability Standards COM–001–2 and COM–002–4 will incur on-going annual costs of about $833 (i.e. performing training and maintaining evidence of interpersonal communication capability and of training).[44] The Commission does not consider the estimated costs per small entity to have a significant economic impact on a substantial number of small entities. Accordingly, the Commission certifies that this NOPR will not have a significant economic impact on a substantial number of small entities.

V. Environmental Analysis

41. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human

[38] The estimated hourly costs (salary plus benefits) are based on Bureau of Labor Statistics (BLS) information (*available at http://bls.gov/oes/current/naics3_221000.htm#17-0000*) for an electrical engineer ($60.70/hour for review and documentation), and for a file clerk ($28.93/hour for record retention). The first row of the table (one-time burden) is done by an engineer, and the latter three rows (ongoing burden) are done by a file clerk.

[39] No change is expected in the record-keeping burden under COM–001–2 for reliability coordinators, balancing authorities, and transmission operators as compared to the currently-effective COM–001 standard.

[40] 5 U.S.C. 601–612.

[41] The applicable entities are balancing authorities, reliability coordinators, transmission operators, generator operators, and distribution providers. After accounting for entities registered for more than one function, the total count is 1,279 entities.

[42] The Small Business Administration sets the threshold for what constitutes a small business. Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. The possible categories for the applicable entities have a size threshold ranging from 250 employees to 1,000 employees. We are using the 1000 employee threshold for this analysis.

[43] The one-time paperwork-related implementation cost estimate is based on a burden of eight hours at $60.70/hour, and the annual ongoing cost estimate is based on a burden of eight hours at $28.93/hour for maintaining evidence, and eight hours at $60.70/hour for performing training.

[44] The ongoing cost is based on burden of 12 hours at $28.93/hour for maintaining evidence, and eight hours at $60.70/hour for performing training.

environment.[45] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[46] The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

VI. Comment Procedures

42. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due December 1, 2014. Comments must refer to Docket No. RM14–13–000, and must include the commenter's name, the organization they represent, if applicable, and address.

43. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

44. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

45. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

46. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

47. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

48. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23196 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

[45] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[46] 18 CFR 380.4(a)(2)(ii).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM14–12–000]

Demand and Energy Data Reliability Standard

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to approve Demand and Energy Data Reliability Standard MOD–031–1 developed by the North American Electric Reliability Corporation, which the Commission has certified as the Electric Reliability Organization responsible for developing and enforcing mandatory Reliability Standards.

DATES: Comments are due December 1, 2014.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

Susan Morris (Technical Information), Office of Electric Reliability, Division of Reliability Standards and Security, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–6803, *Susan.Morris@ferc.gov.*

Robert T. Stroh (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, Telephone: (202) 502–8473, *Robert.Stroh@ferc.gov.*

SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215(d) of the Federal Power Act (FPA),[1] the Commission proposes to approve Reliability Standard MOD–031–1 (Demand and Energy Data) developed by the North American Electric Reliability Corporation (NERC), which the Commission has certified as the Electric Reliability Organization (ERO) responsible for developing and enforcing mandatory Reliability Standards. Reliability Standard MOD–031–1 provides authority for applicable entities to collect demand, energy and related data to support reliability studies and assessments and to enumerate the responsibilities and obligations of requestors and respondents of that data. In addition, the Commission proposes to approve NERC's proposed definitions for the terms Demand Side Management and Total Internal Demand. The Commission also proposes to approve the associated implementation plan, violation risk factors and violation severity levels, and NERC's proposed retirement of the currently-effective Reliability Standards MOD–016–1.1, MOD–017–0.1, MOD–018–0, MOD–019–0.1, and MOD–021–1 (Existing MOD C Standards).

I. Background

2. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, which are subject to Commission review and approval. Once approved, the Reliability Standards are enforced by the ERO, subject to Commission oversight, or by the

[1] 16 U.S.C. 824o(d) (2012).

Commission independently. In 2006, NERC submitted the initial version of Reliability Standards MOD–016–1.1, MOD–017–0.1, MOD–018–0, MOD–019–0.1, MOD–020–0, and MOD–021–1. The Existing MOD C Standards are designed to help ensure that historical and forecasted demand and energy data are available for past event validation and future system assessment. In particular, the Existing MOD C Standards, along with Reliability Standard MOD–020–0, require the collection of actual and forecast demand data necessary to analyze the resource needs to serve peak demand while maintaining a sufficient margin to address operating events.[2] In Order No. 693, the Commission approved the Existing MOD C Standards and Reliability Standard MOD–020–0. In addition, the Commission directed NERC to develop certain modifications to the standards.

II. NERC Petition

3. NERC states that proposed Reliability Standard MOD–031–1 provides planners and operators access to actual and forecast demand and energy data, as well as other related information, needed to perform resource adequacy studies.[3] NERC explains that the proposed Reliability Standard also supports the continued development of the reliability assessments prepared by NERC. NERC states that the proposed Reliability Standard improves the Existing MOD C Standards by: (1) Streamlining them to clarify data collection requirements; (2) including transmission planners as applicable entities that must report demand and energy data; (3) requiring applicable entities to report weather normalized annual peak hour actual demand data from the previous year to allow for meaningful comparison with forecasted values; and (4) requiring applicable entities to provide an explanation of how their demand side management forecasts compare to actual demand side management for the prior calendar year and how their peak demand forecasts compare to actual demand for the prior calendar year with due regard to any relevant weather-related variations.[4]

4. Proposed Reliability Standard MOD–031–1 contains four requirements. Requirement R1 mandates that each planning coordinator or balancing authority that identifies a need for the collection of demand and energy data shall develop and issue a data request for such data to the relevant entities in its area. The requirement mandates that the data request identify: (i) The entities responsible for providing the data; (ii) the data to be provided by each entity; and (iii) the schedule for providing the data. Requirement R2 obligates the entities identified in a Requirement R1 data request to provide the requested data to their planning coordinator or balancing authority. Requirement R3 requires that the planning coordinator or the balancing authority provide the data collected under Requirement R2 to their Regional Entity, if requested, to facilitate NERC's development of reliability assessments. Requirement R4 requires entities to share their demand and energy data with any applicable entity that demonstrates a reliability need for such data, subject to applicable confidentiality, regulatory or security restrictions.[5]

5. The term Demand Side Management is currently defined in the NERC Glossary as: ''[t]he term for all activities or programs undertaken by a Load-Serving Entity or its customers to influence the amount or timing of electricity they use.'' NERC proposes to modify the definition of ''Demand Side Management'' as ''[a]ll activities or programs undertaken by any applicable entity to achieve a reduction in Demand.'' NERC states that, consistent with the Commission directive in Order No. 693, the proposed definition for Demand Side Management is not limited to ''activities or program undertaken by Load Serving Entities or its customers'' but is expanded to include ''activities or programs undertaken by any applicable entity.''[6]

6. NERC requests that the Commission approve the proposed Reliability Standard, the proposed new and modified NERC Glossary terms and the retirement of the Existing MOD C Standards, effective on the first day of the first calendar quarter that is twelve months after Commission approval. NERC states that the 12-month implementation period is designed to provide applicable entities sufficient time to transition from compliance with the Existing MOD C Standards to proposed Reliability Standard MOD–031–1.[7]

III. Discussion

7. Pursuant to section 215(d)(2) of the FPA, the Commission proposes to approve Reliability Standard MOD–031–1 as just, reasonable, not unduly discriminatory or preferential, and in the public interest. We also propose to approve the new and modified glossary definitions, implementation plan, associated violation risk factors and violation severity levels as well as the retirement of the Existing MOD C Standards, as requested by NERC.

8. The Commission believes that the proposed Reliability Standard MOD–031–1 continues to provide planners and operators access to complete and accurate demand and energy data to allow such entities to conduct their own resource adequacy analyses to serve peak demand. The proposed Reliability Standard also appears to provide for consistent documentation and information sharing practices for demand and energy data, and promotes efficient planning practices across the industry and supports the identification of needed system reinforcements. The Commission believes that proposed Reliability Standard MOD–031–1 improves the Existing MOD C Standards by providing applicable entities the authority to collect demand and energy data, and related information, to support reliability assessments and also includes transmission planners as applicable entities that must report demand and energy data. Furthermore, the proposed Reliability Standard requires applicable entities to provide an explanation of current and previous demand side management forecasts and how their peak demand forecasts compare to actual demand for the prior calendar year.

9. While we propose to approve Reliability Standard MOD–031–1, we seek comment on the collection of data through mechanisms other than data requests. Requirements R1 through R3 specifically reference the obtaining of data through data requests as follows:

> *R1.* Each Planning Coordinator or Balancing Authority that identifies a need for the collection of Total Internal Demand, Net Energy for Load, and Demand Side Management data shall develop and issue a data request to the applicable entities in its area. The data request shall include: . . .
>
> *R2.* Each Applicable Entity identified in a data request shall provide the data requested by its Planning Coordinator or Balancing Authority in accordance with the data request issued pursuant to Requirement R1.

[2] *Mandatory Reliability Standards for the Bulk-Power System,* Order No. 693, FERC Stats. & Regs. ¶ 31,242, at PP 1223, 1235, *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[3] NERC Petition at 3. The proposed MOD Reliability Standard is not attached to the NOPR. The complete text of the Reliability Standard is available on the Commission's eLibrary document retrieval system in Docket No. RM14–12 and is posted on the ERO's Web site, *available at: http://www.nerc.com.*

[4] NERC Petition at 4.

[5] *Id.* at 5.

[6] *Id.* at 15–16.

[7] *Id.* at 31.

R3. The Planning Coordinator or the Balancing Authority shall provide the data collected under Requirement R2 to the applicable Regional Entity within 75 calendar days of receiving a request for such data, unless otherwise agreed upon by the parties.

In its petition, NERC states that Requirement R1 applies when a planning coordinator or balancing authority ''identifies a need'' for the collection of demand and energy data.[8]

According to NERC, this language of Requirement R1:

is intended to reflect that certain Planning Coordinators and Balancing Authorities may not need to collect Demand and energy data through a data request issued pursuant to the proposed Reliability Standard. That is because certain Planning Coordinators and Balancing Authorities obtain the data through alternative mechanisms or develop the data themselves. For instance, many Planning Coordinators, such as independent system operators (ISOs) and regional transmission organizations (RTOs), collect the necessary data and information from entities within their footprint pursuant to requirements in their Open Access Transmission Tariffs. Additionally, ISOs/RTOs are often in a better position to develop the necessary Demand and energy forecasts or aggregate the historical data than the entities in their area. Accordingly, the requirement is drafted so as to only require a Planning Coordinator or Balancing Authority to issue a data request if there is a need to do so.[9]

10. The Commission understands NERC's explanation to mean that, while a planning coordinator or balancing authority may collect demand and energy forecast data under a tariff or other arrangement, the planning coordinator or balancing authority always retains the option to seek the necessary data through a Requirement R1 data request if, for example, the data are not forthcoming through other means. The Commission seeks comment on this understanding. Further, the Commission seeks clarification from NERC and other commenters whether a planning coordinator or balancing authority that receives data ''through alternative mechanisms'' remains obligated to provide such data (i.e., within the scope of Requirement R1) to a Regional Entity upon request, as set forth in Requirement R3.

IV. Information Collection Statement

11. The collection of information contained in this Notice of Proposed Rulemaking (NOPR) is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[10] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[11] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

12. We solicit comments on the need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. Specifically, the Commission asks that any revised burden or cost estimates submitted by commenters be supported by sufficient detail to understand how the estimates are generated.

13. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

14. Comments concerning the information collection proposed in this NOPR and the associated burden estimates should be sent to the Commission in this docket and may also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at the following email address: *oira_submission@omb.eop.gov.* Please reference FERC–725L and the docket number of this Notice of Proposed Rulemaking (Docket No. RM14–12–000) in your submission.

15. The Commission proposes to approve Reliability Standard MOD–031–1, which will replace MOD–016–1.1, MOD–017–.01, MOD–018–0, MOD–019–0.1 and MOD–021–1 (Existing MOD C Standards). As stated above, the Existing MOD C Standards were approved by the Commission in Order No. 693. All information collection estimates associated with the collection of demand and energy data and subsequent retention were assessed in Order No. 693 and will not be repeated here. The proposed Reliability Standard expands the actual data to be submitted in two areas: (1) Weather normalized annual peak hour actual demand for the prior calendar year if this demand varies due to weather-related conditions (e.g., temperature, humidity or wind speed); and (2) summaries detailed in Requirement R1, Subparts 1.5.4 and 1.5.5. The additional data and summaries will increase reporting and preparation time for some applicable entities. Most entities already normalize their actual demand data based on weather. However, some entities may have a one-time cost of determining the method to ''weather normalize'' the actual demand data. Accordingly, the information collection costs will consist of an annual cost for all applicable entities and, for a small percentage, additional costs will occur during the first year of implementation.

Public Reporting Burden: Reliability Standard MOD–031–1 requires each ''Applicable Entity'' to provide the data requested by its planning coordinator or balancing authority in accordance with the data request issued pursuant to Requirement R1.[12] Our estimate below regarding the number of respondents is based on the NERC Compliance Registry as of July 31, 2014. According to the NERC Compliance Registry, NERC has registered 478 distribution providers, 469 load-serving entities, 179 transmission planners and 107 balancing authorities. However, under NERC's compliance registration program, entities may be registered for multiple functions, so these numbers incorporate some double counting. The total number of unique entities that may be identified as a data provider (e.g. applicable entity) in accordance with proposed Reliability Standard MOD–031–1 will be approximately 561 entities registered in the United States as a distribution provider, load-serving entity, transmission planner and/or balancing authority.[13] The Commission

[8] NERC Petition at 22.

[9] *Id.* at 22–23.

[10] 44 U.S.C. 3507(d) (2012).

[11] 5 CFR 1320.11.

[12] Requirement R1, Subpart 1.1 refers to ''Applicable Entities'' as the list of transmission planners, balancing authorities, load-serving entities and distribution providers that are required to provide the data.

[13] This estimate assumes all of the unique entities will be identified to provide demand and energy data.

estimates the annual reporting burden and cost as follows:

	Number and type of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2) = (3)	Average burden & cost per response (4)	Total annual burden hours & total annual cost (3)*(4) = (5)	Cost per respondent [14] (5) ÷ (1)
(One-time) Determine method to weather normalize annual peak hour actual demand.	28 [15] (DP, LSE, TP and/or BA) [16].	1	28	240 hrs. & $14,309	6,720 hours & $400,646.	$14,309
(On-going) Develop summary in accordance w/Requirement R1, Subparts 1.5.4 and 1.5.5.	561 (DP, LSE, TP and/or BA).	1	561	8 hrs. & $477	4,488 hours & $267,575.	$477
Total			589		11,208 hours & $668,221.	

Title: Mandatory Reliability Standards for the Bulk-Power System: MOD Reliability Standards.

Action: Proposed FERC–725L.

OMB Control No: 1902–0261

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: One-time and ongoing.

Necessity of the Information: Reliability Standard MOD–031–1, if adopted, would implement the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, the purpose of the proposed Reliability Standard is to provide authority for applicable entities to collect demand, energy and related data to support reliability studies and assessments and to enumerate the responsibilities and obligations of requestors and respondents of that data.

Internal Review: The Commission has reviewed the requirements pertaining to the proposed Reliability Standard for the Bulk-Power System and determined that the proposed requirements are necessary to meet the statutory provisions of the Energy Policy Act of 2005. These requirements conform to the Commission's plan for efficient information collection, communication and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

V. Regulatory Flexibility Act Certification

16. The Regulatory Flexibility Act of 1980 (RFA) [17] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. As shown in the information collection section, the proposed Reliability Standard applies to 561 entities. Comparison of the applicable entities with the Commission's small business data indicates that approximately 249 are small entities.[18] Of these, the Commission estimates that approximately five percent, or twelve of these small entities expect to be affected by the new requirements of the proposed Reliability Standard.[19]

17. Proposed Reliability Standard MOD–031–1 is designed to replace, consolidate and improve upon the Existing MOD C Standards in addressing the collection and aggregation of demand and energy data necessary to support reliability assessments performed by the ERO and Bulk-Power System planners and operators. The reliability of the Bulk-Power System is dependent on having an adequate amount of resources and transmission infrastructure available to serve peak demand while also maintaining a sufficient margin to address operating events.[20] The Commission estimates that the small entities that will be affected by proposed Reliability Standard MOD–031–1 will incur one-time compliance costs ranging up to $14,309 (i.e. the cost of determining the method of weather normalizing annual peak hour actual demand), plus the annual development of summary narratives in accordance with Requirement R1, Subparts 1.5.4 and 1.5.5, resulting in costs of $477. These costs represent an estimate of the costs a small entity could incur if the entity is identified as an applicable entity; the entity's annual peak hour actual demand varies due to weather-related conditions; and the entity has not yet determined a method for weather normalizing actual demand data. The Commission does not consider the estimated costs per small entity to have a significant economic impact on a substantial number of small entities. Accordingly, the Commission certifies that this NOPR will not have a significant economic impact on a substantial number of small entities.

VI. Environmental Analysis

18. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[21] The Commission has

[14] The estimated hourly costs (salary plus benefits) are based on Bureau of Labor Statistics (BLS) information (*available at http://bls.gov/oes/current/naics3_221000.htm#17-0000*) for an electrical engineer ($59.62/hour).

[15] This value represents the number of entities that have not already determined a method to weather normalize annual peak actual demand data. We estimate approximately 5 percent of the applicable entities fall into this category.

[16] DP = distribution provider, LSE = load-serving entity, TP = transmission planner and BA = balancing authority, are functions the applicable entities perform in conjunction or individually. We estimate the total number of unique entities performing one or more of these functions to be 561.

[17] 5 U.S.C. 601–612 (2012).

[18] The Small Business Administration sets the threshold for what constitutes a small business. Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. The possible categories for the applicable entities have a size threshold ranging from 250 employees to 1,000 employees. For the analysis in this proposed rule, we are using the 1,000 employee threshold for each applicable entity type.

[19] *See* n.15 *supra.*

[20] NERC Petition at 2.

[21] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[22] The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

VII. Comment Procedures

19. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due December 1, 2014. Comments must refer to Docket No. RM14–12–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments.

20. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

21. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

22. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VIII. Document Availability

23. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

24. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

25. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23195 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

[22] 18 CFR 380.4(a)(2)(ii).

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2520

RIN 1210–AB62

Electronic Filing of Notices for Apprenticeship and Training Plans and Statements for Pension Plans for Certain Select Employees

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Proposed rule.

SUMMARY: This document contains proposed regulations that would revise filing procedures for apprenticeship and training plan notices and ''top hat'' plan statements with the Secretary of Labor to require electronic submission of these notices and statements.

DATES: Comments are due on or before December 29, 2014.

ADDRESSES: You may submit comments, identified by RIN 1210–AB62, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: e-ORI@dol.gov.* Include RIN 1210–AB62 in the subject line of the message.
- *Mail or personal delivery:* Office of Regulations and Interpretations, Employee Benefits Security Administration, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: All submissions received must include the agency name and Regulation Identifier Number (RIN) for this rulemaking. Comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov* and *http://www.dol.gov/ebsa,* and made available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, 200 Constitution Avenue NW., Washington, DC 20210. Persons submitting comments electronically are encouraged not to submit paper copies.

FOR FURTHER INFORMATION CONTACT: Marjorie M. Kress or Eric A. Raps, Office of Regulations and Interpretations, Employee Benefits Security Administration (EBSA), Department of Labor, at (202) 693–8500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

Part 1 of Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA), contains reporting and disclosure requirements applicable to plans covered by ERISA. For instance, sections 103 and 104 of ERISA establish requirements for the publication and filing of annual reports, while sections 102 and 104 of ERISA require plan administrators to furnish summary plan descriptions and summaries of material modifications or changes to participants and beneficiaries.

Section 104(a)(3) of ERISA, however, authorizes the Secretary to exempt any welfare benefit plan from all or part of the reporting and disclosure obligations, or to provide simplified reporting and disclosure, if the Secretary finds that the requirements are inappropriate for these plans. Under this authority, the Secretary, in 1980, issued 29 CFR 2520.104–22, which provides an exemption from the reporting and disclosure provisions of Part 1 of Title I of ERISA for employee welfare benefit plans that provide only apprenticeship or training benefits, or both, if certain conditions are met.[1] Under the regulation, a welfare plan that provides only these benefits is not required to meet the requirements of Part 1 of Title I if the administrator files with the Secretary a notice as described in § 2520.104–22 by mail or personal delivery, takes steps reasonably designed to ensure that the information required to be contained in the notice is disclosed to employees of employers contributing to the plan who may be

[1] See 40 FR 24647 (June 9, 1975); 40 FR 34529, 34530 (August 15, 1975); and 45 FR 34528, 34529 FN 10 (March 11, 1980).

eligible to enroll, and makes the notice available to these employees upon request.

Similarly, section 110(a) of ERISA permits the Secretary to specify an alternative form of compliance with the reporting and disclosure obligations of Part 1 of Title I for any pension plan or class of pension plans subject to ERISA if certain findings are made. Under the authority of section 110(a), the Department, in 1975, issued regulation 29 CFR 2520.104–23 to provide an alternative method of compliance with the reporting and disclosure requirements of Part 1 of Title I for unfunded or insured pension plans established for a select group of management or highly compensated employees (''top hat'' plans).[2] Under the alternative method of compliance, the administrator of a top hat plan will satisfy the requirements for the reporting and disclosure provisions of Part 1 of Title I by filing a statement with the Secretary by mail or personal delivery to the address specified in the regulation, and by providing plan documents, if any, to the Secretary upon request. The statement must include the information listed in the regulation.

Recently, the Department instituted a wholly electronic system (EFAST2) for filing and processing the Form 5500 Annual Return/Report, which is used to report information to the government on certain employee benefit plans and direct filing entities. Form 5500 Annual Return/Reports filed through EFAST2 on or after the 2009 plan years are also available to the general public through the Department's Web site at *http://www.efast.dol.gov.* The EFAST2 system, however, does not include apprenticeship and training plan notices and top hat statements.[3] Thus, all such notices and statements are filed with the Department on paper though regular mail or personal delivery.

The Department has determined that regular mail or personal delivery are no longer the most efficient or cost-effective ways to file and process these notices and statements. The Department annually receives approximately 120 apprenticeship and training plan notices and approximately 2,000 top hat plan statement filings. To make the information on these notices and statements accessible, the Department converts each paper filing to electronic format. The proposal will eliminate the need for this time-consuming task. Because the internet is widely accessible to persons who file these notices and statements, the Department expects that the regulated community will find electronic filing to be easier and more cost-effective than paper filing. Electronic filing should also facilitate the disclosure of the information to participants and beneficiaries, and other interested members of the public since electronically filed documents can be promptly posted on the Department's Web site. Thus, the Department, filers, and users all stand to benefit from this proposal in ways that are consistent with the goals of the E-Government Act of 2002.[4]

Explanation of Provisions

The proposal would revise the current procedures for filing apprenticeship and training plan notices and ''top hat'' plan statements with the Secretary of Labor to require electronic submission of these notices and statements. The proposal is not intended to express any view on, and would not change, the current content requirements in the exemption under § 2520.104–22 for apprenticeship and training plans or the alternative method of compliance under § 2520.104–23 for top hat plans.[5]

The proposal would revise § 2520.104–22(c) and § 2520.104–23(c) to require internet-based electronic filing of apprenticeship and training plan notices and top hat plan statements with the Secretary through EBSA's Web site. Once they are filed, these notices and statements would be posted on the Department's Web site at *http://www.dol.gov/ebsa* and be available to the public. The submission process would be easy to use because the web portal would include instructions for using the electronic filing system and also would assist administrators by ensuring that all of the information required by the regulations would be included in the notice or statement before the filing could be completed through the Web site. In addition, as previously mentioned, the process would provide an electronic confirmation to the administrator that the filing had been received by EBSA. This assurance would provide a benefit to apprenticeship and training plan administrators and top hat plan administrators that is not available through the existing paper-based filing system. Finally, the design of the electronic filing system will facilitate the requirement that plan administrators of apprenticeship and training plans make notices available to participants upon request.

Dates and Interim Availability of New Electronic Filing System

The Department today is launching its new web-based filing system for the notices described above. See *http://www.dol.gov/ebsa.* Use of this system in lieu of paper-based filing is voluntary pending the adoption of a final rule. The Department encourages administrators of apprenticeship and training plans and administrators of top hat plans to file their plan notices and statements using this new system. Pending issuance of final regulations, the Department will treat administrators who use the new system as having satisfied the requirement to mail the notice or statement to the address listed in §§ 2520.104–22(c) and 2520.104–23(c). The Department is interested in receiving comments on the design and operation of the system and proposes that the final rules would become effective on their date of publication in the **Federal Register** and applicable to all filings made on or after 120 days after that date.[6] After the applicability date, the Web site filing system would be the exclusive method of filing these notices and statements. Filings with the Secretary by mail and personal delivery would no longer be acceptable.

Regulatory Impact Analysis

1. Executive Orders 12866 and 13563

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

[2] See 40 FR 24647, 24648 (June 9, 1975) and 40 FR 34530 (August 15, 1975).

[3] The Department also requires that the administrator of a multiple employer welfare arrangement (MEWA) and the administrator of any entity claiming exception (ECE) satisfy Form M–1 reporting obligations by filing electronically. Apprenticeship and training plan notices and top hat statements also are not part of the MEWA and ECE electronic filing process.

[4] Public Law 107–347, sec. 2 (Dec. 17, 2002).

[5] We note that the proposed filing system would require the filer to input an email address. Although neither regulation explicitly mentions such an address, we are not viewing this item as a content requirement of the regulations. Rather, the address is needed for system functionality because without it the filer would not receive instantaneous confirmation of the filing.

[6] As noted above, once they are filed, the notices and statements would be posted on the Department's Web site and available online to the public, One issue we wish to flag for public comment is whether there are any concerns with making any of this information, in particular the email address of the plan administrator, publicly accessible online. Should this address be suppressed for privacy or logistical reasons?

reducing costs, of harmonizing and streamlining rules, and of promoting flexibility.

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

Pursuant to the terms of the Executive Order, OMB has determined that this action is ''significant'' within the meaning of section 3(f) of the Executive Order. Therefore, the proposed rule was reviewed by OMB. However, because the rule merely would replace the paper-based filing of apprenticeship and training plan notices and top hat plan statements with an electronic filing system, and no substantive change would be made to the notices and statements, the Department does not expect this rulemaking to result in significant costs or benefits. For a further discussion, see the Paperwork Reduction Act section, below.

2. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the APA (5 U.S.C. 551 et seq.) and that are likely to have a significant economic impact on a substantial number of small entities.

The Department carefully considered the likely impact of this proposed rule on small entities. The proposed rule will implement an electronic submission procedure for administrators of apprenticeship and training plans and top hat plans to file notices and statements described in sections 2520.104–22 and 2520.104–23. The electronic filing system will provide instructions, ensure that plan administrators include all of the required information in their notices and statements, and provide an electronic confirmation that they have been received. The Department expects that an electronic filing system to file apprenticeship notices and top hat statements would be more efficient and cost-effective for small plan administrators than a paper-based filing system, because they no longer will incur material and postage costs associated with delivery by regular mail or personal delivery service. Based on the foregoing, the Department hereby certifies that the proposed rule is not likely to have a significant economic impact on a substantial number of small entities. The Department welcomes public comments regarding its certification.

Section 610 of the RFA requires that an agency review each rule that has or will have a significant economic impact on a substantial number of small entities within ten years of publication of the final rule. EBSA initiates a Section 610 review to determine if the provisions of a rule should be continued without change, rescinded, or amended to minimize adverse economic impact on small entities. In addition to the changes in this proposal, EBSA, under section 610 of RFA, is taking comments on other possible changes or amendments to the two regulations (§§ 2520.104–22(c) and 2520.104–23(c)) that are the subject of the proposed amendments.

3. Paperwork Reduction Act

This Notice of Proposed Rulemaking (NPRM) contains an information collection that is subject to OMB approval under the Paperwork Reduction Act of 1995 (PRA) 44 U.S.C. 3501 et seq. As part of a continuing effort to reduce paperwork and respondent burden, the Department of Labor and OMB conduct a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collection of information. This 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.

More specifically and as stated earlier in this preamble, section 2520.104–22 provides an exemption to the reporting and disclosure provisions of Part 1 of Title I of ERISA for employee welfare benefit plans that provide only apprenticeship or training benefits, or both, if the plan administrator: (1) Files a notice with the Secretary that provides the name of the plan, the plan sponsor's Employer Identification Number (EIN), the plan administrator's name, and the name and location of an office or person from whom interested individuals can obtain certain information about courses offered by the plan; (2) takes steps reasonably designed to ensure that the information required to be contained in the notice is disclosed to employees of employers contributing to the plan who may be eligible to enroll in any course of study sponsored or established by the plan; and (3) makes the notice available to these employees upon request. The plan administrator must file the notice with the Secretary of Labor by mailing or delivering it to the Department at the address set forth in the regulation.

Section 2520.104–23 provides an alternative method of compliance with the reporting and disclosure provisions of Title I of ERISA for unfunded or insured plans established for a select group of management or highly compensated employees (i.e., top hat plans). In order to satisfy the alternative method of compliance, the plan administrator must: (1) File a statement with the Secretary of Labor that includes the name and address of the employer, the employer EIN, a declaration that the employer maintains a plan or plans primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees, and a statement of the number of such plans and the employees covered by each; and (2) make plan documents available to the Secretary upon request. Only one statement needs to be filed for each employer maintaining one or more of the plans. The statements may be filed with the Secretary by mail or personal delivery.

The proposed rule would replace the paper-based filing of apprenticeship and training plan notices and top hat plan statements with an electronic filing system. No substantive change would be made to the notices and statements. The Department annually receives approximately 120 apprenticeship and training plan notices and approximately 2,000 top hat plan statement filings. The Department estimates in-house human resource professionals on average will spend 15 minutes preparing each filing at an equivalent cost of $97.69 per hour,[7] and that in-house clerical staff

[7] The Department estimates 2013 hourly labor rates include wages, other benefits, and overhead based on data from the National Occupational Employment Survey (June 2012, Bureau of Labor

will spend three minutes filing the notices and statements on the Department's electronic filing system, at an equivalent cost of $29.14 per hour, for a total of 36 hours for apprenticeship and training plan notice filings and 600 hours of top hat plan statement filings and an overall total of 636 burden hours. The total equivalent cost for the hour burden is $55,000 ($3,000 for apprenticeship and training plan notices and $52,000 for top hat plan statements). The Department assumes that no other cost burden is associated with this information collection request (ICR), because in-house staff will prepare and file the notices on behalf of each plan.

The Department has submitted an ICR seeking OMB approval for the information collection contained in the proposed rule to OMB. A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201407-1210-003* (this link will only become active on the day following publication of this notice); by sending a request by mail or courier to: PRA Clearance Officer, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210; or send an email to *ebsa.opr@dol.gov.*

OMB asks that comments about information collections in this NPRM be submitted by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the party identified in the **ADDRESSES** section of this NPRM. OMB requests that comments be received within 30 days of publication of the proposed rule to ensure their consideration. Comments submitted in response to this request become a matter of public record.

The Department and OMB are particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

These paperwork burden estimates are summarized as follows:

Title: Apprenticeship and Training Plan Notices and Top Hat Plan Statements.

OMB ICR Reference Number: 201407–1210–003.

Affected Public: Private Sector—business or other for-profit and not-for-profit institutions.

Respondents: 2,120 (120 apprenticeship and training plans and 2,000 top hat plans).

Responses: 2,120.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 636 (36 for apprenticeship and training plan notices and 600 for top hat plan statements).

Estimated Total Annual Burden Cost: $0.

4. Congressional Review Act

The proposed rule is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.) and, if finalized, will be transmitted to Congress and the Comptroller General for review. The proposed rule is not a ''major rule'' as that term is defined in 5 U.S.C. 804, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, or Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

5. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), as well as Executive Order 12875, this proposed rule does not include any Federal mandate that may result in expenditures by State, local, or tribal governments in the aggregate of more than $100 million, adjusted for inflation, or increase expenditures by the private sector of more than $100 million, adjusted for inflation.

6. Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism, and requires the adherence to specific criteria by Federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the States, the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. This proposed rule does not have federalism implications because it has no 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. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of Titles I and IV of ERISA supersede any and all laws of the States as they relate to any employee benefit plan covered under ERISA. The electronic filing requirements in this proposed rule do not alter the fundamental reporting and disclosure requirements of the statute with respect to employee benefit plans, and, as such, have no implications for the States or the relationship or distribution of power between the national government and the States.

List of Subjects in 29 CFR Part 2520

Employee benefit plans, Employee Retirement Income Security Act, Pension plans, Pension and welfare plans, Reporting and recordkeeping requirements, Welfare benefit plans.

For the reasons set forth in the preamble, the Department proposes to amend 29 CFR part 2520 as follows:

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

■ 1. The authority citation for part 2520 continues to read as follows:

Authority: 29 U.S.C. 1021–1024, 1027, 1029–31, 1059, 1134 and 1135; Secretary of

Statistics) and the Employment Cost Index (September 2012, Bureau of Labor Statistics); the 2011 estimated labor rates are then inflated to 2013 labor rates.

Labor's Order 1–2011, 77 FR 1088 (January 9, 2012). Sec. 2520.101–2 also issued under 29 U.S.C. 1181–1183, 1181 note, 1185, 1185a–d, and 1191–1191c. Sec. 2520.103–1 also issued under 26 U.S.C. 6058 note. Sec. 2520.101–6 also issued under 29 U.S.C. 1021(k); Secs. 2520.102–3, 2520.104b–1 and 2520.104b–3 also issued under 29 U.S.C. 1003, 1181–1183, 1181 note, 1185, 1185a–d, 1191, and 1191a–c. Secs. 2520.104b–1 and 2520.107 also issued under 26 U.S.C. 401 note, 111 Stat. 788.

■ 2. Section 2520.104–22 is amended by revising paragraph (c) to read as follows:

§ 2520.104–22 Exemption from reporting and disclosure requirements for apprenticeship and training plans.

* * * * *

(c) *Electronic filing of notice.* The notice referred to in paragraph (a) of this section shall be filed with the Secretary electronically in accordance with the instructions published by the Department.

■ 3. Section 2520.104–23 is amended by revising paragraph (c) to read as follows:

§ 2520.104–23 Alternative method of compliance for pension plans for certain selected employees.

* * * * *

(c) *Electronic filing of statement.* Statements referred to in paragraph (b) of this section shall be filed with the Secretary electronically in accordance with the instructions published by the Department.

* * * * *

Signed this 16th day of September 2014.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2014–22855 Filed 9–29–14; 8:45 am]

BILLING CODE 4510–29–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 14–139, RM–11732; DA 14–1273]

Television Broadcasting Services; Mount Vernon, Illinois; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of September 12, 2014, requesting the substitution of channel 11 for channel 21 at Mount Vernon, Illinois. This correction clarifies that the proposed rule applies prospectively to plans submitted for approval from the effective date for the final rule.

DATES: September 30, 2014.

ADDRESSES: Federal Communications Commission, Office of Secretary, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Robert L. Olender, Esq., Koerner & Olender, P.C., 11913 Grey Court, North Bethesda, MD 20852.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, 202–418–1600.

Correction

In proposed rule FR Doc. 14–1273, beginning on page 54675 in the issue of September 12, 2014, make the following correction, in the Addresses section. On page 54675 in the 3rd paragraph, replace the listed paragraph with the following:

''Federal Communications Commission, Office of Secretary, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Robert L. Olender, Esq., Koerner & Olender, P.C., 11913 Grey Court, North Bethesda, MD 20852.''

Dated: September 22, 2014.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2014–23134 Filed 9–29–14; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 79, No. 189

Tuesday, September 30, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0043]

Monsanto Co.; Draft Environmental Impact Statement for Determination of Nonregulated Status of Herbicide Resistant Soybeans and Cotton; Comment Period

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The comment period for a draft environmental impact statement (EIS) on environmental impacts that may result from the potential approval of petitions seeking a determination of nonregulated status of cultivars of dicamba herbicide resistant soybeans and cotton produced by the Monsanto Company will remain open until October 10, 2014. This action will allow interested persons additional time to prepare and submit comments.

DATES: The comment period for the draft EIS announced in the notice published August 11, 2014 (79 FR 46799) will remain open until October 10, 2014.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0043.*
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS–2013–0043, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0043* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Sid Abel, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1238; (301) 851–3896.

SUPPLEMENTARY INFORMATION: On August 11, 2014, the Environmental Protection Agency published in the **Federal Register** (79 FR 46799) a notice announcing the availability of a draft environmental impact statement (EIS) for the potential determinations of nonregulated status of cultivars soybeans and cotton produced by the Monsanto Company that are resistant to the herbicide dicamba.

Comments on the draft EIS were required to be received on or before September 25, 2014. We will now accept all comments on the draft EIS received through October 10, 2014. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

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

Michael C. Gregoire,

Associate Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–23180 Filed 9–29–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request: Supplemental Nutrition Assistance Program Waivers Under Section 6(o) of the Food and Nutrition Act

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collection. This is a revision of a currently approved collection. The purpose of Section 6(o) of the Food and Nutrition Act is to establish a time limit for the receipt of benefits under the Supplemental Nutrition Assistance Program (SNAP) for certain able-bodied adults who are not working. The provision authorizes the Secretary of Agriculture, upon a State agency's request, to waive the provision for any group of individuals if the Secretary determines ''that the area in which the individuals reside has an unemployment rate of over 10 percent, or does not have a sufficient number of jobs to provide employment for the individuals.'' As required in the statute, in order to receive a waiver the State agency must submit sufficient supporting information so that the United States Department of Agriculture (USDA) can make the required determination as to the area's unemployment rate or sufficiency of available jobs. This collection of information is, therefore, necessary in order to obtain waivers of the SNAP time limit.

DATES: Written comments must be received on or before December 1, 2014.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 collection of information on those who are to respond, including use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Sasha Gersten-Paal, Branch Chief, Certification Policy Branch, Program Development Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 812, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Sasha Gersten-Paal at 703–305–2507 or via email to *Sasha.Gersten-Paal@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the

online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Sasha Gersten-Paal at (703) 305–2507.

SUPPLEMENTARY INFORMATION:

Title: Supplemental Nutrition Assistance Program Waivers of Section 6(o) of the Food and Nutrition Act.

OMB Number: 0584–0479.

Expiration Date: January 31, 2015.

Type of Request: Revision of a currently approved collection.

Abstract: Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193, 110 Stat. 2323 amended Section 6(o) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)) to establish a time limit for the receipt of food stamp benefits for certain able-bodied adults without dependents (ABAWDs) who are not working at least 20 hours per week. This time limit applies only to adults between 18 and 50 years of age that do not have children or adult dependents in their SNAP household. ABAWD recipient eligibility is limited to three months within a 36 month period, unless the individual is working, or participating in a designated employment and training activity, for 20 hours per week. (**Note:** Pursuant to the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–234, 122 Stat. 923, enacted May 22, 2008), the Food Stamp Act was renamed the Food and Nutrition Act of 2008 and the Food Stamp Program was renamed the Supplemental Nutrition Assistance Program [SNAP].)

The provision authorizes that upon the request of a State agency, the Secretary of Agriculture may waive this provision for any group of individuals if the Secretary determines ''that the area in which the individuals reside has an unemployment rate of over 10 percent or does not have a sufficient number of jobs to provide employment for the individuals.'' As required in the statute, in order to receive a waiver, the State agency must submit sufficient supporting information so that the Secretary can make the required determination as to the area's unemployment rate or insufficiency of available jobs. This collection of information is necessary in order to obtain waivers of the SNAP ABAWD time limit.

Based on the experience of the Food and Nutrition Service (FNS) during calendar year 2014, FNS projects that on an annual basis 43 State agencies will submit requests for waivers of the time limit for ABAWD recipients based on a high unemployment rate or an insufficient number of jobs. Using unemployment projections from the Congressional Budget Office (CBO) through 2024, FNS believes that labor market conditions in 2014 would be more representative of the U.S. labor market over the next three years than would the preceding three years.

A typical State waiver request includes several geographic areas and each geographic area may include multiple cities or counties. FNS projects that of the 43 requests each year, 33 will be based on labor market data, 8 will be based on a Labor Surplus Area (LSA) designation by the Department of Labor (DOL) and 2 will be based on a DOL extended unemployment benefit trigger notice. FNS estimates a response time of 35 hours for each waiver request based on labor market data, which require detailed analysis of labor markets within the State. FNS estimates a burden of 4 hours per respondent for waivers based on an LSA designation or a DOL trigger notice, as the data required to support these waivers is readily available from the DOL Web site and requires minimal preparation by State agencies. FNS projects a total burden of 1,195 hours.

Affected Public: State Agencies.

Estimated Number of Respondents: 43.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 43.

Estimate Time per Response: Varies between 4 to 35 Hours.

Estimated Total Annual Burden: 1,195.

There is no recordkeeping requirement directly associated with this information collection.

OMB #0584–0479	Requirement	Estimated number of respondents	Responses annually per respondent	Total annual responses	Hours per esponse	Annual burden hours
State Agencies						
Affected Public:						
Reporting Burden	Submission of waiver request based on labor market data.	33	1	33	35	1,155
	Submission of waiver request based on Labor Surplus Area designation.	8	1	8	4	32
	Submission of waiver request based on DOL trigger notice.	2	1	2	4	8
Reporting Totals ...	.....	48	.....	.....	.....	1,195

Dated: September 24, 2014.

Jeffrey J. Tribiano,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2014–23176 Filed 9–29–14; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Land Between the Lakes Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Land Between the Lakes Advisory Board (Board) will meet in Golden Pond, Kentucky. The Board is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App 2). Additional information concerning the Board, including the meeting summary/minutes, can be

found by visiting the Board's Web site at: *http://www.lbl.org/LRMPadvisoryboard.html.*

DATES: The meeting will be held on Wednesday, October 8, 2014 from 9:00 a.m. to 3:30 p.m. CST. All meetings are subject to cancellation. For updated status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Administration Building, 100 Van Morgan Drive, Golden Pond, Kentucky. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Land Between the Lakes National Recreation Area. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Linda L. Taylor, Advisory Board Liaison, Land Between The Lakes National Recreation Area, 100 Van Morgan Drive, Golden Pond, Kentucky 42211, or by phone at 270–924–2002.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

(1) Discuss Environmental Education; and

(2) Effectively communicate future land management plan activities.

The meeting is open to the public. The Board's discussion is limited to Forest Service staff and board members. Individuals wishing to provide related matters to the attention of the Board may submit written comments no later than October 1, 2014. Written comments must be sent to Tina Tilley, Area Supervisor, Land Between the Lakes National Recreation Area, 100 Van Morgan Drive, Golden Pond, Kentucky 42211.

Meeting Accommodations: If you are a person requiring reasonable accommodations, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodations for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: September 23, 2014.

Tina R. Tilley,

Area Supervisor, Land Between The Lakes.

[FR Doc. 2014–23232 Filed 9–29–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Solicitation of Input From Stakeholders Regarding Commodity Boards To Propose Projects and Contribute Funding Under the Agricultural and Food Research Initiative Competitive Grant Programs, Implementation

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice of Web-based listening session and request for stakeholder input.

SUMMARY: As part of the National Institute of Food and Agriculture's (NIFA) strategy to successfully implement Section 7404 of Public Law 113–79, the Agricultural Act of 2014, NIFA is soliciting stakeholder input on how it will establish procedures, including timelines, under which an entity established under a commodity promotion law (as such term is defined under section 7401(a) of the Agricultural Act of 2014) or a State commodity board (or other equivalent State entity) may submit proposals for Requests for Applications (RFA)to be competed as part of the Agricultural and Food Research Initiative (AFRI) competitive grant programs. If proposals are accepted for funding, the proposed RFA will be competed as part of the AFRI competitive grants program RFAs and entities eligible for AFRI awards will be able to compete for award. In addition, as a condition of funding the grant proposed by a commodity board, NIFA shall require a contribution of funds equal to the amount of the grant.

NIFA will be holding Web-based listening sessions in order to solicit stakeholder input on this new challenge area. The focus of the Web-based listening sessions will be to gather stakeholder input that will be used in developing a process for soliciting, evaluating, and prioritizing AFRI Request for Applications (RFA) submissions from the previously stated commodity board entities or their equivalent.

All comments must be received by close of business on October 16, 2014, to be considered in the initial planning of the FY 2015 cycle.

DATES: The Web-based listening sessions will be held on Thursday, October 9, 2014, from 10:00 a.m. to 12:00 p.m., Eastern Standard Time (ET), and Thursday, October 16, 2014, from 1:00 p.m. to 3:00 p.m., ET. All written comments must be received by 5:00 p.m., ET on Thursday, October 16, 2014.

ADDRESSES: The Web-based listening sessions will be hosted using Adobe Connect. On October 9th and October 16th, please access the following Web site, *http://nifa-connect.nifa.usda.gov/cbsls/*. In addition, audio conference call capabilities can be accessed at 1–888–844–9904, participant code 4896371#.

You may submit comments, identified by NIFA–2014–004, by any of the following methods:

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

Email: *vbest@nifa.usda.gov.* Include NIFA–2014–004 in the subject line of the message.

Fax: 202–690–0289.

Mail: Paper, disk or CD–ROM submissions should be submitted to Commodity Boards; Office of the Administrator, National Institute of Food and Agriculture, U.S. Department of Agriculture, STOP 2201, 1400 Independence Avenue SW., Washington, DC 20250–2201.

Hand Delivery/Courier: Centers of Excellence—Office of the Administrator, National Institute of Food and Agriculture, U.S. Department of Agriculture, Room 4248, Waterfront Centre, 800 9th Street SW., Washington, DC 20024.

Instructions: All submissions received must include the agency name and reference to NIFA–2014–004. All comments received will be posted to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Valeria Best, (202) 720–8540 (phone), (202) 690–1260 (fax), or *vbest@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION:

Comment Procedures

Persons wishing to present oral comments during the Web-based listening session on either Thursday, October 9 or Thursday, October 16, 2014 are requested to pre-register by contacting Ms. Valeria Best at (202) 720–8540, by fax at (202) 690–1260 or by email to *vbest@nifa.usda.gov.* Participants may reserve one 5-minute comment period. More time may be available, depending on the number of people wishing to make a presentation. Reservations will be confirmed on a

first-come, first-served basis. All other participants may provide comments during the Web-based listening session if time permits, or submit written comments. All written comments must be received by close of business October 16, 2014, to be considered. All comments and the official transcript of the Web-based listening session, when they become available, may be reviewed on the NIFA Web page, *http://www.nifa.usda.gov,* for six months.

Background and Purpose

NIFA is moving forward to implement Section 7404 of the Agricultural Act of 2014. Beginning in October of 2014, this section requires that the NIFA ''establish procedures, including timelines, under which an entity established under a commodity promotion law (as such term is defined under section 501(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(a))) or a State commodity board (or other equivalent State entity) may directly submit to the Secretary for consideration proposals for requests for applications'' as part of the AFRI competitive grants program.

These proposals for RFAs must address particular issues related to the AFRI priority areas. A program synopsis of the AFRI programs, including program priorities, can be viewed at the following URL: *http://www.nifa.usda.gov/funding/afri/afri_synopsis.html.*

Language in 7 U.S.C. 7401(a) defines an entity established under a commodity promotion law as a program regarding an agricultural commodity that includes a combination of promotion, research, industry information, or consumer information activities, is funded by mandatory assessments on producers or processors, and is designed to maintain or expand markets and uses for the commodity (as determined by the Secretary). As of this writing, the USDA Agricultural Marketing Service has informed NIFA that 22 organizations are federally recognized that meet the definition of this organization: Hass Avocado Board, Mushroom Council, Beef Board, Paper and Paper-Based Packaging, Blueberry Council, Peanut Board, Christmas Tree Board, Popcorn Board, Cotton Board, Pork Board, Dairy Board, Potato Board, Egg Board, Processed Raspberry Council, Fluid Milk Board, Softwood Lumber Board, Honey Board, Sorghum Board, Lamb Board, Soybean Board, Mango Board, Watermelon Board. However, the agency is interested in stakeholder views regarding the best methods of identification and outreach to ''other equivalent State'' entities that are established under state commodity promotion laws, include a combination of promotion, research, industry information, or consumer information activities, are funded by state-mandated assessments on producers or processors, and are designed to maintain or expand markets and uses for the commodity.

It is important to note that grants funded under this authority will require the commodity boards who submitted proposals for AFRI RFAs to match the awarded AFRI grants with an equal contribution of funds.

As the Agricultural Act of 2014 provides a fairly broad authority for NIFA to solicit and evaluate proposals for RFAs that address particular areas of interest to commodity boards, it will be important that NIFA hear from the community about how NIFA should do the following: Attempt to guide the priority development of AFRI RFAs that the commodity boards or their equivalent may submit; develop evaluation criteria for selecting RFAs submitted by commodity boards; incorporate selected RFAs into the larger framework of the AFRI program; set upper and lower limits on commodity board proposals; and determine the appropriate mix of RFAs selected from proposals submitted by national and state commodity boards.

NIFA is considering using a process where the agency would issue a request for applications from commodity boards or their equivalent entities that is carefully timed to fit into the existing AFRI RFA development and application review process. The proposals for RFAs would be subject to internal NIFA review and evaluation prior to selection. Successful commodity board or their equivalent entity RFAs would be released as part of the standard AFRI RFAs. Applications submitted in response to commodity board RFAs would be reviewed alongside the other applications within the same AFRI program area through the current competitive peer review process.

During the commodity board mechanism's initial year, NIFA may conduct a pilot program that would limit RFA proposals to program areas within the AFRI Foundational program. This limitation would not itself limit either the number of RFAs approved, or the number of awards ultimately granted, as a result of this new authority in the pilot year. More than one award could conceivably be issued per Commodity Board RFA. However, it is important to note that AFRI Foundational awards are typically limited to $500,000 each. Furthermore, NIFA may institute additional restrictions in the pilot year.

Implementation Plans

NIFA plans to consider stakeholder input received from the Web-based listening sessions as well as other written comments in developing a process to implement the Commodity Board provision in FY 2015.

Done at Washington, DC this 24th day of September, 2014.

Sonny Ramaswamy,

Director, National Institute of Food and Agriculture.

[FR Doc. 2014–23352 Filed 9–29–14; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Current Population Survey (CPS) Basic Demographic Items

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before December 1, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Gregory Weyland, U.S. Census Bureau, 7H106A, Washington, DC 20133–8400 at (301) 763–3806 (or via the internet at *Gregory.D.Weyland@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance from the Office of Management and Budget (OMB) for the collection of same sex marriage data as part of basic demographic information on the Current Population Survey (CPS) beginning in June 2015. The current clearance expires July 31, 2017.

The CPS has been the source of official government statistics on employment and unemployment for over 50 years. The Bureau of Labor Statistics (BLS) and the Census Bureau jointly sponsor the basic monthly survey. The Census Bureau also prepares and conducts all the field work. At the OMB's request, the Census Bureau and the BLS divide the clearance request in order to reflect the joint sponsorship and funding of the CPS program. The BLS submits a separate clearance request for the portion of the CPS that collects labor force information for the civilian non-institutional population. Some of the information within that portion includes employment status, number of hours worked, job search activities, earnings, duration of unemployment, and the industry and occupation classification of the job held the previous week.

The demographic information collected in the CPS provides a unique set of data on selected characteristics for the civilian non-institutional population. Some of the demographic information we collect are age, marital status, gender, Armed Forces status, education, race, origin, and family income. We use these data in conjunction with other data, particularly the monthly labor force data, as well as periodic supplement data. We also use these data independently for internal analytic research and for evaluation of other surveys. In addition, we use these data as a control to produce accurate estimates of other personal characteristics.

II. Method of Collection

The CPS basic demographic information is collected from individual households by both personal visit and telephone interviews each month. All interviews are conducted using computer-assisted interviewing. Households in the CPS are in sample for four consecutive months, and for the same four months the following year. This is called a 4–8–4 rotation pattern; households are in sample for four months, in a resting period for eight months, and then in sample again for four months.

III. Data

OMB Control Number: 0607–0049.

Form Number(s): There are no forms. We conduct all interviews on computers.

Type of Review: Regular submission.

Affected Public: Households.

Estimated Number of Respondents: 900 per month.

Estimated Time per Response: 0.16666 minutes.

Estimated Total Annual Burden Hours: 300.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 182, and Title 29, U.S.C., Sections 1–9.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 24, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–23188 Filed 9–29–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: *Effective Date:* September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 60 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://iaaccess.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review. Rebuttal comments will be due five days after submission of initial comments.

In the event the Department decides it is necessary to limit individual

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to: (a) Identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (''Q&V'') Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 60 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name, [3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 60 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2015.

	Period to be reviewed
Antidumping duty proceedings	
JAPAN: Brass Sheet and Strip A–588–704	8/1/13–7/31/14
Dowa Metals & Mining Co., Ltd.	
Fujisawa Co., Ltd.	
Furukawa Electric Co., Ltd.	
Harada Metal Industry	
Hitachi Alloy, Ltd.	
Hitachi Cable, Ltd.	
JX Nippon Mining & Metals Corp.	
Kicho Shindosho Co., Ltd.	
Kitz Metal Works Corp.	
Kobe Steel, Ltd.	
Mitsubishi Electric Metecs Co., Ltd.	
Mitsubishi Materials Corp.	
Mitsubishi Shindoh Co., Ltd.	
Mitsui Mining & Smelting Co., Ltd.(Mitsui Kinzoku)	
Mitsui Sumitomo Metal Mining Brass & Copper Co., Ltd.	
NGK Insulators (NGK Metals)	
Ohki Brass & Copper Co., Ltd.	
Sambo Copper Alloy Co., Ltd.	
Sugino Metal Industry Co., Ltd.	
Sumitomo Metal Mining Brass & Copper Co., Ltd.	
Uji Copper & Alloy Co., Ltd.	
YKK Corporation	
MEXICO: Light-Walled Rectangular Pipe and Tube A–201–836	8/1/13–7/31/14
Perfiles y Herrajes LM, S.A. de C.V.	
REPUBLIC OF KOREA: Large Power Transformers A–580–867	8/1/13–7/31/14
Hyosung Corporation	
Hyundai Heavy Industries Co., Ltd.	
ILJIN	
ILJIN Electric Co., Ltd.	
LSIS Co., Ltd.	
SOCIALIST REPUBLIC OF VIETNAM: Certain Frozen Fish Fillets A–552–801	8/1/13–7/31/14
An Giang Agriculture and Foods Import-Export Joint Stock Company (AFIEX)	
An Giang Fisheries Import and Export Joint Stock Company (also known as Agifish or AnGiang Fisheries Import and Export)	
Anvifish Co., Ltd.	
Anvifish Joint Stock Company (ANVIFISH)	
Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC or Acomfish)	
Asia Pangasius Company Limited	
Basa Joint Stock Company (BASACO)	
Bien Dong Seafood Company Ltd., (Bien Dong Seafood)	
Binh An Seafood Joint Stock Co.	
C.P. Vietnam Corporation	
Cadovimex II Seafood Import-Export and Processing Joint Stock Company (also known as CADOVIMEX II)	
Cafatex Corporation (CAFATEX)	
Can Tho Import-Export Seafood Joint Stock Company	
Cantho Import-Export Joint Stock Company (CASEAMEX)	
Cuu Long Fish Joint Stock Company (CL-Fish),	
Dai Thanh Seafoods Company Limited (DATHACO)	
East Sea Seafoods LLC (ESS)	
Europe Joint Stock Company	
Fatifish Company Limited (FATIFISH)	
GODACO Seafood Joint Stock Company (GODACO)	
Golden Quality Seafood Corporation (GOLDEN QUALITY)	
Green Farms Seafood Joint Stock Company (Green Farms)	
Hiep Thanh Seafood Joint Stock Co.	
Hoa Phat Seafood Import-Export and Processing J.S.C. (HOPAFISH)	
Hoang Long Seafood Processing Co., Ltd. (HLS)	
Hung Vuong Corporation	
Hung Vuong Joint Stock Company	
Hung Vuong Mascato Company Limited	
Hung Vuong Seafood Joint Stock Company	
Hung Vuong-Sa Dec Co. Ltd.	
Hung Vuong-Vinh Long Co., Ltd.	
International Development & Investment Corporation (IDI)	
Nam Phuong Seafood Company Ltd. (NAFISHCO)	
Nam Viet Corporation (NAVICO)	
Ngoc Ha Co., Ltd. Food Processing and Trading	

	Period to be reviewed
NTACO Corporation (NTACO)	
NTSF Seafoods Joint Stock Company (NTSF)	
Quang Minh Seafood Co., Ltd.	
QVD Dong Thap Food Co., Ltd. (also known as Dong Thap)	
QVD Food Company, Ltd.	
Saigon-Mekong Fishery Co., Ltd. (also known as SAMEFICO)	
Seafood Joint Stock Company No. 4—Branch Dong Tam Fisheries Processing Company (DOTASEAFOODCO)	
Southern Fisheries Industries Company, Ltd. (also known as South Vina)	
Southern Fishery Industries Company, Ltd. (also known as South Vina)	
TG Fishery Holdings Corporation (also known as TG)	
Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung)	
Thien Ma Seafood Co., Ltd. (also known as THIMACO)	
Thuan An Production Trading and Service Co., Ltd. (TAFISHCO)	
Thuan An Production Trading and Services Co., Ltd. (TAFISHCO)	
Thuan Hung Co., Ltd. (also known as THUFICO)	
To Chau Joint Stock Company (TOCHAU)	
Viet Phu Foods and Fish Corporation (Viet Phu)	
Vinh Hoan Corporation (also known as Vinh Hoan)	
Vinh Long Import-Export Company (also known as Vinh Long or Imex Cuu Long)	
Vinh Quang Fisheries Corporation (also known as Vinh Quang)	
Vinh Quang Fisheries Joint-Stock Company	
Thailand: Polyethylene Retail Carrier Bags A–549–821	8/1/13–7/31/14
2 P Work Co., Ltd.	
2PK Inetrplas Co., Ltd.	
Asian Packaging Limited Partnership	
Beyond Packaging Co., Ltd.	
CT Import-Export Co., Ltd.	
DTOP Co., Ltd.	
Dpac Inter. Corporation Co., Ltd.	
Elite Poly and Packaging Co., Ltd.	
G.L.K. (Thailand) Co., Ltd.	
HINWISET Packaging Limited Partnership	
King Bag Co., Ltd.	
King Pac Industrial Co., Ltd.	
KPA Packing & Product Co., Ltd.	
Napa Plastic Co., Ltd.	
NKD Intertrade Limited Partnership	
Northeast Pack Company Limited	
P.C.S. International Company Limited	
PMC Innopack Co., Ltd.	
Poly Plast (Thailand) Co., Ltd.	
Poly World Co., Ltd.	
PPN Plaspack Limited Partnership	
Prepack Thailand Co., Ltd.	
PSSP Plaspack Co., Ltd.	
SSGT Products Limited Partnership	
Super Grip Co., Ltd.	
T.P. Plaspack Co., Ltd.	
T.T.P. Packaging (Thailand) Co., Ltd.	
Thantawan Industry Public Co., Ltd.	
Triple B Pack Co., Ltd.	
Triyamook Vanich Limited Partnership	
Two Path Plaspack Co., Ltd.	
Udomrutpanich Limited Partnership	
Win Win and Pro Pack Co. Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Steel Nails A–570–909	8/1/13–7/31/14
ABF Freight System, Inc.	
Agritech Products Ltd.	
Aihua Holding Group Co., Ltd.	
Aironware (Shanghai) Co. Ltd.	
Anping County Anning Wire Mesh Co.	
Anping Fuhua Wire Mesh Making Co.	
APM Global Logistics O/B Hasbro Toy	
Beijing Daruixing Global Trading Co., Ltd.	
Beijing Daruixing Nail Products Co., Ltd.	
Beijing Hong Sheng Metal Products Co., Ltd.	
Beijing Hongsheng Metal Products Co., Ltd.	
Beijing Jinheuang Co., Ltd.	
Beijing Kang Jie Kong Cargo Agent	
Beijing KJK Intl Cargo Agent Co., Ltd.	
Beijing Long Time Rich Tech Develop	
Beijing Tri-Metal Co., Ltd.	
Beijing Yonghongsheng Metal Products Co., Ltd.	

	Period to be reviewed
Besco Machinery Industry (Zhejiang) Co., Ltd.	
Brighten International, Inc.	
Cana (Tianjin) Hardware Ind., Co., Ltd.	
Cana (Tianjin) Hardware Industrial Co., Ltd.	
Century Shenzhen Xiamen Branch	
Certified Products International Inc.	
Changzhou MC I/E Co., Ltd.	
Changzhou Quyuan Machinery Co., Ltd.	
Changzhou Refine Flag & Crafts Co., Ltd.	
Chao Jinqiao Welding Material Co., Ltd.	
Chaohu Bridge Nail Industry Co., Ltd.	
Chaohu Jinqiao Welding Material Co.	
Chewink Corp.	
Chiieh Yung Metal Ind. Corp.	
Chiieh Yung Metal Industrial Corp.	
Chiieh Yung Metal Industrial Corporation	
China Container Line (Shanghai) Ltd.	
China Silk Trading & Logistics Co., Ltd.	
China Staple Enterprise (Tianjin) Co., Ltd.	
Chongqing Hybest Nailery Co., Ltd.	
Chongqing Hybest Tools Group Co., Ltd.	
Cintee Steel Products Co., Ltd.	
Cyber Express Corporation	
CYM (Nanjing) Nail Manufacture Co., Ltd.	
CYM (Nanjing) Ningquan Nail Manufacture Co., Ltd.	
Dagang Zhitong Metal Products Co., Ltd.	
Damco Shenzhen	
Daxing Niantan Industrial	
Delix International Co., Ltd.	
Dezhou Hualude Hardware Products Co., Ltd.	
Dingzhou Derunda Material and Trade Co., Ltd.	
Dingzhou Ruili Nail Production Co., Ltd.	
Dong'e Fugiang Metal Products Co., Ltd.	
Dongguan Five Stone Machinery Products Trading Co., Ltd.	
ECO System Co., Ltd.	
ECO System Corporation	
Elite International Logistics Co.	
Elite Master International Ltd.	
England Rich Group (China) Ltd.	
Entech Manufacturing (Shenzhen) Ltd.	
Expeditors China Tianjin Branch	
Faithful Engineering Products Co. Ltd.	
Fedex International Freight Forward Agency Services (Shanghai) Co., Ltd.	
Feiyin Co., Ltd.	
Fension International Trade Co., Ltd.	
Foreign Economic Relations & Trade	
Fujiansmartness Imp. & Exp. Co., Ltd.	
Fuzhou Builddirect Ltd.	
Goal Well Stone Co., Ltd.	
Gold Union Group Ltd.	
Goldever International Logistics Co.	
Goldmax United Ltd.	
Grace News Inc.	
Guangdong Foreign Trade Import & Export Corporation	
Guangzhou Qiwei Imports and Exports Co., Ltd.	
Guoxin Group Wang Shun I/E Co., Ltd.	
GWP Industries (Tianjin) Co., Ltd.	
Haierc Industry Co., Ltd.	
Haixing Hongda Hardware Production Co., Ltd.	
Haixing Linhai Hardware Products Factory	
Haiyan Fefine Import and Export Co.	
Handuk Industrial Co., Ltd.	
Hangzhou Kelong Electrical Appliance & Tools Co. Ltd.	
Hangzhou New Line Co., Ltd.	
Hangzhou Zhongding Imp. & Exp. Co., Ltd.	
Hebei Cangzhou New Century Foreign Trade Co., Ltd.	
Hebei Development Metals Co., Ltd.	
Hebei Jinsidun (JSD) Co., Ltd.	
Hebei Machinery Import and Export Co., Ltd.	
Hebei Minmetals Co., Ltd.	
Hebei My Foreign Trade Co., Ltd.	
Hebei Super Star Pneumatic Nails Co., Ltd.	
Henan Pengu Hardware Manufacturing Co., Ltd.	
Hengshui Mingyao Hardware & Mesh Products Co., Ltd.	

	Period to be reviewed
Heretops (Hong Kong) International Ltd.	
Heretops Import & Export Co., Ltd.	
Hilti (China) Limited	
HK Villatao Sourcing Co., Ltd.	
Hong Kong Hailiang Metal Trading Ltd.	
Hong Kong Yu Xi Co., Ltd.	
Huadu Jin Chuan Manufactory Co Ltd.	
Huanghua Honly Industry Corp.	
Huanghua Huarong Hardware Products Co., Ltd.	
Huanghua Jinhai Hardware Products Co., Ltd.	
Huanghua Jinhai Metal Products Co., Ltd.	
Huanghua Shenghua Hardware Manufactory Factory	
Huanghua Xinda Nail Production Co., Ltd.	
Huanghua Xionghua Hardware Products Co., Ltd.	
Huanghua Xiong Hua Hardware Product Co., Ltd.	
Huanghua Yufutai Hardware Products Co., Ltd.	
Hubei Boshilong Technology Co., Ltd.	
Huiyuan Int'l Commerce Exhibition Co., Ltd.	
Jiashan Superpower Tools Co., Ltd.	
Jiaxing Yaoliang Import & Export Co., Ltd.	
Jinhua Kaixin Imp & Exp Ltd.	
Jining Huarong Hardware Products	
Jining Huarong Hardware Products Co., Ltd.	
JISCO Corporation	
Joto Enterprise Co., Ltd.	
Karuis Custom Metal Parts Mfg. Ltd.	
Kasy Logistics (Tianjin) Co., Ltd.	
K.E. Kingstone	
Koram Panagene Co., Ltd.	
Kuehne & Nagel Ltd.	
Kum Kang Trading Co., Ltd.	
Kyung Dong Corp.	
Le Group Industries Corp. Ltd.	
Leang Wey Int. Business Co., Ltd.	
Liang's Industrial Corp.	
Lijiang Liantai Trading Co., Ltd.	
Linhai Chicheng Arts & Crafts Co., Ltd.	
Lins Corp.	
Linyi Flying Arrow Imp & Exp. Co., Ltd.	
Maanshan Cintee Steel Products Co., Ltd.	
Maanshan Leader Metal Products Co. Ltd.	
Maanshan Longer Nail Product Co., Ltd.	
Manufacutersinchina (HK) Company Ltd.	
Marsh Trading Ltd.	
Master International Co., Ltd.	
Mingguang Abundant Hardware Products Co., Ltd.	
Nanjing Caiqing Hardware Co., Ltd.	
Nanjing Dayu Pneumatic Gun Nails Co., Ltd.	
Nanjing Yuechang Hardware Co. Ltd.	
Nanjing Yuechang Hardware Co., Ltd.	
Nantong Corporation for Internation	
Ningbo Bolun Electric Co., Ltd.	
Ningbo Dollar King Industrial Co., Ltd.	
Ningbo Endless Energy Electronic Co., Ltd.	
Ningbo Fension International Trade Center	
Ningbo Fortune Garden Tools and Equipment Inc.	
Ningbo Haixin Railroad Material Co.	
Ningbo Huamao Imp & Exp. Co., Ltd.	
Ningbo Hyderon Hardware Co., Ltd.	
Ningbo JF Tools Industrial Co., Ltd.	
Ningbo KCN Electric Co., Ltd.	
Ningbo Meizhi Tools Co., Ltd.	
Ningbo Ordam Import & Export Co., Ltd.	
OEC Logistics (Qingdao) Co. Ltd.	
Omega Products International	
OOCL Logistics O B of Winston Marketing Group	
Orisun Electronics HK Co., LTd.	
Pacole International Ltd.	
Panagene Inc.	
Pavilion Investmen Ltd.	
Perfect Seller Co., Ltd.	
Prominence Cargo Service, Inc.	
PT Enterprise Inc.	
Qianshan Huafeng Trading Co., Ltd.	

	Period to be reviewed
Qidong Liang Chyuan Metal Industry Co., Ltd.	
Qingdao Bestworld Industry Trading	
Qingdao D&L Group Ltd.	
Qingdao D&L Group, Ltd.	
Qingdao D&L Group Co., Ltd.	
Qingdao Denarius Manufacture Co. Limited	
Qingdao Golden Sunshine ELE–EAQ Co., Ltd.	
Qingdao International Fastening Systems Inc.	
Qingdao Jisco Co., Ltd.	
Qingdao Koram Steel Co., Ltd.	
Qingdao Lutai Industrial Products Manufacturing Co., Ltd.	
Qingdao Meijia Metal Products Co.	
Qingdao Rohuida International Trading Co.,	
Qingdao Sino-Sun International Trading Company Limited	
Qingdao Super United Metals & Wood Prods. Co. Ltd.	
Qingdao Tiger Hardware Co., Ltd.	
Qingfu Metal Craft Manufacturing Ltd.	
Qinghai Wutong (Group) Industry Co.	
Qingyuan County Hongyi Hardware Products Factory	
Qingyun Hongyi Hardware Factory	
Qinhuangdao Kaizheng Industry and Trade Co.	
Q-Yield Outdoor Great Ltd.	
Region International Co., Ltd.	
Richard Hung Ent. Co. Ltd.	
River Display Ltd.	
Rizhao Changxing Nail-Making Co., Ltd.	
Rizhao Handuk Fasteners Co., Ltd.	
Rizhao Qingdong Electronic Appliance Co.,	
Romp (Tianjin) Hardware Co., Ltd.	
Saikelong Electric Appliances (Suzhou) Co.,	
Se Jung (China) Shipping Co., Ltd.	
SDC International Aust. Pty., Ltd.	
SDC International Australia Pty., Ltd.	
SDC International Australia (Pty) Ltd.	
Senco Products, Inc.	
Senco-Xingya Metal Products (Taicang) Co., Ltd.	
Shandex Co., Ltd.	
Shandex Industrial Inc.	
Shandong Dinglong Import & Export Co., Ltd.	
Shandong Liaocheng Minghua Metal Products Co. Ltd.	
Shandong Minmetals Co., Ltd.	
Shandong Oriental Cherry Hardware Group Co., Ltd.	
Shandong Oriental Cherry Hardware Import & Export Co., Ltd.	
Shandong Oriental Cherry Hardware Import and Export Co., Ltd.	
Shanghai Chengkai Hardware Product. Co., Ltd.	
Shanghai Colour Nail Co., Ltd.	
Shanghai Curvet Hardware Products Co., Ltd.	
Shanghai Ding Ying Printing & Dyeing CLO	
Shanghai GBR Group International Co.	
Shanghai Holiday Import & Export Co., Ltd.	
Shanghai Jade Shuttle Hardware Tools Co., Ltd.	
Shanghai Jian Jie International TRA	
Shanghai March Import & Export Company Ltd.	
Shanghai Mizhu Imp & Exp Corporation	
Shanghai Nanhui Jinjun Hardware Factory	
Shanghai Pioneer Speakers Co., Ltd.	
Shanghai Pudong Int'l Transportation Booking Dep't	
Shanghai Seti Enterprise International Co., Ltd.	
Shanghai Shengxiang Hardware Co.	
Shanghai Suyu Railway Fastener Co.	
Shanghai Tengyu Hardware Products Co., Ltd.	
Shanghai Tengyu Hardware Tools Co., Ltd.	
Shanghai Tymex International Trade Co., Ltd.	
Shanghai Yueda Fasteners Co., Ltd.	
Shanghai Yueda Nails Industry Co., Ltd.	
Shanxi Hairui Trade Co., Ltd.	
Shanxi Pioneer Hardware Industrial Co., Ltd.	
Shanxi Tianli Enterprise Co., Ltd.	
Shanxi Tianli Industries Co., Ltd.	
Shanxi Yuci Broad Wire Products Co., Ltd.	
Shanxi Yuci Wire Material Factory	
Shaoguang International Trade Co.	
Shaoxing Chengye Metal Producting Co., Ltd.	
Shenyang Yulin International	

	Period to be reviewed
Shenzhen Changxinghongye Imp.	
Shenzhen Erisson Technology Co., Ltd.	
Shenzhen Meiyuda Trade Co., Ltd.	
Shenzhen Pacific-Net Logistics Inc.	
Shenzhen Shangqi Imports-Exports TR	
Shijiazhuang Anao Imp & Export Co. Ltd.	
Shijiazhuang Fangyu Import & Export Corp.	
Shijiazhuang Glory Way Trading Co.	
Shijiazhuang Fitex Trading Co., Ltd.	
Shijiazhuang Shuangjian Tools Co., Ltd.	
Shitong Int'l Holding Limited	
Shouguang Meiqing Nail Industry Co., Ltd.	
Sinochem Tianjin Imp & Exp Shenzhen Corp.	
Sirius Global Logistics Co., Ltd.	
SMart (Tianjin) Technology Development Co., Ltd.	
S-Mart (Tianjin) Technology Development Co., Ltd.	
Sunfield Enterprise Corporation	
Sunlife Enterprises (Yangjiang) Ltd.	
Suntec Industries Co., Ltd.	
Sunworld International Logistics	
Superior International Australia Pty Ltd.	
Suzhou Guoxin Group Wangshun I/E Co. Imp. Exp. Co., Ltd.	
Suzhou Xingya Nail Co., Ltd.	
Suzhou Yaotian Metal Products Co., Ltd.	
The Stanley Works (Langfang) Fastening Systems Co., Ltd.	
Stanley Fastening Systems LP	
Shandex Industrial	
Telex Hong Kong Industry Co., Ltd.	
The Everest Corp.	
Thermwell Products	
Tian Jin Sundy Co., Ltd. (a/k/a/Tianjin Sunny Co., Ltd.)	
Tianjin Baisheng Metal Product Co., Ltd.	
Tianjin Bosai Hardware Tools Co., Ltd.	
Tianjin Chengyi International Trading Co., Ltd.	
Tianjin Chentai International Trading Co., Ltd.	
Tianjin City Dagang Area Jinding Metal Products Factory	
Tianjin City Daman Port Area Jinding Metal Products Factory	
Tianjin City Jinchi Metal Products Co., Ltd.	
Tianjin Dagang Dongfu Metallic Products Co., Ltd.	
Tianjin Dagang Hewang Nail Factory	
Tianjin Dagang Hewang Nails Manufacture Plant	
Tianjin Dagang Huasheng Nailery Co., Ltd.	
Tianjin Dagang Jingang Nail Factory	
Tianjin Dagang Jingang Nails Manufacture Plant	
Tianjin Dagang Linda Metallic Products Co., Ltd.	
Tianjin Dagang Longhua Metal Products Plant	
Tianjin Dagang Shenda Metal Products Co., Ltd.	
Tianjin Dagang Yate Nail Co., Ltd.	
Tianjin Dery Import and Export Co., Ltd.	
Tianjin Everwin Metal Products Co., Ltd.	
Tianjin Foreign Trade (Group) Textile & Garment Co., Ltd.	
Tianjin Hewang Nail Making Factory	
Tianjin Huachang Metal Products Co., Ltd.	
Tianjin Huapeng Metal Company	
Tianjin Huasheng Nails Production Co., Ltd.	
Tianjin Jetcom Manufacturing Co., Ltd.	
Tianjin Jieli Hengyuan Metallic Products Co., Ltd.	
Tianjin Jietong Hardware Products Co., Ltd.	
Tianjin Jietong Metal Products Co., Ltd.	
Tianjin Jin Gang Metal Products Co., Ltd.	
Tianjin Jinchi Metal Products Co., Ltd.	
Tianjin Jinghai County Hongli Industry & Business Co., Ltd.	
Tianjin Jinjin Pharmaceutical Factory Co., Ltd.	
Tianjin Jishili Hardware Co., Ltd.	
Tianjin JLHY Metal Products Co., Ltd.	
Tianjin Jurun Metal Products Co., Ltd.	
Tianjin Kunxin Hardware Co., Ltd.	
Tianjin Kunxin Metal Products Co., Ltd.	
Tianjin Lianda Group Ltd.	
Tianjin Lianda Group Co., Ltd.	
Tianjin Linda Metal Company	
Tianjin Longxing (Group) Huanyu Imp. & Exp. Co., Ltd.	
Tianjin Master Fastener Co., Ltd. (a/k/a Master Fastener Co., Ltd.)	
Tianjin Mei Jia Hua Trade Co., Ltd.	

	Period to be reviewed
Tianjin Metals and Minerals	
Tianjin Port Free Trade Zone Xiangtong Intl. Industry & Trade Corp.	
Tianjin Products & Energy Resources Dev. Co., Ltd.	
Tianjin Qichuan Metal Products Co. Ltd.	
Tianjin Ruiji Metal Products Co., Ltd.	
Tianjin Senbohengtong International	
Tianjin Senmiao Import and Export Co., Ltd.	
Tianjin Shenyuan Steel Producting Group Co., Ltd.	
Tianjin Shishun Metal Product Co., Ltd.	
Tianjin Shishun Metallic Products Co., Ltd.	
Tianjin Tailai Import Export	
Tianjin Universal Machinery Imp. & Exp. Corp. Ltd.	
Tianjin Universal Machinery Imp. & Exp. Corporation	
Tianjin Universal Machinery Imp & Exp Corporation	
Tianjin Universal Machinery Import & Export Corp.	
Tianjin Xiantong Fucheng Gun Nail Manufacture Co., Ltd.	
Tianjin Xiantong Juxiang Metal MFG Co., Ltd.	
Tianjin Xiantong Material & Trade Co., Ltd.	
Tianjin Xinyuansheng Metal Products Co., Ltd.	
Tianjin Yihao Metallic Products Co., Ltd.	
Tianjin Yongchang Metal Product Co., Ltd.	
Tianjin Yongxu Metal Products Co., Ltd.	
Tianjin Yongye Furniture	
Tianjin Yongyi Standard Parts Production Co., Ltd.	
Tianjin Zhong Jian Wanli Stone Co., Ltd.	
Tianjin Zhonglian Metals Ware Co., Ltd.	
Tianjin Zhongsheng Garment Co., Ltd.	
Tianwoo Logistics Developing Co. Ltd.	
Topocean Consolidation Service (CHA) Ltd.	
Traser Mexicana, S.A. De C.V.	
Treasure Way International Dev. Ltd.	
True Value Company (HK) Ltd.	
Unicatch Industrial Co. Ltd.	
Unigain Trading Co., Ltd.	
Union Enterprise (Kunshan) Co., Ltd. a.k.a. Union Enterprise Co., Ltd.	
Wintime Import & Export Corporation Limited of Zhongshan	
Weifang Xiaotian Machine Co., Ltd.	
Wenzhou KLF Medical Plastics Co., Lt.	
Wenzhou Ouxin Foreign Trade Co., Ltd.	
Wenzhou Yuwei Foreign Trade Co., Ltd.	
Winsmart International Shipping Ltd. O/B Zhaoqing Harvest Nails Co., Ltd.	
Wintime Import & Export Corporation Limited of Zhongshan	
Worldwide Logistics Co., Ltd. (Tianjin Branch)	
Wuhan Xinxin Native Produce & Animal By-Products Mfg. Co. Ltd.	
Wuhu Sheng Zhi Industrial Co., Ltd.	
Wuhu Shijie Hardware Co., Ltd.	
Wuhu Xin Lan De Industrial Co., Ltd.	
Wuqiao County Huifeng Hardware Products Factory	
Wuqiao County Xinchuang Hardware Products Factory	
Wuqiao Huifeng Hardware Production Co., Ltd.	
Wuxi Baolin Nail Enterprises	
Wuxi Baolin Nail-Making Machinery Co., Ltd.	
Wuxi Chengye Metal Products Co., Ltd.	
Wuxi Colour Nail Co., Ltd.	
Wuxi Qiangye Metalwork Production Co., Ltd.	
Wuxi Jinde Assets Management Co., Ltd.	
Wuxi Moresky Developing Co., Ltd.	
Xiamen New Kunlun Trade Co., Ltd.	
Xi'an Metals & Minerals Import and Export Co., Ltd.	
Xi'an Metals & Minerals Import & Export Co., Ltd.	
Xi'an Steel	
XL Metal Works Co., Ltd.	
XM International, Inc.	
Xuzhou CIP International Group Co., Ltd.	
Yeswin Corporation	
Yitian Nanjing Hardware Co., Ltd.	
Yiwu Dongshun Toys Manufacture	
Yiwu Excellent Import & Export Co., Ltd.	
Yiwu Jiehang Import & Export Co., Ltd.	
Yiwu Qiaoli Import & Export Co., Ltd.	
Yiwu Richway Imp & Exp Co., Ltd.	
Yiwu Zhongai Toys Co., Ltd.	
Yongcheng Foreign Trade Corp.	
Yu Chi Hardware Co., Ltd.	

	Period to be reviewed
Yue Sang Plastic Factory	
Yuhuan Yazheng Importing	
Zhangjiagang Lianfeng Metals Products Co., Ltd.	
Zhangjiagang Longxiang Packing Materials Co.	
Zhaoqing Harvest Nails Co., Ltd.	
Zhejiang Gem-Chun Hardware Accessory Co., Ltd.	
Zhejiang Hungyan Xingzhou Industria	
Zhejiang Jinhua Nail Factory	
Zhejiang Minmetals Sanhe Imp & Exp Co.	
Zhejiang Qifeng Hardware Make Co., Ltd.	
Zhejiang Taizhou Eagle Machinery Co.	
Zhejiang Yiwu Huishun Import/Export Co., Ltd.	
Zhongshan Junlong Nail Manufactures Co., Ltd.	
ZJG Lianfeng Metals Product Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Laminated Woven Sacks A–570–916	8/1/13–7/31/14
Changle Baodu Plastic Co., Ltd.	
Shangdong Qikai Plastics Product Co., Ltd.	
Wenzhou Hotsun Plastics Co., Ltd.	
Zibo Aifudi Plastic Packaging Co., Ltd.	
Zibo Linzi Luitong Plastic Fabric Co., Ltd.	
Zibo Linzi Shuaiqiang Plastics Co., Ltd.	
Zibo Linzi Qitianli Plastic Fabric Co., Ltd.	
Zibo Linzi Worun Packing Product Co., Ltd.	
Zibo Qigao Plastic Cement Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Polyethylene Retail Carrier Bags A–570–886	8/1/13–7/31/14
Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively Nozawa)	
Countervailing duty proceedings	
ITALY: Certain Pasta [4] C–475–819	1/1/13–12/31/13
La Molisana Industrie Alimentari S.p.A.	
Suspension Agreements	
None	

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is

[4] In the initiation notice that published on August 29, 2014 (79 FR 51548), covering cases with July anniversary dates, the Department inadvertently omitted including one company requested for review of the countervailing duty order on Certain Pasta from Italy. The timely review request for was not included in the August 29, 2014 initiation notice. This exporter is included herein as a correction to the August 29, 2014, initiation notice. We are including this company because in its timely request for review La Molisana S.p.A (which was included in the August 29, 2014 notice) notified the Department that certain of its sales to the United States may also have been entered under the case number for La Molisana Industrie Alimentari S.p.A.

submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[5] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. Ongoing segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011 should use the formats for the revised certifications provided at the end of the *Interim Final Rule.*[6] All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[7] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 22, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–23290 Filed 9–29–14; 8:45 am]

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[5] *See* section 782(b) of the Act.

[6] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule*''), amending 19 CFR 351.303(g)(1) and (2); *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011).

[7] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–983]

Drawn Stainless Steel Sinks From the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, Department of Commerce

DATES: *Effective date:* September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Brandon Custard, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–1823, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2014, the Department of Commerce (the Department) published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on drawn stainless steel sinks from the People's Republic of China (PRC) for the period of review (POR) of October 4, 2012, through March 31, 2014.[1] The Department received a timely request from the petitioner, Elkay Manufacturing Company, to conduct an administrative review of Foshan Success Imp. & Exp. Co., Ltd. (Foshan Success), an exporter of drawn stainless steel sinks from the PRC.[2] Between April 16 and April 30, 2014, Feidong Import & Export Co., Ltd. (Feidong), Foshan Zhaoshun Trade Co., Ltd. (Zhaoshun), Guangdong Dongyuan Kitchenware Industrial Co., Ltd. (Dongyuan), Guangdong New Shichu Import and Export Company Limited (New Shichu), Guangdong Yingao Kitchen Utensils Co., Ltd. (Yingao), Shunde Native Produce Import and Export Co., Ltd. of Guangdong (Shunde Native Produce), Yuyao Afa Kitchenware Co., Ltd. (Yuyao), Zhongshan Newecan Enterprise Development Corporation Limited (Newecan), Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong (Zhongshan Silk), and Zhongshan Superte Kitchenware Co., Ltd. (Superte),

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 79 FR 18260 (April 1, 2014).

[2] *See* Letter from the petitioner to the Secretary of Commerce, ''Drawn Stainless Steel Sinks From The People's Republic Of China: Request For Administrative Review,'' dated April 30, 2014.

each filed timely requests for review.[3] Additionally, on April 30, 2014, the Department received a timely request from Hajoca Corporation (Hajoca), a United States importer of the subject merchandise, to conduct a review of its entries of the subject merchandise during the POR produced and exported by Yingao.[4]

On May 29, 2014, the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on drawn stainless steel sinks from the PRC with respect to the above-named companies.[5]

On August 27, 2014, the petitioner timely withdrew its request for review of Foshan Success.[6]

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. We received the petitioner's withdrawal request within the 90-day deadline. Therefore, in response to the withdrawal request and pursuant to 19 CFR 351.213(d)(1), we are rescinding this administrative review with regard to Foshan Success. The instant review will continue with respect to Dongyuan, Feidong, Newecan, New Shichu, Shunde Native Produce, Superte, Yingao, Yuyao, Zhaoshun, and Zhongshan Silk.[7]

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For the company for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). As the company for which this review is rescinded is also subject to an ongoing new shipper review of the antidumping duty order on drawn stainless steel sinks from the PRC covering the period October 4, 2012, through October 14, 2013, the Department's assessment instructions as a result of this rescission will only cover the period October 15, 2013, through March 31, 2014. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as the only reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751 and 777(i)(l) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: September 24, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–23281 Filed 9–29–14; 8:45 am]

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[3] *See* Letter from Zhaoshun and Superte to the Secretary of Commerce, ''Drawn Stainless Steel Sinks from China; Administrative Review Request,'' dated April 16, 2014; Letter from Newecan to the Secretary of Commerce, ''Drawn Stainless Steel Sinks from China; Administrative Review Request,'' dated April 21, 2014; Letter from Yuyao to the Secretary of Commerce, ''Drawn Stainless Steel Sinks from the People's Republic of China: Review Request,'' dated April 21, 2014; Letter from New Shichu to the Secretary of Commerce, ''Drawn Stainless Steel Sinks from the People's Republic of China Request for Administrative Review,'' dated April 28, 2014; Letter from Zhongshan Silk to the Secretary of Commerce, ''Drawn Stainless Steel Sinks from the People's Republic of China Request for Administrative Review,'' dated April 30, 2014; Letter from Shunde Native Produce to the Secretary of Commerce, ''Drawn Stainless Steel Sinks from the People's Republic of China Request for Administrative Review,'' dated April 30, 2014; Letter from Yingao to the Secretary of Commerce, ''Drawn Stainless Steel Sinks from the People's Republic of China Request for Administrative Review,'' dated April 30, 2014; Letter from Dongyuan to the Secretary of Commerce, ''Drawn Stainless Steel Sinks from the People's Republic of China Request for Administrative Review,'' dated April 30, 2014; and Letter from Feidong to the Secretary of Commerce, ''Administrative Review Request Concerning Drawn Stainless Steel Sinks from China,'' dated April 28, 2014.

[4] *See* Letter from Hajoca to the Secretary of Commerce, ''Drawn Stainless Steel Sinks from the People's Republic of China: Hajoca Corporation's Request For Review,'' dated April 30, 2014.

[5] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 30809 (May 29, 2014). (*Notice of Initiation*)

[6] *See* Letter from the petitioner to the Secretary of Commerce, ''Drawn Stainless Steel Sinks From The People's Republic Of China: Withdrawal Of Request For Administrative Review,'' dated August 27, 2014.

[7] On August 27 and August 28, 2014, Zhongshan Silk submitted withdrawals of its request for review through the Department's electronic filing system IA ACCESS. The filings, however, were rejected because they were submitted under an incorrect case number and segment date/POR, respectively. Zhongshan Silk was notified of the rejections and advised to refile its review request withdrawal, but, as of the date of this notice, has not done so. *See* Memorandum to the File, ''Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong's Submission of Withdrawal of Request for Administrative Review,'' dated September 10, 2014.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China: Final Results of Changed Circumstances Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On August 15, 2014, the Department of Commerce (the ''Department'') published its initiation and preliminary results of a changed circumstances review [1] of the antidumping duty (''AD'') order on multilayered wood flooring (''MLWF'') from the People's Republic of China (''PRC'').[2] The Department preliminarily determined that Linyi Youyou Wood Co., Ltd. (''Youyou'') is the successor-in-interest to Shanghai Lizhong Wood Products Co., Ltd./The Lizhong Industry Limited Company of Shanghai (''Lizhong'') for purposes of the antidumping duty order on multilayered wood flooring from the PRC and, as such, is entitled to Lizhong's cash deposit rate with respect to entries of subject merchandise. We invited interested parties to comment on the *Preliminary Results.* As no parties

[1] *See Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring From the People's Republic of China,* 79 FR 48117 (August 15, 2014) (''*Preliminary Results*'').

[2] *See Multilayered Wood Flooring From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 76 FR 76690 (December 8, 2011) (''*Order*'').

submitted comments, the Department is making no changes to the *Preliminary Results.*

DATES: *Effective Date:* September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Charles Riggle, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0650.

Background

On August 15, 2014, the Department made a preliminary finding that Youyou is the successor-in-interest to Lizhong, and is entitled to Lizhong's cash deposit rate with respect to entries of merchandise subject to the antidumping duty order on multilayered wood flooring from the PRC. We also provided interested parties 14 days from the date of publication of the *Preliminary Results* to submit comments in accordance with 19 CFR 351.309(c)(1)(ii). No parties submitted comments.

Final Results of Changed Circumstances Review

Because no party submitted comments opposing the Department's *Preliminary Results,* and because the record contains no other information or evidence that calls into question the *Preliminary Results,* the Department determines that Youyou is the successor-in-interest to Lizhong, and is entitled to Lizhong's cash deposit rate with respect to entries of merchandise subject to the antidumping duty order on multilayered wood flooring from the PRC.

Scope of the Order

Multilayered wood flooring is composed of an assembly of two or more layers or plies of wood veneer(s) in combination with a core. The several layers, along with the core, are glued or otherwise bonded together to form a final assembled product. Multilayered wood flooring is often referred to by other terms, *e.g.,* ''engineered wood flooring'' or ''plywood flooring.'' Regardless of the particular terminology, all products that meet the description set forth herein are intended for inclusion within the definition of subject merchandise.

All multilayered wood flooring is included within the definition of subject merchandise, without regard to: dimension (overall thickness, thickness of face ply, thickness of back ply, thickness of core, and thickness of inner plies; width; and length); wood species used for the face, back and inner veneers; core composition; and face grade. Multilayered wood flooring included within the definition of subject merchandise may be unfinished (*i.e.,* without a finally finished surface to protect the face veneer from wear and tear) or ''prefinished'' (*i.e.,* a coating applied to the face veneer, including, but not exclusively, oil or oil-modified or water-based polyurethanes, ultra-violet light cured polyurethanes, wax, epoxy-ester finishes, moisture-cured urethanes and acid-curing formaldehyde finishes). The veneers may be also soaked in an acrylic-impregnated finish. All multilayered wood flooring is included within the definition of subject merchandise regardless of whether the face (or back) of the product is smooth, wire brushed, distressed by any method or multiple methods, or hand-scraped. In addition, all multilayered wood flooring is included within the definition of subject merchandise regardless of whether or not it is manufactured with any interlocking or connecting mechanism (for example, tongue-and-groove construction or locking joints). All multilayered wood flooring is included within the definition of the subject merchandise regardless of whether the product meets a particular industry or similar standard.

The core of multilayered wood flooring may be composed of a range of materials, including but not limited to hardwood or softwood veneer, particleboard, medium-density fiberboard, high-density fiberboard (''HDF''), stone and/or plastic composite, or strips of lumber placed edge-to-edge.

Multilayered wood flooring products generally, but not exclusively, may be in the form of a strip, plank, or other geometrical patterns (*e.g.,* circular, hexagonal). All multilayered wood flooring products are included within this definition regardless of the actual or nominal dimensions or form of the product. Specifically excluded from the scope are cork flooring and bamboo flooring, regardless of whether any of the sub-surface layers of either flooring are made from wood. Also excluded is laminate flooring. Laminate flooring consists of a top wear layer sheet not made of wood, a decorative paper layer, a core-layer of HDF, and a stabilizing bottom layer.

Imports of the subject merchandise are provided for under the following subheadings of the Harmonized Tariff Schedule of the United States (''HTSUS''): 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.3175; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Instructions to U.S. Customs and Border Protection

For the reasons stated in the *Preliminary Results,* we continue to find that Youyou is the successor-in-interest to Lizhong and, as such, is entitled to Lizhong's cash deposit rate with respect to entries of merchandise subject to the antidumping duty order on multilayered wood flooring from the PRC. We will instruct U.S. Customs and Border Protection to assign entries of subject merchandise exported by Youyou the antidumping duty cash-deposit rate applicable to Lizhong, effective as of the date of publication of these final results.

Notification

This notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance

with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and revocation, in part, and notice in accordance with sections 751(b) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 19 CFR 351.221(c)(3).

Dated: September 19, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–23287 Filed 9–29–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Initiation of Antidumping Duty New Shipper Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* September 30, 2014.

SUMMARY: The Department of Commerce (the Department) has determined that a request for a new shipper review of the antidumping duty order on small diameter graphite electrodes from the People's Republic of China (PRC), meets the statutory and regulatory requirements for initiation.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla, AD/CVD Operations Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; Telephone: (202) 482–3477.

SUPPLEMENTARY INFORMATION:

Background

The antidumping duty order on small diameter graphite electrodes from the PRC published in the **Federal Register** on February 26, 2009.[1] Pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), we received a timely request for a new shipper review of the order from Xuzhou Jianglong Carbon Products Co., Ltd. (Jianglong).[2] Jianglong certified that it is both the producer and exporter of the subject merchandise upon which the request was based.[3]

Pursuant to section 751(a)(2)(B)(i)(I) of the Act and 19 CFR 351.214(b)(2)(i), Jianglong certified that it did not export subject merchandise to the United States during the period of investigation (POI).[4] In addition, pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Jianglong certified that, since the initiation of the investigation, it has never been affiliated with any exporter or producer who exported subject merchandise to the United States during the POI, including those respondents not individually examined during the POI.[5] As required by 19 CFR 351.214(b)(2)(iii)(B), Jianglong also certified that its export activities were not controlled by the government of the PRC.[6]

In addition to the certifications described above, pursuant to 19 CFR 351.214(b)(2), Jianglong submitted documentation establishing the following: (1) The date on which it first shipped subject merchandise for export to the United States; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.[7]

Period of Review

In accordance with 19 CFR 351.214(g)(1)(B) of the Act, the period of review (POR) for new shipper reviews initiated in the month immediately following the semi-annual anniversary month will be the six-month period immediately preceding the semiannual anniversary month. Therefore, under this order, the POR is February 1, 2014, through July 31, 2014. However, the Department has used its discretion to extend the POR for Jianglong's new shipper review by one month, making the POR February 1, 2014, through August 31, 2014.[8]

Initiation of New Shipper Review

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), the Department finds that the request from Jianglong meets the threshold requirements for initiation of a new shipper review for shipments of small diameter graphite electrodes from the PRC produced and exported by Jianglong.[9]

The Department intends to issue the preliminary results of this new shipper review no later than 180 days from the date of initiation and final results of the review no later than 90 days after the date the preliminary results are issued.[10] It is the Department's usual practice, in cases involving non-market economy countries, to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide evidence of *de jure* and *de facto* absence of government control over the company's export activities. Accordingly, we will issue a questionnaire to Jianglong which will include a section requesting information concerning its eligibility for a separate rate. The new shipper review of Jianglong will be rescinded if the Department determines that Jianglong has not demonstrated that it is eligible for a separate rate.

We will instruct U.S. Customs and Border Protection to allow, at the option of the importer, the posting, until the completion of the review, of a bond or security in lieu of a cash deposit for each entry of the subject merchandise from Jianglong in accordance with section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e). Because Jianglong certified that it produced and exported subject merchandise, the sale of which is the basis for the request for a new shipper review, we will apply the bonding privilege to Jianglong only for subject merchandise which was produced and exported by Jianglong.

To assist in its analysis of the *bona fides* of Jianglong's sales, upon initiation of this new shipper review, the Department will require Jianglong to

[1] *See Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China,* 74 FR 8775 (February 26, 2009) (*SDGE Order*).

[2] *See* Jianglong's new shipper request dated August 29, 2014.

[3] *See* Jianglong's new shipper request at Exhibit 1.

[4] *Id.*

[5] *Id.*

[6] *Id.*

[7] Jianglong's new shipper request at Exhibit 1 and Jianglong's new shipper request at Exhibit 2.

[8] When the sale of the subject merchandise occurs within the POR specified by the Department's regulations but the entry occurs after the POR, the specified POR may be extended unless it would be likely to prevent the completion of the review within the time limits set by the Department's regulations. *See* 19 CFR 351.214(f)(2)(ii). Additionally, the preamble to the Department's regulations states that both the entry and the sale should occur during the POR, but that under ''appropriate'' circumstances the Department has the flexibility to extend the POR. *See* Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27319–27320 (May 19, 1997). In this instance, Jianglong's sale of subject merchandise was made during the POR specified by the Department's regulations but the shipment entered after the end of that POR. The Department finds that extending the POR to capture this entry would not prevent the completion of the review within the time limits set by the Department's regulations.

[9] *See* the memorandum to the file entitled ''Small Diameter Graphite Electrodes from the People's Republic of China: Initiation Checklist for Antidumping Duty New Shipper Review of Xuzhou Jianglong Carbon Products Co., Ltd.'' dated concurrently with this notice.

[10] *See* section 751(a)(2)(B)(iv) of the Act.

submit on an ongoing basis complete transaction information concerning any sales of subject merchandise to the United States that were made subsequent to the POR.

Interested parties requiring access to proprietary information in the new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are published in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: September 24, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–23289 Filed 9–29–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–983]

Drawn Stainless Steel Sinks From the People's Republic of China: Preliminary Intent To Rescind Antidumping Duty New Shipper Review; 2012–2013

AGENCY: Enforcement of Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting a new shipper review (''NSR'') of the antidumping duty order on drawn stainless steel sinks (''drawn sinks'') from the People's Republic of China (''PRC''). The period of review (''POR'') is October 4, 2012 through October 14, 2013. The review covers one exporter of subject merchandise, Hubei Foshan Success Imp. & Exp. Co. Ltd. (''Foshan Success''). The Department preliminarily determines that Foshan Success' sale to the United States was not *bona fide* and is preliminarily rescinding this NSR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Joy Zhang or Erin Begnal, 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) 482–1168 or (202) 482–1442, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 2013, the Department initiated an NSR of the antidumping duty order on drawn sinks from the PRC, exported by Foshan Success and produced by Jiangmen Xinhe Stainless Steel Products Co., Ltd.[1] The POR is October 4, 2012, through October 14, 2013. On May 6, 2014, the Department extended the time period for issuing the preliminary results by 120 days until September 23, 2014.[2]

Scope of the Order

The products covered by the scope of the order are drawn stainless steel sinks with single or multiple drawn bowls, with or without drain boards, whether finished or unfinished, regardless of type of finish, gauge, or grade of stainless steel. The products covered by this order are currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under statistical reporting numbers 7324.10.0000 and 7324.10.00.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.[3]

Methodology

The Department conducted this review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, *see* the Appendix accompanying this notice and the 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 in the Central Records Unit, 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 Rescission of New Shipper Review

As discussed in the Preliminary Decision Memorandum, the Department preliminarily finds that the sale by Foshan Success is not a *bona fide* sale and that the sale does not provide a reasonable or reliable basis for calculating a dumping margin.[4] The Department reached this conclusion based on the totality of circumstances, namely: (1) The price and quantity of Foshan Success' single sale; (2) the importer's failure to provide evidence that the subject merchandise was resold at a profit; and (3) expenses arising from making the transaction.[5] Because this non-*bona fide* sale was the only sale of subject merchandise during the POR, the Department is preliminarily rescinding the NSR.

Disclosure and Public Comments

The Department intends to disclose the analysis performed to parties to the proceeding within five days after the date of publication of this notice.[6]

Interested parties are invited to comment on the preliminary results of this review. Interested parties may submit case briefs no later than 30 days after the date of publication of the preliminary results of review.[7] Rebuttal briefs, limited to issues raised in such briefs, may be filed no later than five days after the time limit for filing the case briefs.[8]

Any interested party may request a hearing within 30 days of publication of the preliminary results in the **Federal**

[1] *See Drawn Stainless Steel Sinks from the People's Republic of China: Initiation of New Shipper Review,* 78 FR 72864 (December 4, 2013).

[2] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, re: Extension of Deadline for Preliminary Results of New Shipper Review of Drawn Stainless Steel Sinks from the People's Republic of China, dated May 6, 2014.

[3] *See* ''Issues and Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Review: Drawn Stainless Steel Sinks from the People's Republic of China'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated September 23, 2014 (''Preliminary Decision Memorandum'') and hereby adopted by this notice, for a complete description of the Scope of the Order.

[4] *See* Memorandum to Melissa Skinner, Director, Office III, Antidumping and Countervailing Duty Operations, through Erin Begnal, Program Manager, Office III, Antidumping and Countervailing Duty Operations, from Joy Zhang, International Trade Analyst, titled ''Antidumping Duty New Shipper Review of Drawn Stainless Steel Sinks from the People's Republic of China: *Bona Fide* Sales Analysis for Hubei Foshan Success Imp. & Exp. Co., Ltd.,'' (*Bona fides* Memorandum) dated concurrently and hereby adopted by this notice.

[5] *See id.*

[6] *See* 19 CFR 351.224(b).

[7] See 19 CFR 351.309(c)(1)(ii); Parties submitting written comments must submit them pursuant to the Department's e-filing regulations. *See* 19 CFR 351.303 (for general filing requirements); *see also https://iaaccess.trade.gov/help/IA%20ACCESS%20User%20Guide.pdf.*

[8] *See* 19 CFR 351.309(d)(1)–(2).

Register.[9] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) 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, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[10]

The Department intends to issue the final results of this NSR, which will include the results of its analysis of issues raised in all comments and at any hearing, within 90 days of publication of these preliminary results, pursuant to section 751(a)(2)(B)(iv) of the Act.

Assessment Rates

Upon completion of the final results, pursuant to 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If we proceed to a final rescission of this NSR, Foshan Success' entry will be assessed at the rate entered.[11] If we do not proceed to a final rescission of this NSR, pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) *ad valorem* duty assessment rates. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis.*[12]

In either case, the Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of this NSR, pursuant to section 751(a)(2)(B)(iii) of the Act and 19 CFR 351.214(e), the Department will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Foshan Success. If the Department proceeds to a final rescission of this NSR, the cash deposit rate will continue to be the PRC-wide rate for Foshan Success because the Department will not have determined an individual margin of dumping for Foshan Success. If the Department issues final results for this NSR, the Department will instruct CBP to collect cash deposits, effective upon the publication of the final results, at the rates established therein.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 FR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: September 23, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

Summary
Background
Scope of the Order
Discussion of the Methodology *Bona fides* Analysis
Conclusion

[FR Doc. 2014–23285 Filed 9–29–14; 8:45 am]

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[9] *See* 19 CFR 351.310(c).

[10] *See* 19 CFR 351.310(d).

[11] *See* 19 CFR 351.212(c).

[12] *See* 19 CFR 351.106(c)(2).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909]

Certain Steel Nails From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting the fifth administrative review of the antidumping duty order on certain steel nails (''nails'') from the People's Republic of China (''PRC'').[1] The Department preliminarily determines that Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. (collectively ''Stanley'') and Xi'an Metals & Minerals Import & Export Co. Ltd. (''Xi'an Metals'') sold subject merchandise in the United States at prices below normal value (''NV'') during the period of review (''POR''), August 1, 2012, through July 31, 2013. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* September 30, 2014.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Susan Pulongbarit, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone 202–482–2312 or 202–482–4031, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 2013, the Department initiated the fifth administrative review of the antidumping duty order on nails from the PRC for the period August 1, 2012, through July 31, 2013.[2] As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[3] On April 28, 2014, the Department fully extended the deadline for issuing the preliminary results by 120 days.[4] The revised

[1] *See Notice of Antidumping Duty Order: Certain Steel Nails From the People's Republic of China,* 73 FR 44961 (August 1, 2008) (''*Order*'').

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 60834 (October 2, 2013) (''*Initiation Notice*''). On November 8, 2013, the Department published a second notice to list two companies that were inadvertently omitted from the *Initiation Notice. See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 67104 (November 8, 2013).

[3] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013).

[4] *See* Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations regarding ''Certain Steel Nails from the People's Republic of China: Extension of Deadline for Preliminary Results of 2012–2013 Antidumping Duty Administrative Review,'' dated April 28, 2014.

deadline for the preliminary results of this administrative is now September 18, 2014.

Scope of the Order

The merchandise covered by the order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7317.00.55, 7317.00.65, 7317.00.75, and 7907.00.6000.[5] While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[6]

Methodology

The Department conducted this review in accordance with sections 751(a)(1)(B) and 751(a)(2)(A) of the Tariff Act of 1930, as amended (''Act''). Constructed export prices and export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a non-market economy country within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the 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 is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/*. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Use of Facts Available

For purposes of these preliminary results, we relied on facts available, in accordance with section 776(a)(1) the Act, in determining to use the wire drawing factors of production data from one of Stanley's tollers in lieu of incomplete data provided by Stanley's other toller, whose data accounted for a small portion of Stanley's wire-drawing activity. For a full discussion of this issue, *see* the Preliminary Decision Memorandum at 9.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2012, through July 31, 2013:

Exporter	Weighted-average margin (percent)
Stanley	6.69
Xi'an Metals	72.40
Chiieh Yung Metal Ind. Corp	10.48
Dezhou Hualude Hardware Products Co., Ltd	10.48
Huanghua Jinhai Hardware Products Co. Ltd	10.48
Nanjing Yuechang Hardware Co., Ltd	10.48
Qingdao D&L Group Ltd	10.48
Qingdao JISCO Co., Ltd	10.48
SDC International Aust. PTY. LTD	10.48
Shandong Dinglong Import & Export Co., Ltd	10.48
Shanghai Curvet Hardware Products Co., Ltd	10.48
Shanghai Yueda Nails Industry Co., Ltd	10.48
Shanxi Hairui Trade Co., Ltd	10.48
Shanxi Pioneer Hardware Industrial Co., Ltd	10.48
Shanxi Tianli Industries Co., Ltd	10.48
S-Mart (Tianjin) Technology Development Co., Ltd	10.48
Suntec Industries Co., LTD	10.48
Tianjin Jinghai County Hongli Industry and Business Co., Ltd	10.48
Tianjin Universal Machinery Imp. & Exp. Corporation	10.48
Tianjin Zhonglian Metals Ware Co., Ltd	10.48

Disclosure, Public Comment and Opportunity To Request a Hearing

The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review in the **Federal Register**.[7] Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.[8] Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.[9] Parties submitting briefs should do so pursuant to the Department's electronic filing system, IA ACCESS.

Any interested party may request a hearing within 30 days of publication of this notice.[10] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues

[5] The Department recently added the Harmonized Tariff Schedule category 7907.00.6000, ''Other articles of zinc: Other,'' to the language of the *Order. See* Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, Antidumping and Countervailing Duty Operations, regarding ''Certain Steel Nails from the People's Republic of China: Cobra Anchors Co. Ltd. Final Scope Ruling,'' dated September 19, 2013.

[6] *See* ''Certain Steel Nails from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2012–2013 Antidumping Duty Administrative Review,'' dated concurrently with and hereby adopted by this notice (''Preliminary Decision Memorandum''), for a complete description of the Scope of the Order.

[7] *See* 19 CFR 351.309(c)(1)(ii).

[8] *See* 19 CFR 351.309(d)(1)–(2).

[9] *See* 19 CFR 351.309(c)(2), (d)(2).

[10] *See* 19 CFR 351.310(c).

to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[11]

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[12] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For assessment purposes, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification.*[13] For any individually examined respondent whose weighted average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[14] Where either a respondent's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific *ad valorem* is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[15] For the respondents that were not selected for individual examination in this administrative review and that qualified for a separate rate, the assessment rate will be based on the average of the mandatory respondents.[16] We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

Pursuant to the Department's practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during the administrative review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[17]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This preliminary determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: September 18, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Case History
2. Scope of the Order
3. Preliminary Determination of No Shipments
4. Non-Market Economy Country Status
5. Separate Rates
6. PRC-Wide Entity
7. Facts Available
8. Surrogate Country
9. Date of Sale
10. Comparisons to Normal Value
11. Determination of Comparison Method
12. Results of Differential Pricing Analysis
13. U.S. Price
14. Normal Value
15. Factor Valuations
16. Currency Conversion

[FR Doc. 2014–23280 Filed 9–29–14; 8:45 am]

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[11] *See* 19 CFR 351.310(d).

[12] *See* 19 CFR 351.212(b).

[13] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[14] *See* 19 CFR 351.212(b)(1).

[15] *See* 19 CFR 351.106(c)(2).

[16] *See* Preliminary Decision Memorandum.

[17] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

Cyber Security Business Development Mission to Poland and Romania; May 11–15, 2015

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration (ITA), is organizing an Executive-led Cyber Security Business Development Mission to Poland and Romania from May 11–15, 2015.

The purpose of the mission is to introduce U.S. firms and trade associations to Eastern and Central Europe's information and communication technology (ICT) security and critical infrastructure protection markets and to assist U.S. companies to find business partners and export their products and services to the region. The mission is intended to

include representatives from U.S. companies and U.S. trade associations with members that provide cyber security, critical infrastructure protection, and emergency management technology equipment and services. The mission will visit Poland and Romania, where U.S. firms will have access to business development opportunities across the Eastern and Central European region. Participating firms will gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports of products and services to Eastern and Central Europe. The mission will include customized one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint venture partners; meetings with state and local government officials and industry leaders; and networking events.

The mission also will include a significant regional component to expand the reach of the companies to at least 10 other potential markets (Bulgaria, Moldova, Hungary, Serbia, Croatia, Macedonia, Bosnia, Montenegro, and Slovenia) in Central and Eastern Europe. Foreign Commercial Service (FCS) offices in Europe work together to meet the needs of U.S. companies and will recruit government officials, potential buyers and suppliers from surrounding countries to come to Bucharest and possibly Poland, to meet with companies to discuss opportunities in their markets. There will be a dedicated day where companies will receive presentations on opportunities in these markets in the region by either FCS staff or country experts and then meet with companies one-on-one. The mission will also organize optional virtual introductions with companies or government officials not able to come to one of the two trade mission stops. This innovative approach will provide companies more value by bringing opportunities to the companies without having to travel to each market.

Commercial Setting

Cyber security ensures realization and controlling of vital security properties of an organization's, as well as users' intellectual, financial, and infrastructure assets against relevant security risks in the cyber environment. In addition, critical physical infrastructure systems (i.e., safety, security, electrical, water, energy, and traffic management systems) essentially interact with, and cannot be separated from, the critical information infrastructure. With the ascending growth and sophistication of cyber-attacks in recent years, strict compliance and unified security packages are in demand to protect the critical data, infrastructure, and safety of governments, military, public utilities, banking, financial services, ports, hospitals, and other businesses. The damaging effects of cyber-threats can be felt on many levels from the business to the individual and can spill over across borders. Therefore, nations in Eastern and Central Europe are currently dedicating increasing resources at the executive policy level, as well as at the private sector level, in order to deal with these complex cyber threats. These resources have been well utilized as is evident from the innovations and demand for cyber defense equipment and service technologies.

Recent events in the region have also heightened the importance of improving cyber security protection. Governments have made cyber security a policy priority, creating task forces and engaging with the United States government (USG) to improve their defenses. The trade mission will not only focus on the countries visited, but will also use ITA's Commercial Service network to include opportunities for matchmaking with companies and governments from across the region in the program.

Poland

In June 2013, the Polish government adopted a Cyberspace Protection Policy for the country. The Ministry of Administration and Digitization is responsible for Polish ICT policy, including the implementation of an information society agenda, and is also in charge of all public ICT projects. The prevailing trends for digitalization and mobility further expose ICT users to a range of security threats. As a result, there are good opportunities for suppliers of all ICT security related solutions designed for customers ranging from private users, small businesses, through large sophisticated corporate networks and top level critical public infrastructure projects.

The demand for IT security products and services has been growing dynamically and continuously over the last few years. In addition, highly publicized news reports of attacks have led to a rapidly growing awareness of cyber security threats. In 2013, IT security products and services grew twice as fast as the market for IT products and services in general. At the end of 2013, the Polish market for IT cyber security products reached USD 156 million. Security software represented 59% of the market, while 41% fell on IT security appliances. The market for IT security products is expected to grow at over 10% a year over the next five-years.

There are good prospects for all kinds of security software and security appliances. Security audits and outsourcing of managed security services represent the highest potential for IT security services. There are business opportunities in all market segments, but most investments in this area are done in the telecommunications, financial and banking, as well as the public sectors. This applies mostly to large projects sponsored by large companies or organizations.

Romania

The Romanian market consists of three key segments: Small to medium-sized enterprises (SME), corporations, and the Romanian government, including civil, security, military, and critical national infrastructure (e.g., utilities and telecoms). Romania, with an increasingly high interdependence of cyber infrastructure and sectors such as banking, transportation, energy and national defense, is facing cyber threats to critical infrastructure. The threats to these parties can be combated using hardware, software, services, or a combination of the three. Software solutions are a major portion of the market, with anti-virus and other security software programs being deployed in businesses of all types and sizes. The security services sector is expected to outpace that of the software market. Within the security hardware sector, companies are demanding more Unified Threat Management (UTM) appliances as they adopt increasingly integrated security solutions on a tighter budget. As companies face more and more security breaches, they are taking more proactive measures to ensure information technology (IT) security and their assets. While opportunities exist to supply organizations of all sizes, from SMEs to large corporations, the most substantial opportunities are to be found in organizations for which IT security is mission critical, e.g., major financial institutions, utilities and especially government departments (including Government headquarters, Ministry of Defense, Immigration and Border Protection, Revenue and Customs, etc.). Major Cyber security projects in development in Romania include the creation of a Cyber security Innovation Center, with assistance from the U.S. Trade and Development Agency, and a Regional Cybercrime Training Center for the Romanian Police.

Romania's demand for cybersecurity technology is included in its recently legislated Cybersecurity Strategy and

the National Action Plan on implementation of National Cybersecurity System. By the end of 2014, Romania plans to adopt a cybersecurity law, currently under public consultation. The draft law covers both Network and Information Security (NIS) and cyber threats from a national security perspective and was approved by the Supreme Council for National Defense at the end of 2013. The Romanian National Computer Emergency Response Team (CERT–RO), which aligns directly with European Union (EU) critical infrastructure protection mandates, was established in 2011. CERT–RO is the incident response body responsible for ''preventing, analyzing, identifying and reacting to cybernetics incidents'' and for developing public policies to prevent and counteract cyber-attacks.

The National Cybersecurity System will represent a cooperation platform for CERT schemes and will act to consolidate the expertise for cyber security risk management, stimulating cooperation at different layers (military-civil, public-private, government-nongovernment). The Romanian legal/institutional framework could later be affected by the developments of the Regulatory Framework at the European level.

The prospect for highly specialized cybersecurity engineering services and products presents multiple opportunities for U.S. exports. The cybersecurity systems already in place in Romania are based on U.S. technologies and the cyber security training to date originate from the United States. There is still a great need to build capabilities to detect and manage cyber security incidents, the cyber security risk management process, including consulting and technical support at the strategic management level. Once cyber security audits became mandatory, there will also be a need for training, tools, technology, consulting services, etc.

Other Products and Services

The foregoing analysis of the cyber security opportunities in Poland and Romania is not intended to be exhaustive, but illustrative of the many opportunities available to U.S. businesses. Applications from companies selling products or services within the scope of this mission, but not specifically identified, will be considered and evaluated by the U.S. Department of Commerce. Companies whose products or services do not fit the scope of the mission may contact their local U.S. Export Assistance Center (USEAC) to learn about other business development missions and services that may provide more targeted export opportunities. Companies may call 1–800–872–8723, or go to *http://help.export.gov/* to obtain such information. This information also may be found on the Web site: *http://www.export.gov.*

Mission Goals

The purpose of this trade mission is to introduce U.S. firms to the rapidly expanding market for cyber security products and services in Eastern and Central Europe. The mission will help participating firms and trade associations to gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports to Poland, Romania and the Eastern and Central Europe region. By participating in an official U.S. industry delegation, rather than traveling to Poland, Romania, and the rest of the Eastern and Central Europe region on their own, U.S. companies will enhance their ability to secure meetings in those countries and gain greater exposure to the region.

Mission Scenario

The business development mission will include one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint venture partners; meetings with national and regional government officials, chambers of commerce, and business groups; and networking receptions for companies and trade associations representing companies interested in expansion into the Eastern and Central European markets. Meetings will be offered with government authorities that can address questions about policies, tariff rates, incentives, regulations, projects, etc.

PROPOSED TIMETABLE

Sunday May 10	• Trade Mission Participants Arrive in Bucharest. • Visit the city. • Mission Welcome, Week in Preview at Hotel.
Monday May 11	• Welcome and Country Briefing (Romania). • PM and President's Office Meetings (Cyber Security Operational Committee). • Networking Lunch. • One-on-One business matchmaking appointments. • Networking Reception at Ambassador's residence (TBC).
Tuesday May 12	• One-on-One business matchmaking appointments. • Networking Lunch. • Southeast Europe Regional Day—Country Presentations.
Wednesday May 13	• Southeast Europe one on one matchmaking (Bulgaria, Moldova, Hungary, Serbia, Croatia, Macedonia, Bosnia, Montenegro, Slovenia). • Networking Lunch. • Virtual Introductions/Executive time. • Travel to Poland.
Thursday May 14	• Welcome and Country Briefing (Poland). • Ministry of Administration and Digitalization Briefing and other GOP meetings. • Networking Lunch. • One-on-One business matchmaking appointments. • Reception at Ambassador's residence (TBC).
Friday May 15	• One-on-One business matchmaking appointments. • Networking Lunch/Central Europe Regional Opportunities. • Central Europe—One-on-One business matchmaking appointments.
Saturday May 16	• Trade Mission Participants Depart.

Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the DOC. All applicants will be evaluated, on a rolling basis, on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 20 firms and/or trade associations will be selected to participate in the mission from the applicant pool.

Fees and Expenses

After a firm or trade association has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the Business Development Mission will be $2500.00 for small or medium-sized enterprises (SME) [1]; and $3650.00 for large firms or trade associations. The fee for each additional firm representative (large firm or SME/trade organization) is $750. Expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Interpreter and driver services can be arranged for additional cost. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation, and air transportation from the U.S. to the mission sites, between mission sites, and return to the United States. Business visas may be required. Government fees and processing expenses to obtain such visas are also not included in the mission costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

Conditions for Participation

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Companies must provide certification of products and/or services being manufactured or produced in the United States or if manufactured/produced outside of the United States, the product and/or service is marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service. In the case of a trade association or trade organization, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

The following criteria will be evaluated in selecting participants:

- Suitability of the company's (or in the case of a trade association/organization, represented companies') products or services to the mission goals and the markets to be visited as part of this trade mission.
- Company's (or in the case of a trade association/organization, represented companies') potential for business in each of the markets to be visited as part of this trade mission.
- Consistency of the applicant's (or in the case of a trade association/organization, represented companies') goals and objectives with the stated scope of the mission.

Diversity of company size and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeline for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than March 1, 2015. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning October 15, 2014 until the maximum of 20 participants is selected. Applications received after March 1, 2015, will be considered only if space and scheduling constraints permit.

Contacts

Gemal Brangman, Project Officer, U.S. Department of Commerce, Washington, DC, Tel: 202–482–3773, Fax: 202–482–9000, *Gemal.Brangman@trade.gov.*

Pompeya Lambrecht, Senior International Trade Specialist, U.S. Department of Commerce, Arlington, VA, Tel: 703.756.1707, *Pompeya.Lambrecht@trade.gov.*

Brenda VanHorn, Commercial Officer, U.S. Department of Commerce, Warsaw, Poland, Tel: (48) 22625 4374, *Brenda.VanHorn@trade.gov.*

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2014–23210 Filed 9–29–14; 8:45 am]

BILLING CODE 3510–DR–P

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contractingopportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

DEPARTMENT OF COMMERCE

International Trade Administration

Virtual Trade Mission to Canada's North, October 6–8, 2014; Cancellation

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice; Cancellation.

SUMMARY: The United States Department of Commerce published a notice in the **Federal Register** of March 20, 2014 regarding the *Virtual Trade Mission to Canada's North, October 6–8, 2014.* This mission has been cancelled.

Cancellation Notice

As the organizers of the Aboriginal Entrepreneurs Conference and Trade Show 2014, a key part of the Virtual Trade Mission to Canada's North, have canceled their event, the United States Department of Commerce is cancelling the Virtual Trade Mission to Canada's North, October 6–8, 2014 announced in the **Federal Register** of March 20, 2014, in 79 FR 15569.

FOR FURTHER INFORMATION CONTACT: Tracey Ford, Commercial Specialist, U.S. Commercial Service, Ottawa,

Canada, 613–688–5406, *Tracey.Ford@trade.gov.*

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2014–23208 Filed 9–29–14; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA907

Endangered and Threatened Species; Recovery Plans

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of availability and notice of public meetings.

SUMMARY: NMFS announces the adoption of a Final Endangered Species Act (ESA) recovery plan for the Southern Oregon/Northern California Coast coho salmon (*Oncorhynchus kisutch*) Evolutionarily Significant Unit (ESU) (Final Recovery Plan). This ESU includes all naturally spawned coho salmon populations between Punta Gorda, California and Cape Blanco, Oregon, as well as coho salmon produced by three artificial propagation programs: The Cole Rivers Hatchery, Trinity River Hatchery, and Iron Gate Hatchery. As required by the ESA, the Final Recovery Plan contains objective, measurable delisting criteria, site-specific management actions necessary to achieve the plan's goals, and estimates of the time and costs required to implement recovery actions. The Final Recovery Plan is now available. In addition, informative public meetings will be held.

ADDRESSES: Electronic copies of the Final Recovery Plan are available online at: *http://www.westcoast.fisheries.noaa.gov/protected_species/salmon_steelhead/recovery_planning_and_implementation/southern_oregon_northern_california_coast/southern_oregon_northern_california_coast_recovery_plan_documents.html.*

A CD ROM of the Final Recovery Plan can be obtained by emailing a request to *soncc.recovery@noaa.gov* with the subject line ''CD ROM Request for SONCC coho Salmon Recovery Plan'', by phone at 707–825–5163, or by writing to NMFS California Coastal Area Office, 1655 Heindon Road, Arcata, CA 95519, ATTN: Recovery Coordinator.

FOR FURTHER INFORMATION CONTACT: Julie Weeder, Southern Oregon/Northern California Coast Recovery Coordinator by email at *Julie.Weeder@noaa.gov* or by phone at 707–825–5168.

SUPPLEMENTARY INFORMATION:

Background

NMFS is responsible for developing and implementing recovery plans for Pacific salmon and steelhead listed under the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*). Recovery means that the listed species and their ecosystems are sufficiently restored, and their future secured, to the point that the protections of the ESA are no longer necessary. Section 4(f)(1) of the ESA requires that recovery plans include, to the extent practicable: (1) Objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions.

The ESA requires that NMFS develop and implement recovery plans for the conservation and survival of threatened and endangered species under its jurisdiction, unless it is determined that such plans would not result in the conservation of the species. NMFS designated Southern Oregon/Northern California Coast coho salmon as threatened in the **Federal Register** on May 6, 1997 (62 FR 24588) and reaffirmed its threatened status on June 28, 2005 (70 FR 37160). NMFS published a Notice of Availability of the Public Draft Recovery Plan (Draft Plan) in the **Federal Register** on January 5, 2012 (77 FR 476). NMFS held five public meetings to obtain comments on the Draft Plan. In response to multiple requests, the public comment period was extended for an additional 60 days on February 10, 2012 (77 FR 7134). NMFS received extensive comments on the Draft Plan and prepared responses to each comment. The Draft Plan was revised based on the comments received, and this final version now constitutes the Final Recovery Plan for the Evolutionarily Significant Unit of Southern Oregon/Northern California Coast Coho Salmon.

Contents of Plan

The ESA requires that recovery plans incorporate, to the extent practicable: (1) Objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. The goal of the Final Recovery Plan is to restore threatened SONCC coho salmon to the point where they are again secure, self-sustaining members of their ecosystems and no longer need the protections of the ESA.

The Final Recovery Plan provides background on the natural history of SONCC coho salmon, population trends and the stresses and threats that affect their viability. The Final Recovery Plan lays out a recovery strategy to reduce these stresses and threats which is based on the best available science and includes goals that incorporate objective, measurable criteria which, when met, would result in a determination that the species be removed from the list. The Final Recovery Plan is not regulatory. It presents guidance for use by the general public, government agencies, tribal governments, and other interested parties to assist in the recovery of SONCC coho salmon. The Final Recovery Plan identifies all actions needed to achieve recovery by rebuilding populations and reducing stresses and threats. The strategy for recovery includes a linkage between management actions and an active research and monitoring program intended to fill data gaps and assess effectiveness. The Final Recovery Plan incorporates an adaptive management framework by which recovery actions and other elements will evolve and adapt as information is gained. The Final Recovery Plan also describes NMFS' plan for reviews of the status of the species. The Final Recovery Plan references many of the significant efforts already underway to restore Southern Oregon/Northern California Coast coho salmon access to high quality habitat and to improve degraded habitat, and to reduce the impacts of several activities including fishing and timber harvest.

Conclusion

Section 4(f)(1)(B) of the ESA requires that recovery plans incorporate, to the extent practicable, (1) objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. NMFS concludes that the Plan meets the requirements of ESA section 4(f) and adopts it as the *Recovery Plan for the Southern Oregon/Northern California Coast Evolutionarily Significant Unit of Coho Salmon.*

Public Meetings

Public meetings are planned. The dates and locations of meetings can be obtained by contacting Julie Weeder at 707–825–5168 or *Julie.Weeder@noaa.gov.* Exact locations, dates and times of public meetings will also be posted on the above Web site.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: September 18, 2014.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–23230 Filed 9–29–14; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0062, Regulation Pertaining to Financial Integrity of the Forex Market Place

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) 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 requirements relating to reporting by retail foreign exchange dealers who fail to maintain required capital, reporting to customers, risk assessment filings and recordkeeping requirements.

DATES: Comments must be submitted on or before December 1, 2014.

ADDRESSES: You may submit comments, identified by ''Regulation Pertaining to Financial Integrity of the Forex Market Place'' by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- Mail: Christopher Kirkpatrick, 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.
- Federal eRulemaking Portal: *http://www.regulations.gov/search/index.jsp.* Follow the instructions for submitting comments through the Portal. 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 you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

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 ICR 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.

Comments may also be submitted to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs, Attention: Desk Officer for CFTC, 725 17th Street NW., Washington, DC 20503; or Fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Mark Bretscher, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, IL 60661; (312) 596–0529; email: *mbretscher@cftc.gov,* and refer to OMB Control No. 3038–0062.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from 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 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 before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

Title: Regulation Pertaining to Financial Integrity of the Forex Market Place.

Abstract: Pursuant to Amendments to the Commodity Exchange Act found in the Food, Conservation, and Energy Act of 2008, Public Law 110–246, 122 Stat. 1651, 2189–2204 (2008), the Commission promulgated a comprehensive set of rules applicable to intermediaries and counterparties engaged in the offer and sale of off-exchange forex contracts to retail customers. New requirements under Part 5 included reporting by retail foreign exchange dealers who fail to maintain required capital, reporting to customers, risk assessment filings and recordkeeping requirements.

Burden Statement: The respondent burden for this collection is estimated to be 0.87 hours per response.

Respondents/Affected Entities: Retail Foreign Exchange Dealers, Futures Commission Merchants, Introducing Brokers, and other counterparties to forex transactions.

Estimated Number of Respondents: 60.

Estimated Total Annual Burden on Respondents: 2830 hours.

Frequency of Collection: Annual and on occasion.

Dated: September 25, 2014.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2014–23263 Filed 9–29–14; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974 System of Records Notice

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of the retirement of two Privacy Act systems of records notices.

SUMMARY: In accordance with the Privacy Act of 1974, the Commodity Futures Trading Commission (Commission) is providing notice that it is retiring two systems of records notices (SORNs), CFTC–20 Registration and CFTC–28 Self-Regulatory Organization Disciplinary Action Files, from its inventory of record systems because the relevant records are covered by the revised SORN CFTC–12, National

Futures Association (NFA) Applications Suite System (Exempted).

DATES: This action will be effective November 14, 2014.

FOR FURTHER INFORMATION CONTACT: Kathy Harman-Stokes, Chief Privacy Officer, *kharman-stokes@cftc.gov,* 202–418–6629, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, and as part of the Commodity Futures Trading Commission effort to review and update system of records notices, the Commission is retiring two system of records notices, CFTC–20 Registration and CFTC–28 Self-Regulatory Organization Disciplinary Action Files. The Commission is retiring these system notices because the records are covered by the revised SORN CFTC–12, NFA Applications Suite System.

The Commission will continue to authorize the NFA to collect and maintain records on its behalf by delegated authority, as provided in the revised CFTC–12, National Futures Association (NFA) Applications Suite System (Exempted). The Commission will rely upon and follow the revised CFTC–12 NFA Applications Suite System (Exempted). Eliminating CFTC–20 and CFTC–28 will not have an adverse impact on individuals and will promote the overall streamlining and management of CFTC Privacy Act record systems.

Accordingly, as of its effective date, this notice formally terminates system of records notices CFTC–20 and CFTC–28 and removes them from the inventory of the Commodity Futures Trading Commission system of records notices.

Issued in Washington, DC, on September 24, 2014, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2014–23203 Filed 9–29–14; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974 System of Records Notice

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice; publication of character of a revised system of records.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is revising a system of records under the Privacy Act of 1974, CFTC–12, Fitness Investigations, and renaming the system ''National Futures Association (NFA) Applications Suite System (Exempted)'' to more broadly cover the activities of NFA on behalf of the Commission by delegated authority and also cover new data collections for swap dealers, major swap participants and retail foreign exchange dealers as required by the Dodd-Frank Wall Street Reform Act and recent Commission rules.

DATES: Comments must be received on or before October 30, 2014. This action will be effective without further notice on November 10, 2014, unless revised pursuant to comments received.

ADDRESSES: You may submit comments identified by ''NFA Applications Suite System (Exempted)'' by any of the following methods:

- *Agency Web site, via its Comments Online process: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Web site.
- *Federal eRulemaking Portal:* Comments may be submitted at *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *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. 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 *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 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 a 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 notice will be retained in the public comment file and will be considered as required under all applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Kathy Harman-Stokes, Chief Privacy Officer, *kharman-stokes@cftc.gov,* 202–418–6629, Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. The Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, a ''system of records'' is defined as any group of records under the control of a federal government agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act establishes the means by which government agencies collect, maintain, and use information that is personally identifiable in a government system of records.

Each government agency is required to publish a notice in the **Federal Register** of a system of records in which the agency identifies and describes each system of records it maintains, the reasons why the agency uses the personally identifying information therein, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act to determine if the system contains information about them, among other things.

II. NFA Applications Suite System (Exempt)

The Commission proposes to revise a system of records notice (SORN), CFTC–12, ''Fitness Investigations,'' and rename the notice as ''National Futures Association (NFA) Applications Suite System (Exempted).'' The notice revises the description of the system and enhancements to more broadly cover the activities of NFA on behalf of the Commission by delegated authority and also covers new data collections for swap dealers, major swap participants and retail foreign exchange dealers as required by the Dodd-Frank Wall Street Reform Act and recent Commission rules. The revised notice also exempts from certain Privacy Act requirements those records in this system that refer, relate to or are from third-party sources related to fitness or other investigations of registrants or applicants for registration. Though subject to change with future information technology upgrades, the notice covers activities that are currently automated by the following NFA databases and applications:

- BASIC—Background Affiliation Status Information Center;
- Fingerprint system;
- DDOC—Disclosure Document System;
- EFC—Electronic Filing Cabinet;
- EasyFile;
- FACTS—Financial Analysis & Audit Compliance Tracking System;
- Fitness Image;
- NFA Audit System;
- ORS—Online Registration System;
- Winjammer™ Online Filing System.

This single SORN will replace and rename CFTC–12, ''Fitness Investigations,'' and will result in retirement of two other SORNs, CFTC–20, ''Registration,'' and CFTC–28, ''Self-Regulatory Organization Disciplinary Action Files.''

Issued in Washington, DC, on September 24, 2014, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

CFTC–12

SYSTEM NAME:

National Futures Association (NFA) Applications Suite System (Exempted).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The electronic applications and databases that comprise the NFA Applications Suite System (Exempted) are located in two primary locations, NFA, 300 South Riverside, Suite 1800, Chicago, Illinois 60606 and the CFTC, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Some information is also located at CFTC regional offices at 525 West Monroe Street, Suite 1100, Chicago, IL 60661; 140 Broadway, 19th Floor, New York, NY 10005; and 4900 Main Street, Suite 500, Kansas City, MO 64112.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied or who may apply for registration as futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, leverage transaction merchants, swap dealers, major swap participants, retail foreign exchange dealers and agricultural trade option merchants (ATOMs); individuals who file notices of exemption or claims for exemption from certain CFTC requirements; individuals who are or may become principals (as defined in 17 CFR 3.1); individuals who have applied or who may apply for registration as associated persons of the foregoing firms; and floor brokers and floor traders. Also individuals, who have been suspended, expelled, disciplined, or denied access to or by a self-regulatory organization (SRO), including, but not limited to, NFA or who have been subject to a CFTC civil or administrative action.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to the fitness of the individuals or firms to engage in business subject to the Commission's jurisdiction, including but not limited to registration forms, schedules and supplements, fingerprint cards which are required for certain individual registrants as provided under CFTC rules, correspondence relating to registration, fitness investigations, and reports and memoranda reflecting information developed from various sources. This system includes investigatory material compiled for law enforcement purposes whose disclosure the Commission staff has determined could compromise Commission investigations, or would reveal the identity of a source who furnished information to the Commission under an express promise that the identity of the source would be held in confidence.

Information pertaining to disciplinary or other adverse action taken by an SRO or the CFTC, including the name of the person against whom such action was taken, the action taken, and the reasons.

Information submitted by certain individuals or firms to enable NFA and/or CFTC supervision and oversight of activities governed by the Commodity Exchange Act, such as financial statements, reports and notice filings; disclosure documents; and submissions by swap dealers and major swap participants pursuant to Commission Regulation 3.10(a)(1)(v)(A) and information developed by the NFA and/or CFTC related to such information.

Information submitted by individuals related to notices of exemption or claims for exemption from certain CFTC requirements and information developed by NFA and/or the CFTC related to the notice of exemption or claim for exemption.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Commodity Exchange Act, 7 U.S.C. 1, *et seq.,* and the rules and regulations promulgated thereunder.

PURPOSE(S):

The records in this system are used to support the Commission's registration and other regulatory authority as delegated to NFA. This involves maintaining fitness investigation and other fitness related records, including investigatory material compiled for law enforcement purposes, non-fitness registration records, images of registration records, information related to disciplinary action taken by the CFTC and self-regulatory organizations including NFA; processing hard copy and electronic fingerprint cards; and maintaining a web based registration system, records related to notices of exemption or claims for exemption from certain CFTC requirements, and financial statements, reports, notices and other filings that enable NFA and the CFTC to oversee registrant activities for compliance with legal requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NFA may disclose information contained in those portions of this system of records maintained by NFA, but any such disclosure must be made in accordance with NFA rules that have been approved by the Commission or permitted to become effective without Commission approval. Disclosures must be made under circumstances authorized by the Commission as consistent with the Commission's regulations and routine uses.

NFA generally makes available to the public on NFA Web site(s), including the Background Affiliation Status Information Center (BASIC), firm directories, registration forms, business addresses, telephone numbers, registration categories, biographical supplements (except for any confidential information on supplementary attachments to the forms), effective dates of registration, registration status, and disciplinary action taken concerning futures commission merchants, introducing brokers, commodity pool operators, commodity trading advisors, swap dealers, major swap participants and retail foreign exchange dealers and their associated persons. NFA also will release records or portions of records to any member of the public if such records or portions are ''public'' or ''publicly available'' under CFTC Regulations 1.10(g) or 145.0.

For information not made available to the public as explained above, NFA may disclose information contained in those portions of this system of records maintained by NFA:

(1) To any person with whom an applicant or registrant is or plans to be associated as an associated person or affiliated as a principal or with whom an individual is or plans on being associated as a swap associated person;

(2) to any futures commission merchant or retail foreign exchange dealer with whom an introducing

broker, whether an applicant or registrant, has or plans to enter into a guarantee agreement under CFTC Regulation 1.10;

(3) to boards of trade designated as contract markets or to any other futures associations registered with the Commission to assist those organizations in carrying out their responsibilities under the Act, or to national securities exchanges or national securities associations registered with the Securities & Exchange Commission to assist those organizations in carrying out their responsibilities under the Securities Exchange Act of 1934;

(4) to federal, state or local law enforcement or regulatory agencies acting within the scope of their jurisdiction or for their use in meeting responsibilities assigned to them under law (to the same extent that the Commission may disclose such registration information under Sections 8(e) and 8(g) of the Act);

(5) pursuant to an order of a court of competent jurisdiction; except that, subpoenas and summonses covering non-public portions of registration records and copies of the non-public records shall be promptly forwarded to the Commission to enable the Commission to consult with NFA on how to proceed;

(6) otherwise with the authorization of the FOI, Privacy and Sunshine Act Compliance staff or the General Counsel of the Commission or his or her designee, in accordance with CFTC Regulations 145.7(b), (h) and (i); the Freedom of Information Act, 5 U.S.C. 552; and the Privacy Act, 5 U.S.C. 552a; and

(7) to any individual or firm, or person acting on behalf of the individual or firm, who seeks access to registration records, excluding any reports reflecting information developed from sources outside the Commission or NFA compiled or generated in connection with determining fitness for registration or affiliation as a principal, in connection with that individual's or firm's application for registration.

Information in this system may also be disclosed in accordance with the blanket routine uses numbered 1 through 19 that appear at the beginning of the Commission's compilation of its systems of records notices, which can be found in the **Federal Register** at 76 FR 5974 (Feb. 2, 2011).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in file folders and binders. Electronic records, including computer files, are stored on the Commission's network, NFA databases or applications, NFA Web site, and other electronic media (*e.g.,* microfiche) as needed.

RETRIEVABILITY:

By the name of the individual or firm, an NFA identification number, docket number or by cross-indexing an individual's file to the name of the firm with which the individual is associated or affiliated (*e.g.,* the name of the futures commission merchant).

SAFEGUARDS:

Records are protected from unauthorized access and improper use through administrative, technical and physical security measures. Administrative measures includes workforce security awareness training. Technical security measures within the NFA and CFTC include restrictions on computer access to authorized individuals, required use of strong passwords that are frequently changed, use of encryption for certain data types and transfers, and regular review of security procedures and best practices to enhance security. Physical measures include restrictions on building access to authorized individuals and maintenance of records in lockable offices and filing cabinets.

RETENTION AND DISPOSAL:

These records are retained and disposed of in accordance with CFTC Records Schedules available at: *www.cftc.gov/ucm/groups/public/@aboutcftc/documents/file/recordsdispositionschedule.pdf.*

SYSTEM MANAGER(S) AND ADDRESS:

For records held by the Commission related to fitness investigations and registration: Director, Division of Swap Dealer and Intermediary Oversight (DSIO), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Surveillance Branch Chiefs in the regional offices at 525 West Monroe Street, Suite 1100, Chicago, IL 60661 and 140 Broadway, 19th Floor, New York, NY 10005. For records held by the Commission related to disciplinary action: Director, Division of Market Oversight (DMO), Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

For records held by NFA: Vice President for Registration, National Futures Association, 300 South Riverside, Suite 1800, Chicago, Illinois 60606.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records, or contesting the content of records about themselves contained in this system of records should address written inquiry to FOIA/Privacy Act Request, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Telephone (202) 418–5000.

Individuals may also request registration information by telephone directly from the NFA information center at (800) 621–3570 or (312) 781–1410. Inquiries can also be made to NFA by fax at (312) 781–1459 or via the Internet at *information@nfa.futures.org.* NFA will query the system about current registration status and registration and disciplinary history, and will provide instructions on how to make written requests for copies of records. The Internet may be used to obtain information on current registration status and futures-related regulatory actions at *www.nfa.futures.org.*

RECORD SOURCE CATEGORIES:

The individual or firm on whom the record is maintained; the individual's employer; individuals filing reparations complaints or answers; Federal, state and local regulatory and law enforcement agencies; commodities and securities exchanges; NFA; Financial Industry Regulatory Authority (FINRA); foreign futures and securities authorities and INTERPOL; self-regulatory organizations notifying the Commission of disciplinary or other adverse actions taken; and other miscellaneous sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The records in this system that refer, relate to or are from third-party sources related to fitness or other investigations of applicants for registration or registrants are exempted by the Commission from certain provisions of the Privacy Act of 1974 pursuant to the terms of the Privacy Act, 5 U.S.C. 552a(k)(2), and the Commission's rules promulgated thereunder, 17 CFR 146.12. These records are exempt from the notification procedures, records access procedures, and record contest procedures set forth in the system notices of other systems of records, and

from the requirement that the sources of records in the system be described.

[FR Doc. 2014–23186 Filed 9–29–14; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2014–0025]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 30, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: DoD Statement of Intent; AMC Form 207; OMB Control Number 0701–0137.

Type of Request: Extension.

Number of Respondents: 15.

Responses per Respondent: 1.

Annual Responses: 15.

Average Burden per Response: 20 hours.

Annual Burden Hours: 300.

Needs and Uses: The information collection requirement is necessary to the Department of Defense commercial Airlift Division (HQ AMC/A34B) and is responsible for the assessment of a commercial air carrier's ability to provide quality, safe, and reliable airlift to the Department of Defense. HQ AMC/A34B uses Air Mobility Command (AMC) Form 207 to acquire information needed to make a determination if the commercial carriers can support the Department of Defense. Information is evaluated and used in the approval process. Failure to respond renders the commercial air carrier ineligible for contracts to provide air carrier service to the Department of Defense.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

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

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: September 18, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–22629 Filed 9–29–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0111]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; High School Reform Study

AGENCY: Department of Education (ED), Office of Planning, Evaluation and Policy Development (OPEPD).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 30, 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–0111 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 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Joanne Bogart, 202–205–7855.

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: High School Reform Study.

OMB Control Number: 1875—NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 1,670.

Total Estimated Number of Annual Burden Hours: 835.

Abstract: This request for OMB clearance is to collect data through a nationally representative survey of high schools during the 2014–15 school year.

Data from the National High School Reform Study will inform a descriptive report on the strategies that high schools are using to help students graduate from high school, especially students at risk for dropping out and students in high schools with low graduation rates. Information from the survey will fill critical information gaps about the use and prevalence of high school reform strategies to support at-risk youth. The survey will be administered to a survey to a nationally representative sample of approximately 2,000 public high school administrators.

Dated: September 24, 2014.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–23185 Filed 9–29–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–284–D]

Application To Export Electric Energy; Noble Americas Energy Solutions LLC

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Noble Americas Energy Solutions LLC (Noble Solutions) has applied to renew its authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before October 30, 2014.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On January 29, 2010, DOE issued Order No. EA–284–B to Sempra Energy Solutions, which authorized Sempra Energy Solutions to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities. That authority expires on January 29, 2015. On December 7, 2011, DOE issued Order No. EA–284–C, which recognized a change of name from Sempra Energy Solutions to Noble Americas Energy Solutions LLC. All other terms and conditions of Order No. EA–284–B remain unchanged. On September 4, 2014, Noble Solutions filed an application with DOE for renewal of the export authority contained in Order No. EA–284–C for an additional five-year term.

In its application, Noble Solutions states that it does not own or operate any electric transmission facilities, and it does not have a franchised service area. The electric energy that Noble Solutions proposes to export to Mexico would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The Applicant's request is limited to the transmission of power to Baja California, Mexico utilizing the 230-kV lines owned by San Diego Gas and Electric Company, which interconnects with the electrical system of Commission Federal de Electricidad, the Mexican electric utility.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning the Noble Solutions application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–284–D. An additional copy is to be provided directly to Greg Bass, Noble Americas Energy Solutions LLC, 401 West A Street, Suite 500, San Diego, CA 92101.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on September 23, 2014.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–23091 Filed 9–29–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–550–000]

El Paso Natural Gas Company, LLC ; Notice of Application

Take notice that on September 9, 2014, El Paso Natural Gas Company, LLC (EPNG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed an application pursuant to sections 7(b) of the Natural Gas Act and section 157.5 of the Commission's regulations for authorization to abandon, by sale, a 17.4 mile segment of its 30-inch diameter Line No. 2000 located in Upton County and Crane County, Texas. EPNG is also requesting a determination that upon closing of the sale to Kinder Morgan Texas Pipeline, LLC, the operation and service rendered through these facilities will be exempt from Commission jurisdiction under Section 1(b) of the NGA. EPNG's proposal is more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Francisco Tarin, Director, Regulatory Affairs, El Paso Natural Gas Company, L.L.C.; P.O. Box 1087, Colorado Springs, Colorado, 80944, or call (719) 667–7517, or by fax (719) 520–4697, or to Mark A. Minich, Assistant General Counsel, El

Paso Natural Gas Company, L.L.C.; P.O. Box 1087, Colorado Springs, Colorado, 80944, or call (719) 520–4416 or by fax (719) 520–4415.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: October 10, 2014.

Dated: September 19, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23214 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG14–106–000.
Applicants: Palo Duro Wind Interconnection Services, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Palo Duro Wind Interconnection Services, LLC.
Filed Date: 9/19/14.
Accession Number: 20140919–5129.
Comments Due: 5 p.m. ET 10/10/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3697–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company Informational Filing of Notice of Revision to Formula Transmission Rate Annual Update.
Filed Date: 9/17/14.
Accession Number: 20140917–5173.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER12–2302–003.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing per 35: 2014–09–19_SSR Compliance Filing to be effective 9/24/2012.
Filed Date: 9/19/14.
Accession Number: 20140919–5085.
Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2487–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment per 35.17(b): 2014–09–19_SA 762 Termination Amendment ATC-Dominion to be effective 7/16/2014.
Filed Date: 9/19/14.
Accession Number: 20140919–5018.
Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2577–001.
Applicants: El Paso Electric Company.
Description: Compliance filing per 35: OATT Order No. 792 Compliance Filing to be effective 10/3/2014.
Filed Date: 9/19/14.
Accession Number: 20140919–5103.
Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2667–001.
Applicants: EquiPower Resources Management, LLC.
Description: Tariff Amendment per 35.17(b): Amendment to 257 to be effective 8/19/2014.
Filed Date: 9/19/14.
Accession Number: 20140919–5096.
Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2728–001.
Applicants: Wisconsin Public Service Corporation.
Description: Tariff Amendment per 35.17(b): Amendment to Ancillary Services Tariff in Docket ER14–2728 to be effective 8/28/2014.
Filed Date: 9/19/14.
Accession Number: 20140919–5034.
Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2909–000.
Applicants: Idaho Power Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Concurrence to Amended Boardman Agreement to be effective 11/1/2014.
Filed Date: 9/19/14.
Accession Number: 20140919–5001.
Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2910–000.
Applicants: Southwest Power Pool, Inc.

Description: Notice of Cancellation of Firm Point-To-Point Transmission Service Agreement No. 2027 of Southwest Power Pool, Inc.

Filed Date: 9/18/14.

Accession Number: 20140918–5133.

Comments Due: 5 p.m. ET 10/9/14.

Docket Numbers: ER14–2911–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–19_SA 2696 ITC Midwest-Interstate Power J233 E&P to be effective 9/20/2014.

Filed Date: 9/19/14.

Accession Number: 20140919–5044.

Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2912–000.

Applicants: White Pine Electric Power L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): MBR Tariff Revisions to be effective 11/18/2014.

Filed Date: 9/19/14.

Accession Number: 20140919–5054.

Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2913–000.

Applicants: UP Power Marketing LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): MBR Tariff Revisions to be effective 11/18/2014.

Filed Date: 9/19/14.

Accession Number: 20140919–5069.

Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2914–000.

Applicants: Public Service Company of New Mexico.

Description: Compliance filing per 35: Revisions to PNM's OATT to Integrate the Requirements of Order No. 789 to be effective 10/1/2014.

Filed Date: 9/19/14.

Accession Number: 20140919–5079.

Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2915–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): PJM revisions to OA Section 1.42A.02 re Supplemental Project to be effective 11/19/2014.

Filed Date: 9/19/14.

Accession Number: 20140919–5104.

Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2916–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–19_SA 2698 OTP-Courtenay Wind Farm GIA (J262/J263) to be effective 9/20/2014.

Filed Date: 9/19/14.

Accession Number: 20140919–5113.

Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2917–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–19_SA 2622 Termination OTP-Courtenay Wind Farm E&P (J262/J263) to be effective 9/20/2014.

Filed Date: 9/19/14.

Accession Number: 20140919–5115.

Comments Due: 5 p.m. ET 10/10/14.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH14–14–000.

Applicants: Continental Energy Systems LLC.

Description: Continental Energy Systems LLC submits FERC 65–A Exemption Notification.

Filed Date: 9/19/14.

Accession Number: 20140919–5102.

Comments Due: 5 p.m. ET 10/10/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 19, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23192 Filed 9–29–14; 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: RP14–1260–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) rate filing per 154.204: Non-Conforming Agreements Filing (Plains & Morton) to be effective 10/1/2014.

Filed Date: 9/12/14.

Accession Number: 20140912–5084.

Comments Due: 5 p.m. ET 9/24/14.

Docket Numbers: RP14–1261–000.

Applicants: Kern River Gas Transmission Company.

Description: § 4(d) rate filing per 154.204: 2014 Sunset Delivery Meter to be effective 10/15/2014.

Filed Date: 9/12/14.

Accession Number: 20140912–5146.

Comments Due: 5 p.m. ET 9/24/14.

Docket Numbers: RP14–1262–000.

Applicants: Dominion Cove Point LNG, LP.

Description: Compliance filing per 154.203: DCP—2014 Revenue Crediting Report.

Filed Date: 9/16/14.

Accession Number: 20140916–5040.

Comments Due: 5 p.m. ET 9/29/14.

Docket Numbers: RP14–1263–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: Compliance filing per 154.203: Kingsport Recourse Rates—CP13–534–000 Compliance Filing to be effective 10/15/2014.

Filed Date: 9/17/14.

Accession Number: 20140917–5023.

Comments Due: 5 p.m. ET 9/29/14.

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: September 17, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23194 Filed 9–29–14; 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: PR14–54–000.
Applicants: Kinder Morgan Border Pipeline LLC.
Description: Tariff filing per 284.123(e)/.224: Cancellation of Statement of Operating Conditions to be effective 9/18/2014; TOFC: 800.
Filed Date: 9/18/14.
Accession Number: 201400918–5045.
Comments Due: 5 p.m. ET 10/9/14.
284.123(g) Protests Due:

Docket Numbers: RP14–1215–000.
Applicants: Paiute Pipeline Company.
Description: Tariff Withdrawal per 154.205(a): Cancel Docket RP14–1215.
Filed Date: 9/18/14.
Accession Number: 20140918–5093.
Comments Due: 5 p.m. ET 9/30/14.

Docket Numbers: RP14–1264–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Compliance filing per 154.203: Compliance Tariff Filing in Certificate Proceeding—Docket No. CP13–96–000 to be effective 11/1/2014.
Filed Date: 9/19/14.
Accession Number: 20140919–5049.
Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: RP14–1265–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Compliance filing per 154.203: Neg Rate Agmts Filed in Compliance with Order in CP13–96–000 to be effective 11/1/2014.
Filed Date: 9/19/14.
Accession Number: 20140919–5051.
Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: RP14–1266–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: § 4(d) rate filing per 154.204: Housekeeping Filing on 9–19–14 to be effective 10/20/2014.
Filed Date: 9/19/14.
Accession Number: 20140919–5076.
Comments Due: 5 p.m. ET 10/1/14.

Docket Numbers: RP14–1267–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Compliance filing per 154.203: Eastman Neg Rate (k410493)—CP13–534. Compliance Filing to be effective 1/1/2015.
Filed Date: 9/19/14.
Accession Number: 20140919–5099.
Comments Due: 5 p.m. ET 10/1/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–1242–001.
Applicants: Tennessee Gas Pipeline Company, L.L.C.
Description: Tariff Amendment per 154.205(b): Clean Up-Amend-Negotiated Rate Agreements to be effective 10/1/2014.
Filed Date: 9/18/14.
Accession Number: 20140918–5124.
Comments Due: 5 p.m. ET 9/30/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23198 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–2926–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amended LGIA with El Segundo Energy Center II LLC to be effective 11/23/2014.
Filed Date: 9/23/14.
Accession Number: 20140923–5068.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2927–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 1148R19 American Electric Power NITSA and NOA to be effective 8/1/2014.
Filed Date: 9/23/14.
Accession Number: 20140923–5069.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2928–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): OATT Non-Substantive Revisions to be effective 11/23/2014.
Filed Date: 9/23/14.
Accession Number: 20140923–5080.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2929–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Rev. to Provision Reg. Auto Fuel Price Adjustments in App A to be effective 12/3/2014.
Filed Date: 9/23/14.
Accession Number: 20140923–5099.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2930–000.
Applicants: Florida Power & Light Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): FPL and FKEC First Amendment to FPL Rate Schedule FERC No. 322 to be effective 1/1/2013.
Filed Date: 9/23/14.
Accession Number: 20140923–5123.
Comments Due: 5 p.m. ET 10/14/14.

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: September 23, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23243 Filed 9–29–14; 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: ER07–956–008.
Applicants: Entergy Services, Inc.
Description: Entergy Services, Inc. submits Service Schedule MSS–3 Bandwidth Formula Comprehensive Recalculation.
Filed Date: 9/15/14.
Accession Number: 20140915–5237.
Comments Due: 5 p.m. ET 10/6/14.

Docket Numbers: ER08–1056–007.
Applicants: Entergy Services, Inc.
Description: Entergy Services, Inc. submits Service Schedule MSS–3 Bandwidth Formula Comprehensive Recalculation.
Filed Date: 9/15/14.
Accession Number: 20140915–5236.
Comments Due: 5 p.m. ET 10/6/14.

Docket Numbers: ER14–2695–001.
Applicants: Ioway Energy, LLC.
Description: Tariff Amendment per 35.17(b): Amended MBR Filing to be effective 9/1/2014.
Filed Date: 9/18/14.
Accession Number: 20140918–5104.
Comments Due: 5 p.m. ET 10/9/14.

Docket Numbers: ER14–2750–001.
Applicants: New York State Electric & Gas Corporation.
Description: Tariff Amendment per 35.17(b): Amendment to Facilities Agreement to be effective 9/1/2014.
Filed Date: 9/18/14.
Accession Number: 20140918–5094.
Comments Due: 5 p.m. ET 10/9/14.

Docket Numbers: ER14–2900–000.
Applicants: Energetix DE, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Normal filing to be effective 9/17/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5158.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2901–000.
Applicants: Energy America, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Normal filing to be effective 9/17/2014.
Filed Date: 9/18/14.
Accession Number: 20140918–5001.
Comments Due: 5 p.m. ET 10/9/14.

Docket Numbers: ER14–2902–000.
Applicants: Gateway Energy Services Corporation.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Normal filing to be effective 9/17/2014.
Filed Date: 9/18/14.
Accession Number: 20140918–5003.
Comments Due: 5 p.m. ET 10/9/14.

Docket Numbers: ER14–2903–000.
Applicants: NYSEG Solutions, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Normal filing to be effective 9/17/2014.
Filed Date: 9/18/14.
Accession Number: 20140918–5004.
Comments Due: 5 p.m. ET 10/9/14.

Docket Numbers: ER14–2904–000.
Applicants: Public Service Company of New Mexico.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Modifications to NITSA/NOA between PNM and Tri-State, Baseline Submission to be effective 9/1/2014.
Filed Date: 9/18/14.
Accession Number: 20140918–5006.
Comments Due: 5 p.m. ET 10/9/14.

Docket Numbers: ER14–2905–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits Notice of Cancellation of Contracts Facilitating the Interconnection of the Burris Substation.
Filed Date: 9/18/14.
Accession Number: 20140918–5018.
Comments Due: 5 p.m. ET 10/9/14.

Docket Numbers: ER14–2906–000.
Applicants: Public Service Company of New Mexico.
Description: Public Service Company of New Mexico submits Notice of Cancellation of Contracts Facilitating the Interconnection of the San Fidel Substation.
Filed Date: 9/18/14.
Accession Number: 20140918–5019.
Comments Due: 5 p.m. ET 10/9/14.

Docket Numbers: ER14–2907–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Amended SGIA & Distribution Service Agreement with Lancaster WAD B LLC to be effective 11/18/2014.
Filed Date: 9/18/14.
Accession Number: 20140918–5032.
Comments Due: 5 p.m. ET 10/9/14.

Docket Numbers: ER14–2908–000.
Applicants: Public Service Company of New Mexico.
Description: Initial rate filing per 35.12 San Juan Generating Station Fuel and Capital Funding Agreement to be effective 7/1/2014.
Filed Date: 9/18/14.
Accession Number: 20140918–5069.
Comments Due: 5 p.m. ET 10/9/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–50–000.
Applicants: AEP Texas Central Company.
Description: Amendment to August 29, 2014 Application Pursuant to Section 204 of the Federal Power Act for authorization to issue securities of AEP Texas Central Company.
Filed Date: 9/17/14.
Accession Number: 20140917–5168.
Comments Due: 5 p.m. ET 9/29/14.

Docket Numbers: ES14–51–000.
Applicants: AEP Texas North Company.
Description: AEP Texas North Company's amendment to August 29, 2014 Application Pursuant to Section 204 of the Federal Power Act for authorization to issue securities.
Filed Date: 9/18/14.
Accession Number: 20140918–5017.
Comments Due: 5 p.m. ET 9/29/14.

Docket Numbers: ES14–52–000.
Applicants: Consolidated Edison Company of New York, Inc.
Description: Consolidated Edison Company of New York, Inc. Exhibits C, D and E to the September 10, 2014 Section 204 Application.
Filed Date: 9/16/14.
Accession Number: 20140916–5215.
Comments Due: 5 p.m. ET 9/26/14.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD14–14–000.
Applicants: North American Electric Reliability Corp.
Description: Petition of the North American Electric Reliability Corporation for Approval of Proposed Reliability Standard PRC–004–3.
Filed Date: 9/15/14.
Accession Number: 20140915–5235.
Comments Due: 5 p.m. ET 10/20/14.

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: September 18, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23191 Filed 9–29–14; 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: ER13–1188–033.
Applicants: Pacific Gas and Electric Company.
Description: Compliance filing per 35: Compliance Filing for WDT Partial Settlement to be effective 8/1/2014.
Filed Date: 9/23/14.
Accession Number: 20140923–5001.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER13–1188–034.
Applicants: Pacific Gas and Electric Company.
Description: Compliance filing per 35: Compliance Filing for WDT2 Partial Settlement to be effective 8/1/2014.
Filed Date: 9/23/14.
Accession Number: 20140923–5002.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER13–1188–035.
Applicants: Pacific Gas and Electric Company.
Description: Compliance filing per 35: Compliance Filing for WDT2 Offer of Partial Settlement to be effective 8/1/2014.
Filed Date: 9/23/14.
Accession Number: 20140923–5004.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER13–1188–036.
Applicants: Pacific Gas and Electric Company.
Description: Compliance filing per 35: Errata to WDT2 Compliance Filing WDT SA No. 17 to be effective 8/1/2014.
Filed Date: 9/23/14.
Accession Number: 20140923–5010.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2707–001.
Applicants: Mammoth Plains Wind Project, LLC.
Description: Tariff Amendment per 35.17(b): Mammoth Plains Wind Project, LLC Amendment to MBR Application and Tariff to be effective 9/19/2014.
Filed Date: 9/22/14.
Accession Number: 20140922–5107.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2708–001.
Applicants: Seiling Wind, LLC.
Description: Tariff Amendment per 35.17(b): Seiling Wind, LLC Amendment to MBR Application and Tariff to be effective 10/1/2014.
Filed Date: 9/22/14.
Accession Number: 20140922–5108.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2709–001.
Applicants: Seiling Wind II, LLC.
Description: Tariff Amendment per 35.17(b): Seiling Wind II, LLC Amendment to MBR Application and Tariff to be effective 10/1/2014.
Filed Date: 9/22/14.
Accession Number: 20140922–5109.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2710–001.
Applicants: Palo Duro Wind Energy, LLC.
Description: Tariff Amendment per 35.17(b): Amendment to Palo Duro Wind Energy, LLC MBR Application and Tariff to be effective 10/7/2014.
Filed Date: 9/22/14.
Accession Number: 20140922–5111.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2925–000.
Applicants: Pacific Gas and Electric Company.
Description: Compliance filing per 35: Compliance Filing for WDT2 Offer of Partial Settlement to be effective 8/1/2014.
Filed Date: 9/23/14.
Accession Number: 20140923–5003.
Comments Due: 5 p.m. ET 10/14/14.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR14–8–000.
Applicants: North American Electric Reliability Corporation.
Description: Petition of the North American Electric Reliability Corporation for Approval of the Bylaws and Reliability Standards Development Procedures of the Western Electricity Coordinating Council.
Filed Date: 9/16/14.
Accession Number: 20140916–5060.
Comments Due: 5 p.m. ET 10/16/14.

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.

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Dated: September 23, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23242 Filed 9–29–14; 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: RP11–2473–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Compliance filing per 154.501: 2013 CICO Report Filing.
Filed Date: 8/29/14.
Accession Number: 20140829–5075.
Comments Due: 5 p.m. ET 9/17/14.

Docket Numbers: RP11–2474–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Compliance filing per 154.501: 2013 CICO Report Filing.
Filed Date: 8/29/14.
Accession Number: 20140829–5071.
Comments Due: 5 p.m. ET 9/17/14.

Docket Numbers: RP14–1258–000.
Applicants: Southeast Supply Header, LLC.
Description: Compliance filing per 154.203: Negotiated Rate and Non-conforming Agreement—Compliance CP14–87–000 to be effective 10/1/2014.
Filed Date: 9/11/14.
Accession Number: 20140911–5156.
Comments Due: 5 p.m. ET 9/23/14.

Docket Numbers: RP14–1259–000.
Applicants: Southeast Supply Header, LLC.
Description: Compliance filing per 154.203: SESH Incremental Fuel—Compliance CP14–87–000 to be effective 10/1/2014.
Filed Date: 9/11/14.
Accession Number: 20140911–5165.
Comments Due: 5 p.m. ET 9/23/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–1173–001.
Applicants: Eastern Shore Natural Gas Company.
Description: Compliance filing per 154.203: Off Peak Firm Transportation—OPT 90 Compliance Filing to be effective 9/7/2014.
Filed Date: 9/10/14.
Accession Number: 20140910–5191.
Comments Due: 5 p.m. ET 9/22/14.

Docket Numbers: RP11–1898–001.
Applicants: Centra Pipelines Minnesota Inc.
Description: Compliance filing per 154.203: Revised Statement of Rates to be effective 11/1/2014.
Filed Date: 9/11/14.
Accession Number: 20140911–5120.
Comments Due: 5 p.m. ET 9/23/14.

Docket Numbers: RP14–1101–001.
Applicants: WBI Energy Transmission, Inc.
Description: Compliance filing per 154.203: Compliance Filing—Non-conforming Negotiated Rate Service Agreement—Devon to be effective 7/18/2014.
Filed Date: 9/11/14.
Accession Number: 20140911–5143.
Comments Due: 5 p.m. ET 9/23/14.

Docket Numbers: RP14–1198–001.
Applicants: Eastern Shore Natural Gas Company.
Description: Compliance filing per 154.203: Revisions to Previously Filed Records in RP14–1198–000 to be effective 10/1/2014.
Filed Date: 9/11/14.
Accession Number: 20140911–5109.
Comments Due: 5 p.m. ET 9/18/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23193 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–146–000.
Applicants: Ameren Illinois Company.
Description: Request For Approvals Pursuant To Sections 203 Of The Federal Power Act And Request For Expedited Consideration And a Shortened Notice Period.
Filed Date: 9/17/14.
Accession Number: 20140917–5117.
Comments Due: 5 p.m. ET 10/8/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3417–005.
Applicants: Alta Wind VIII, LLC, Bear Swamp Power Company LLC, Black Bear Development Holdings, LLC, Black Bear Hydro Partners LLC, Black Bear SO, LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Renewable Energy Marketing US, Brookfield Smoky Mountain Hydropower LLC, Brookfield White Pine Hydro LLC, Carr Street Generating Station, L.P., Coram California Development, L.P., Erie Boulevard Hydropower, L.P., Granite Reliable Power, LLC, Great Lakes Hydro America, LLC, Hawks Nest Hydro LLC, Mesa Wind Power Corporation, Rumford Falls Hydro LLC, Windstar Energy, LLC.
Description: Supplement to February 20, 2014 Notice of Change in Status of the Brookfield Companies.
Filed Date: 9/4/14.
Accession Number: 20140904–5221.
Comments Due: 5 p.m. ET 9/25/14.

Docket Numbers: ER11–3417–006.
Applicants: Alta Wind VIII, LLC, Bear Swamp Power Company LLC, LSP Safe Harbor Holdings, LLC, Black Bear Development Holdings, LLC, Black Bear Hydro Partners, LLC, Black Bear SO, LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Renewable Energy Marketing US, Brookfield Smoky Mountain Hydropower LLC, Coram California Development, L.P., Carr Street Generating Station, L.P., Brookfield White Pine Hydro LLC, Erie Boulevard Hydropower, L.P., Great Lakes Hydro America, LLC, Granite Reliable Power, LLC, Windstar Energy, LLC, Rumford Falls Hydro LLC, Mesa Wind Power Corporation, Hawks Nest Hydro LLC.
Description: Supplement to April 28, 2014 Notice of Change in Status of the Brookfield Companies.
Filed Date: 9/4/14.
Accession Number: 20140904–5224.
Comments Due: 5 p.m. ET 9/25/14.

Docket Numbers: ER11–3460–006.
Applicants: Bayonne Energy Center, LLC.
Description: Notice of Non-Material Change in Status of Bayonne Energy Center, LLC.
Filed Date: 9/17/14.
Accession Number: 20140917–5110.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2107–002.
Applicants: Southwest Power Pool, Inc.
Description: Report Filing: 1148 Substitute R18 AEP NITSA NOA (Compliance Filing) Supplemental Submission to be effective N/A.
Filed Date: 9/16/14.
Accession Number: 20140916–5207.
Comments Due: 5 p.m. ET 10/7/14.

Docket Numbers: ER14–2892–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–17_SA 2524 ITC–DTE Electric 2nd Rev. GIA (J235) to be effective 9/18/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5016.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2893–000.
Applicants: Southern California Edison Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): SGIA & Distribution Service Agreement with Adelanto Greenworks B LLC to be effective 9/18/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5022.
Comments Due: 5 p.m. ET 10/8/14.

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: September 17, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23221 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–1578–000, ER14–2544–000.
Applicants: PacifiCorp.
Description: Motion of PacifiCorp to Modify Effective Date of Tariff Provisions and Request for a Limited Waiver.
Filed Date: 9/16/14.
Accession Number: 20140916–5214.
Comments Due: 5 p.m. ET 9/22/14.

Docket Numbers: ER14–2300–001.
Applicants: Public Service Company of New Mexico.
Description: Tariff Amendment per 35.17(b): Response to deficiency letter to be effective 8/29/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5127.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2522–001.
Applicants: MATL LLP.
Description: Compliance filing per 35: Compliance with Order 792—Refile to be effective 8/1/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5133.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2533–001.
Applicants: MATL LLP.
Description: Tariff Amendment per 35.17(b): Amended Filing for Proposed Language to be effective 8/1/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5128.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2894–000.
Applicants: Bounce Energy NY, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Normal filing to be effective 9/17/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5134.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2895–000.
Applicants: New York Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): NYISO 205 filing of tariff revision to sharing information of gas pipeline to be effective 11/17/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5135.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2896–000.
Applicants: Bounce Energy PA, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Normal filing to be effective 9/17/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5143.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2897–000.
Applicants: Direct Energy Business, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Normal filing to be effective 9/17/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5155.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2898–000.
Applicants: Direct Energy Marketing Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Normal filing to be effective 9/17/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5156.
Comments Due: 5 p.m. ET 10/8/14.

Docket Numbers: ER14–2899–000.
Applicants: Direct Energy Services, LLC.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Normal filing to be effective 9/17/2014.
Filed Date: 9/17/14.
Accession Number: 20140917–5157.
Comments Due: 5 p.m. ET 10/8/14.

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: September 17, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23222 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–147–000.
Applicants: Portland General Electric Company.
Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Expedited Consideration of Portland General Electric Company.
Filed Date: 9/19/14.
Accession Number: 20140919–5166.
Comments Due: 5 p.m. ET 10/10/14.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG14–107–000.
Applicants: Rattlesnake Wind I LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Rattlesnake Wind I LLC.
Filed Date: 9/22/14.
Accession Number: 20140922–5037.
Comments Due: 5 p.m. ET 10/14/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1040–002.
Applicants: Wisconsin Public Service Corporation.
Description: eTariff filing per 35.19a(b): WPSC Compliance Filing in Docket Nos. ER13–1040, et al. and AC13–179 to be effective N/A.
Filed Date: 9/22/14.
Accession Number: 20140922–5054.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–1172–000.
Applicants: Wisconsin Public Service Corporation.
Description: eTariff filing per 35.19a(b): WPSC Compliance Filing in Docket Nos. ER13–1040, et al. and AC13–179 to be effective N/A.
Filed Date: 9/22/14.
Accession Number: 20140922–5043.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–1243–004.
Applicants: Midcontinent Independent System Operator, Inc.
Description: eTariff filing per 35.19a(b): 2014–09–22_Presque Isle SSR Refund Report to be effective N/A.
Filed Date: 9/22/14.
Accession Number: 20140922–5071.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–1725–001.
Applicants: Midcontinent Independent System Operator, Inc.

Description: eTariff filing per 35.19a(b): 2014–09–22_White Pine SSR Refund Report to be effective N/A.
Filed Date: 9/22/14.
Accession Number: 20140922–5072.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2180–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: eTariff filing per 35.19a(b): 2014–09–22_Escanaba Refund Report to be effective N/A.
Filed Date: 9/22/14.
Accession Number: 20140922–5073.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2399–002.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment per 35.17(b): Attachment AE—Integrated Marketplace Deferral of Action in ER14–2399 to be effective 12/31/9998.
Filed Date: 9/19/14.
Accession Number: 20140919–5144.
Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2584–001.
Applicants: San Diego Gas & Electric Company.
Description: Tariff Amendment per 35.17(b): SDGE Amendment to WDAT Appendix H SGIA and GIP to be effective 10/3/2014.
Filed Date: 9/19/14.
Accession Number: 20140919–5143.
Comments Due: 5 p.m. ET 10/10/14.

Docket Numbers: ER14–2918–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): Regulation Market Dispatch Changes to be effective 3/31/2015.
Filed Date: 9/22/14.
Accession Number: 20140922–5034.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2919–000.
Applicants: Wisconsin Public Service Corporation.
Description: Tariff Withdrawal per 35.15: Notice of Cancellation of WPSC and Marshfield Letter Agreement to be effective 8/27/2014.
Filed Date: 9/22/14.
Accession Number: 20140922–5044.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2920–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–22_SA 2421 METC-Beebe Renewable Energy GIA (J132/J246) to be effective 9/23/2014.
Filed Date: 9/22/14.
Accession Number: 20140922–5084.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2921–000.
Applicants: Southwestern Public Service Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 9–22–14_RS135 FCA–SPP IM Anc Srvc to be effective 3/1/2014.
Filed Date: 9/22/14.
Accession Number: 20140922–5086.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2922–000.
Applicants: Southwestern Public Service Company.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 9–22–14_RS136 FCA–SPP IM Anc Srvc to be effective 3/1/2014 .
Filed Date: 9/22/14.
Accession Number: 20140922–5087.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2923–000.
Applicants: Southwestern Public Service Company.
Description: § *205(d) rate filing per 35.13(a)(2)(iii): 9–22–14_RS114–117, 137 FCA–SPP IM Anc Srvc to be effective 3/1/2014.*
Filed Date: 9/22/14.
Accession Number: 20140922–5088.
Comments Due: 5 p.m. ET 10/14/14.

Docket Numbers: ER14–2924–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2014–09–22_SA 2694 ITC Transmission-Oregon Clean Energy FCA (Y1–069) to be effective 9/23/2014.
Filed Date: 9/22/14.
Accession Number: 20140922–5104.
Comments Due: 5 p.m. ET 10/14/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–47–000.
Applicants: Wheeling Power Company.
Description: Amendment to July 31, 2014 Application to issue securities pursuant to Section 204 of the Federal Power Act of Wheeling Power Company.
Filed Date: 9/22/14.
Accession Number: 20140922–5067.
Comments Due: 5 p.m. ET 10/2/14.

Docket Numbers: ES14–49–000.
Applicants: MDU Resources Group, Inc.
Description: Supplement to August 22, 2014 Application for authorization to issue securities of MDU Resources Group, Inc.
Filed Date: 9/22/14.
Accession Number: 20140922–5141.
Comments Due: 5 p.m. ET 10/2/14

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: September 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23197 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–103–000]

Tilden Mining Company L.C., Empire Iron Mining Partnership (Complainants), v. Midcontinent Independent System Operator, Inc., Wisconsin Electric Power Company (Respondents); Notice of Complaint

Take notice that on September 19, 2014, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and sections 206, 306, and 309 of the Federal Power Act, 16 U.S.C. 824(e), 825(e), and 825(h), Tilden Mining Company, L.C. and Empire Iron Mining Partnership (the Mines), filed a formal complaint against Midcontinent Independent System Operator, Inc. (MISO) and Wisconsin Electric Power Company (WEPCO), alleging, among other things, that the proposed splitting of WEPCO's current single local balancing authority and the formation of a new local balancing authority in the Michigan Upper Peninsula, without Commission approval, could result in unjust and unreasonable System Support Resource costs, as more fully explained in the complaint.

The Mines certify that copies of the complaint were served on the contacts for MISO and WEPCO as listed on the Commission's list of Corporate Officials.

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. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

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 electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on October 9, 2014.

Dated: September 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23213 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–104–000]

Michigan Public Service Commission (Complainant) v. North American Electric Reliability Corporation Wisconsin Electric Power Company (Respondents); Notice of Complaint

Take notice that on September 19, 2014, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and sections 206, 306, and 309 of the Federal Power Act, 16 U.S.C. 824(e), 825(e), and 825(h), the Michigan Public Service Commission (Michigan PSC) filed a formal complaint against the North American Electric Reliability Corporation (NERC) and Wisconsin Electric Power Company (WEPCo), alleging, among other things, that NERC's approval of the proposed splitting of WEPCo's current single local balancing authority into two new balancing authorities, could result in unjust and unreasonable change in the allocation of System Support Resource costs, as more fully explained in the complaint.

Michigan PSC certifies that copies of the complaint were served on the contacts for NERC and WEPCo as listed on the Commission's list of Corporate Officials.

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. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

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 electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on October 9, 2014.

Dated: September 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23215 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM12–1–001, RM13–9–001; Docket No. RM13–11–001; Docket No. RM13–16–001]

Transmission Planning Reliability Standards, Frequency Response and Frequency Bias, Setting Reliability Standard, Generator Verification Reliability Standards; Notice of Filing

September 24, 2014.

Take notice that on August 29, 2014, the North American Electric Reliability Corporation filed proposed revisions to various Violation Risk Factors and Violation Severity Levels associated with certain Transmission Planning Reliability Standards, Generator Verification Reliability Standards, and Frequency Response and Frequency Bias Setting Reliability Standards pursuant to Federal Energy Regulatory Commission's (Commission) Order Nos. 786,[1] 796,[2] and 794.[3]

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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

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 electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on

[1] *Transmission Planning Reliability Standards,* Order No. 786, 145 FERC ¶ 61,051 (2013).

[2] *Generator Verification Reliability Standards,* Order No. 796, 146 FERC ¶ 61,213 (2014).

[3] *Frequency Response and Frequency Bias Setting Reliability Standard,* Order No. 794, 146 FERC ¶ 61,024 (2014).

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 October 14, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23245 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13753–002; Project No. 13762–002; Project No. 13771–002; Project No. 13763–002; Project No. 13766–002; Project No. 13767–002]

FFP Missouri 16, LLC; FFP Missouri 15, LLC; Solia 8 Hydroelectric, LLC; FFP Missouri 13, LLC; Solia 5 Hydroelectric, LLC ; Solia 4 Hydroelectric, LLC; Notice of Scoping Meetings and Environmental Site Reviews and Soliciting Scoping Comments

Take notice that the following hydroelectric applications have been filed with Commission and are available for public inspection:

a. *Type of Applications:* Original Major Licenses.

b. *Project Nos.:* 13753–002; 13762–002; 13771–002; 13763–002; 13766–002; 13767–002.

c. *Date filed:* February 27, 2014.

d. *Applicant:* FFP Missouri 16, LLC; FFP Missouri 15, LLC; Solia 8 Hydroelectric, LLC; FFP Missouri 13, LLC; Solia 5 Hydroelectric, LLC; Solia 4 Hydroelectric, LLC.

e. *Name of Projects:* Opekiska Lock and Dam Hydroelectric Project; Morgantown Lock and Dam Hydroelectric Project; Point Marion Lock and Dam Hydroelectric Project; Grays Landing Lock and Dam Hydroelectric Project; Maxwell Lock and Dam Hydroelectric Project; and Monongahela Lock and Dam Number Four Hydroelectric Project.

f. *Location:* The proposed projects would be located at U.S. Army Corps of Engineers' (Corps) dams on the Monongahela River in Monongalia County, West Virginia and Fayette, Greene, and Washington counties, Pennsylvania (see table below for specific locations). The projects would occupy 39.75 acres of federal land managed by the Corps.

	Projects	County and State	City/town	Federal land used by project [1] (acres)
P–13753	Opekiska Lock and Dam	Monongalia, WV	Between Fairmont and Morgantown	10.1
P–13762	Morgantown Lock and Dam	Monongalia, WV	Morgantown	0.99
P–13771	Point Marion Lock and Dam	Fayette, PA	Point Marion	1.44
P–13763	Grays Landing Lock and Dam	Greene, PA	Near Masontown	15.5
P–13766	Maxwell Lock and Dam	Washington, PA	Downstream of Fredericktown	10.4
P–13767	Monongahela Lock and Dam Number Four.	Washington, PA	Charleroi	1.32

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Thomas Feldman, Rye Development, LLC, PO Box 390691, Cambridge, MA 02139; or at (617) 433–8140.

i. *FERC Contact:* Nicholas Ettema, (202) 502–6565 or *nicholas.ettema@ferc.gov.*

j. Deadline for filing scoping comments: November 10, 2014.

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number (e.g., P–13753–002).

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. The proposed Opekiska Lock and Dam Hydroelectric Project would be the most upstream project at river mile (RM) 115.4 and would consist of the following new facilities: (1) A 180-foot-long, 95-foot-wide intake channel directing flow to a 30-foot-long, 50-foot-high, 70-foot-wide intake structure with 3-inch bar spacing trashracks; (2) a 120-foot-long, 60-foot-high, 70-foot-wide reinforced concrete powerhouse on the west bank of the river; (3) two turbine-generator units with a combined capacity of 6.0 megawatts (MW); (4) a 280-foot-long, 64-foot-wide tailrace; (5) a 40-foot-long by 40-foot-wide substation; (6) a 3,511-foot-long, 12.5-kilovolt (kV), overhead transmission line to connect the project substation to an existing distribution line; and (7) appurtenant facilities.

The proposed Morgantown Lock and Dam Hydroelectric Project would be located at RM 102.0 and consist of the following new facilities: (1) A 100-foot-long, 64-foot-wide intake channel located downstream of the Corp's 6th spillway gate on the east side of the river; (2) a pair of spill gates totaling 60 feet wide located within the intake channel; (3) a 30-foot-long, 50-foot-high, 64-foot-wide intake structure with 3-inch bar spacing trashracks; (2) a 120-foot-long, 60-foot-high, 70-foot-wide reinforced concrete powerhouse; (3) two turbine-generator units with a combined capacity of 5.0 MW; (4) a 170-foot-long, 90-foot-wide tailrace; (5) a 40-foot-long

by 40-foot-wide substation; (6) a 2,162-foot-long, 12.5-kV, overhead transmission line to connect the project substation to an existing distribution line; and (7) appurtenant facilities.

The proposed Point Marion Lock and Dam Hydroelectric Project would be located at RM 90.8 and consist of the following new facilities: (1) A 280-foot-long, 70-foot-wide intake channel directing flow to a 30-foot-long, 50-foot-high, 70-foot-wide intake structure with 3-inch bar spacing trashracks; (2) a 120-foot-long, 60-foot-high, 70-foot-wide reinforced concrete powerhouse on the east bank of the river; (3) two turbine-generator units with a combined capacity of 5.0 MW; (4) a 215-foot-long, 84-foot-wide tailrace; (5) a 40-foot-long by 40-foot-wide substation; (6) a 3,325-foot-long, 69-kV, overhead transmission line to connect the project substation to an existing substation; and (7) appurtenant facilities.

The proposed Grays Landing Lock and Dam Hydroelectric Project would be located at RM 82.0 and consist of the following new facilities: (1) A 300-foot-long, 130-foot-wide intake channel directing flow to a 100-foot-long, 84-foot-wide intake structure with 3-inch bar spacing trashracks; (2) a 576-foot-long, 2.5-foot-high adjustable crest gate on top of the existing dam crest; (3) a 150-foot-long, 75-foot-high, 90-foot-wide reinforced concrete powerhouse on the west bank of the river; (4) two turbine-generator units with a combined capacity of 12.0 MW; (5) a 250-foot-long, 84-foot-wide tailrace; (6) a 40-foot-long by 40-foot-wide substation; (7) a 9,965-foot-long, 69-kV, overhead transmission line to connect the project substation to an existing distribution line; and (8) appurtenant facilities.

The proposed Maxwell Lock and Dam Hydroelectric Project would be located at RM 61.2 and consist of the following new facilities: (1) A 130-foot-long, 85-foot-wide intake channel located immediately downstream of the Corps' 5th spillway gate on the east side of the river; (2) a pair of spill gates totaling 84 feet wide located within the proposed intake channel; (3) a 100-foot-long, 70-foot-high, 85-foot-wide intake structure with 3-inch bar spacing trashracks; (4) a 150-foot-long, 70-foot-high, 90-foot-wide reinforced concrete powerhouse; (5) two turbine-generator units with a combined capacity of 13.0 MW; (6) a 160-foot-long, 120-foot-wide tailrace; (7) a 40-foot-long by 40-foot-wide substation; (8) a 350-foot-long, 69/138-kV, overhead transmission line to connect the project substation to an existing distribution line; and (9) appurtenant facilities.

The proposed Monongahela Lock and Dam Number Four (Charleroi) Hydroelectric Project would be located at RM 41.5 and consist of the following new facilities: (1) A 140-foot-long, 90-foot-wide intake channel located immediately downstream of the Corps' 5th spillway gate on the west side of the river; (2) a pair of spill gates totaling 84 feet wide located within the proposed intake channel; (3) a 100-foot-long, 64-foot-high, 90-foot-wide intake structure with 3-inch bar spacing trashracks; (4) a 150-foot-long, 70-foot-high, 90-foot-wide reinforced concrete powerhouse; (5) two turbine-generator units with a combined capacity of 12.0 MW; (6) a 210-foot-long, 130-foot-wide tailrace; (7) a 40-foot-long by 40-foot-wide substation; (8) a 45-foot-long, 69-kV, overhead transmission line to connect the project substation to an existing distribution line; and (9) appurtenant facilities.

The applicants propose to operate the six projects in ''run-of-river'' mode, using only the existing flows that would normally be released through the Corps' gates or spillway. Existing water surface elevations of each pool upstream of the dams would be maintained in accordance with the Corps' existing management practices. The Opekiska, Morgantown, Point Marion, Gray's Landing, Maxwell, and Charleroi projects would produce an annual average of 25,300 megawatt-hours (MWh), 18,900 MWh, 16,500 MWh, 47,300 MWh, 56,800 MWh, and 48,500 MWh, respectively.

m. A copy of each application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. Copies are also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Scoping Process

The Commission intends to prepare an environmental assessment (EA) on the projects in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

FERC staff will conduct one agency scoping meeting and two public meetings. The agency scoping meeting will focus on resource agency and non-governmental organization concerns, while the public scoping meetings are primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or all of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Public Scoping Meetings

Date: Tuesday, October 7, 2014.
Time: 7:00 p.m. (EDT).
Place: Hilton Garden Inn Morgantown.
Address: 150 Suncrest Towne Centre Drive, Morgantown, WV 26505, (304) 225–9500.

Date: Wednesday, October 8, 2014.
Time: 7:00 p.m. (EDT).
Place: Holiday Inn Uniontown.
Address: 700 W Main Street, Uniontown, PA 15401, (724) 437–2816.

Agency Scoping Meeting

Date: Friday, October 10, 2014.
Time: 9:30 a.m. (EDT).
Place: DoubleTree by Hilton Hotel Pittsburgh—Green Tree.
Address: 500 Mansfield Avenue, Pittsburgh, PA 15205, (412) 922–8400.

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above).

Environmental Site Reviews

The Applicant and FERC staff will conduct a project Environmental Site Review for each project. The times and locations of these meetings are as follows:

Project: Morgantown Lock and Dam.
Date: Tuesday, October 7, 2014.
Time: 2:00 p.m. (EDT).
Location: Parking area at the north end of the Mountaineer Heritage Park, Morgantown, WV 26505.

Project: Opekiska Lock and Dam.
Date: Tuesday, October 7, 2014.
Time: 3:30 p.m. (EDT).
Location: Corps' parking area on the west side of the river accessible via River Road (Route 45), Fairmont, WV 26554.

Project: Point Marion Lock and Dam.

Date: Wednesday, October 8, 2014.
Time: 9:00 a.m. (EDT).
Location: Parking area at the Point Marion Ballfield on the east side of the river, Point Marion, PA 15474.

Project: Gray's Landing Lock and Dam.
Date: Wednesday, October 8, 2014.
Time: 10:30 a.m. (EDT).
Location: Corps' parking area on east side of the river, Masontown, PA 15461.

Project: Maxwell Lock and Dam.
Date: Wednesday, October 8, 2014.
Time: 1:30 p.m. (EDT).
Location: End of 4th Street on southwest side of the river, La Belle, PA 15450.

Project: Monongahela Lock and Dam Number Four (Charleroi).
Date: Wednesday, October 8, 2014.
Time: 3:00 p.m. (EDT).
Location: End of 12th Street on west side of the river, Charleroi, PA 15022.

All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the time and location specified above. All participants are responsible for their own transportation to the site. Anyone with questions about the Environmental Site Reviews should contact Thomas Feldman of Rye Development, LLC at (617) 433–8140 on or before October 3, 2014.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Dated: September 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23216 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meetings and Environmental Site Review and Soliciting Scoping Comments

FFP Missouri 5, LLC—Project No. 13757–002.
FFP Missouri 6, LLC—Project No. 13761–002.
Solia 6 Hydroelectric, LLC—Project No. 13768–002.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection.

a. *Type of Applications:* Original Major Licenses

b. *Project Nos.:* 13757–002; 13761–002; 13768–002

c. *Dates Filed:* March 14, 2014

d. *Applicants:* FFP Missouri 5, LLC; FFP Missouri 6, LLC; Solia 6 Hydroelectric, LLC.

e. *Names of Projects:* Emsworth Locks and Dam Hydroelectric Project, 13757–002; Emsworth Back Channel Hydroelectric Project, 13761–002; Montgomery Locks and Dam Hydroelectric Project, 13768–002.

f. *Locations:* The proposed projects would be located at U.S. Army Corps of Engineers' (Corps) dams on the Ohio River in Allegheny and Beaver counties, Pennsylvania (see table below for specific locations). The projects would occupy 16.95 acres of federal land managed by the Corps.

Project No.	Projects	County and State	City/town	Federal land used by project (acres)
P–13757	Emsworth Locks and Dam	Allegheny, PA	Emsworth	9.58
P–13761	Emsworth Back Channel Dam	Allegheny, PA	Emsworth	2.26
P–13768	Montgomery Locks & Dam	Beaver, PA	Borough of Industry	5.11

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Thomas Feldman, Rye Development, LLC, PO Box 390691 Cambridge, MA 02139; or at (617) 433–8140; or *tom@ryedevelopment.com.*

i. *FERC Contact:* Brandi Sangunett, (202) 502–8393 or *brandi.sangunett@ferc.gov*

j. *Deadline for filing scoping comments:* November 10, 2014

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include the docket number(s) for the project(s) (e.g., P–13757–002).

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The applications are not ready for environmental analysis at this time.

l. The proposed Emsworth Locks and Dam Hydroelectric Project would be the most upstream project at river mile (RM) 6.2 and would consist of the following new facilities: (1) A 205-foot-long, 180-foot-wide intake channel containing a

30-foot-long, 63.5-foot-high, 180-foot-wide intake structure with 5-inch bar spacing trashracks; (2) a 180-foot-long, 77-foot-high, 180-foot-wide reinforced concrete powerhouse on the south bank of the river; (3) four turbine-generator units with a combined capacity of 24 megawatts (MW); (4) a 380-foot-long, 280-foot-wide tailrace; (5) a 50-foot-long by 60-foot-wide substation; (6) a 1,893-foot-long, 69-kilovolt (kV), overhead transmission line to connect the project substation to an existing substation; and (7) appurtenant facilities. The average annual generation would be 101,300 megawatt-hours (MWh).

The proposed Emsworth Back Channel Dam Hydroelectric Project would be located at RM 6.8 and consist of the following new facilities: (1) A 100-foot-long, 165-foot-wide intake channel containing a 32-foot-long, 63.5-foot-high, 90-foot-wide intake structure with 5-inch bar spacing trashracks; (2) a 150-foot-long, 77-foot-high, 90-foot-wide reinforced concrete powerhouse on the north bank of the river; (3) two turbine-generator units with a combined capacity of 12.0 MW; (4) a 190-foot-long, 105-foot-wide tailrace; (5) a 50-foot-long by 60-foot-wide substation; (6) a 3,758-foot-long, 69-kV, overhead transmission line to connect the project substation to an existing substation; and (7) appurtenant facilities. The average annual generation would be 53,500 MWh.

The proposed Montgomery Locks and Dam Hydroelectric Project would be located at RM 31.7 and consist of the following new facilities: (1) A 340-foot-long, 205-foot-wide intake channel containing a 150-foot-long, 90-foot-high, 205-foot-wide intake structure with 5-inch bar spacing trashracks; (2) a 315-foot-long, 105-foot-high, 205-foot-wide reinforced concrete powerhouse on the north bank of the river; (3) three turbine-generator units with a combined capacity of 42 MW; (4) a 280-foot-long, 210-foot-wide tailrace; (5) a 50-foot-long by 60-foot-wide substation; (6) a 392-foot-long, 69-kV, overhead transmission line to connect the project substation to an existing distribution line; and (7) appurtenant facilities. The average annual generation would be 194,370 MWh.

The applicants propose to operate all three projects in a ''run-of-river'' mode using flows made available by the Corps. The proposed projects would not change existing flow releases or water surface elevations upstream or downstream of the proposed projects.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Scoping Process

The Commission intends to prepare an environmental assessment (EA) on the projects in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed actions.

Scoping Meetings

FERC staff will conduct one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency and non-governmental organization (NGO) concerns, while the public scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Public Scoping Meeting

Date: Thursday, October 9, 2014
Time: 7:00 p.m. (EDT)
Place: DoubleTree by Hilton Hotel Pittsburgh—Green Tree
Address: 500 Mansfield Avenue, Pittsburgh, PA 15205
(412) 922–8400

Agency Scoping Meeting

Date: Friday, October 10, 2014
Time: 9:30 a.m. (EDT)
Place: DoubleTree by Hilton Hotel Pittsburgh—Green Tree
Address: 500 Mansfield Avenue, Pittsburgh, PA 15205
(412) 922–8400

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above).

Environmental Site Review

The Applicant and FERC staff will conduct an Environmental Site Review for each project. The times and locations of these meetings are as follows:

Project: Montgomery Locks and Dam
Date: Thursday, October 9, 2014
Time: 9:00 a.m. (EDT)
Location: Corps' parking lot 100, Montgomery Dam Road, Monaca, PA 15061–2221
Project: Emsworth Locks and Dam and Emsworth Back Channel Dam
Date: Thursday, October 9, 2014
Time: 1:00 p.m. (EDT)
Location: Corps' parking lot 0, Western Avenue, Pittsburgh, PA 15202–17085

All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the time and location specified above. All participants are responsible for their own transportation to the site. Anyone with questions about the Environmental Site Review should contact Mr. Thomas Feldman of Rye Development, LLC at (617) 433–8140 on or before October 3, 2014.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Dated: September 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23218 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13755–002]

FFP Missouri 12, LLC; Notice of Scoping Meetings and Environmental Site Review and Soliciting Scoping Comment

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License

b. *Project No.:* 13755–002

c. *Date Filed:* February 3, 2014

d. *Applicant:* FFP Missouri 12, LLC

e. *Name of Project:* Allegheny Lock and Dam Number 2

f. *Location:* The proposed project would be located at the U.S. Army Corps of Engineers' (Corps) Allegheny Lock and Dam Number 2 on the Allegheny River in Allegheny County, Pennsylvania. The project would occupy 37.5 acres of federal land managed by the Corps.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Thomas Feldman, Rye Development, LLC., PO Box 390691, Cambridge, MA 02139; or at (617) 433–8140; or *tom@ryedevelopment.com*

i. *FERC Contact:* Allyson Conner, (202) 502–6082 or *allyson.conner@ferc.gov*

j. *Deadline for filing scoping comments:* November 10, 2014.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–13755–002.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. The proposed project would utilize the existing Corps' Allegheny Lock and Dam Number 2, and would consist of the following new facilities: (1) a 170-foot-wide, 120-foot-long, 70-foot-high intake structure with two 5-inch clear bar spacing trash racks; (2) two 45-foot-wide, 40-foot-high spillway bays; (3) an 1,100-foot-long, 2.5-foot-high adjustable crest gate on top of the existing dam crest; (4) a 170-foot-wide by 180-foot-long powerhouse along the east side of the river; (5) three Kaplan turbine-generator units with a combined installed capacity of 17,000 kilowatts; (6) a 50-foot-wide by 60-foot-long substation; (7) a 1,265-foot-long, single overhead, 69-kilovolt transmission line to connect the project substation to an existing distribution line owned by Duquesne Light Company; and (8) appurtenant facilities. The project is estimated to generate an average of 81,950 megawatt-hours annually.

The applicant proposes to operate the project in a ''run-of-river'' mode using flows made available by the Corps. The proposed project would not change existing flow releases or water surface elevations upstream or downstream of the proposed project.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Scoping Process

The Commission intends to prepare an environmental assessment (EA) on the project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

FERC staff will conduct one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency and non-governmental organization (NGO) concerns, while the public scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Public Scoping Meeting

Date: Thursday, October 9, 2014
Time: 7:00 p.m. (EDT)
Place: DoubleTree by Hilton Hotel Pittsburgh—Green Tree
Address: 500 Mansfield Avenue, Pittsburgh, PA 15205, (412) 922–8400.

Agency Scoping Meeting

Date: Friday, October 10, 2014
Time: 9:30 a.m. (EDT)
Place: DoubleTree by Hilton Hotel Pittsburgh—Green Tree
Address: 500 Mansfield Avenue, Pittsburgh, PA 15205, (412) 922–8400.

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EIS were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above).

Environmental Site Review

The Applicant and FERC staff will conduct a project Environmental Site Review. The time and location of this meeting is as follows:

Project: Allegheny Lock and Dam Number Two
Date: Thursday, October 9, 2014
Time: 3:00 p.m. (EDT)
Location: Corps' parking lot, 7451 Lockway West, Pittsburgh, PA 15206.

All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the time and location specified above. All participants are responsible for their own transportation to the site. Anyone with questions about the Environmental Site Review should contact Mr. Thomas Feldman of Rye Development, LLC at (617) 433–8140 on or before October 3, 2014.

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information,

especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Dated: September 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23217 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3342–018]

Briar Hydro Associates, LP; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Change in Land Rights and Request to Revise Project Boundary.

b. *Project No:* 3342–018.

c. *Date Filed:* November 7, 2013 and supplemented on June 4, 2014.

d. *Applicant:* Briar Hydro Associates, LP.

e. *Name of Project:* Penacook Lower Falls Hydroelectric Project.

f. *Location:* Contoocook River in Merrimack County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Andrew Locke, Briar Hydro Associates, LP c/o Essex Hydro Associates, L.L.C. 55 Union Street, 4th Floor, Boston, MA 02108; (617) 367–0032.

i. *FERC Contact:* Jon E. Cofrancesco at (202) 502–8951, or email: *jon.cofrancesco@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* October 23, 2014.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–3342–018) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Briar Hydro Associates, LP (Briar Hydro) requests Commission approval to convey fee title to 3.8 acres of land within the project boundary to 77 Merrimack Street, LLC and Paul E. Kelleher, Trustee of the South Union Realty Trust (77 Merrimack) in exchange for specific rights on adjoining lands owned by 77 Merrimack necessary to serve project purposes. The proposal would resolve a long-standing property rights dispute between Briar Hydro and 77 Merrimack. In addition, Briar Hydro requests Commission approval to remove approximately 0.37 acre of land from the project boundary that it states is no longer needed for project purposes.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field (P–3342) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: September 23, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23199 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 8315–012]

AIM Development (USA) LLC; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No:* 8315–012.

c. *Date Filed:* September 10, 2014.

d. *Applicant:* AIM Development (USA) LLC.

e. *Name of Project:* Sartell Hydroelectric Project.

f. *Location:* The project is on the Mississippi River near Sartell, in Stearns and Benton counties, Minnesota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Jeff McGlin, AIM Development (USA) LLC, 433 Main Street, Kimberly, WI 54136, Phone: 920–470–1061.

i. *FERC Contact:* Henry Woo at (202) 502–8872, or email: *henry.woo@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests: 30 days from issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file any motion to intervene, protest, comments, and/or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–8315–012.

k. *Description of Request:* AIM Development (USA) LLC requests Commission approval to include a new interconnection with the power grid. This will involve minor revisions to the Exhibit G to show the interconnection facility immediately adjacent to the dam on .6 acres of land owned by the licensee.

l. *Locations of the Application:* This filing may be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number P–8315 in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above and at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: September 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23244 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD14–19–000]

Commissioner Philip D. Moeller's Inquiry Into the Trading of Natural Gas, and the Proposal To Establish an Electronic Information and Trading Platform; Post-Meeting Notice

On September 18, 2014, Commissioner Philip D. Moeller convened a meeting to discuss ideas to facilitate and improve the way in which natural gas is traded, and explore the concept of establishing a centralized information and trading platform for natural gas.

As announced at the meeting, the above-captioned docket was created to allow interested parties to file written comments on any issue that was discussed at the meeting. The Commission strongly encourages electronic filings of comments in lieu of paper using the ''eFiling'' link at *www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the comment to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Additionally, comments are strictly limited to no more than five (5) pages and due by October 1, 2014.

Dated: September 19, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23211 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14623–000]

Advanced Hydropower, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On May 6, 2014, Advanced Hydropower, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of a hydropower project to be located on the Cullasaja River, on lands within the Nantahala National Forest, near the town of Highlands, in Macon County, North Carolina. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 50-foot-wide, 2-foot-high concrete diversion weir; (2) a 50-foot-wide, 2-foot-high coanda effect screened intake structure; (3) a 2,000-foot-long, 36-inch-diameter above ground penstock; (4) a 30-foot-high, 25-foot-long powerhouse containing one crossflow generating unit with a total capacity of 775 kilowatts; (5) a 40-foot-long, 40-foot-wide tailrace; (6) a 60-foot-long, 12.47 kilo-Volt transmission line. The project would have an estimated average annual generation of 3,300 megawatt-hours.

Applicant Contact: Mr. Colin M. Gaines, Advanced Hydropower, Inc., 3774 Chessa Lane, Clovis, CA 93619. (772) 532–2104.

FERC Contact: Christiane Casey, *christiane.casey@ferc.gov,* (202) 502–8577.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and five copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14623) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: September 22, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23219 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–102–000]

Kentucky Utilities Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On September 23, 2014, the Commission issued an order in Docket No. EL14–102–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of the proposed modifications to the Construction Work In Progress (CWIP) costs portion of Kentucky Utilities Company's formula rate wholesale requirements contracts. *Kentucky Utilities Company,* 148 FERC ¶ 61,225 (2014).

The refund effective date in Docket No. EL14–102–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: September 23, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–23212 Filed 9–29–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9916–92–OSWER]

Access to Confidential Business Information by Eastern Research Group, Incorporated

AGENCY: Environmental Protection Agency.

ACTION: Notice of access to data.

SUMMARY: The Environmental Protection Agency (EPA) will authorize its contractor Eastern Research Group, Incorporated (ERG) to access Confidential Business Information (CBI) which has been submitted to EPA under the authority of all sections of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended. EPA has issued regulations that outline business confidentiality provisions for the Agency and require all EPA Offices that receive information designated by the submitter, as CBI to abide by these provisions.

DATES: Access to confidential data submitted to EPA will occur no sooner than October 10, 2014.

FOR FURTHER INFORMATION CONTACT: LaShan Haynes, Document Control Officer, Office of Resource Conservation and Recovery, (5305P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, 703–605–0516.

SUPPLEMENTARY INFORMATION:

1. Access to Confidential Business Information

Under EPA Contract No. EP–W–10–055, ERG, Incorporated will assist the Office of Resource Conservation and Recovery (ORCR), Resource Conservation and Sustainability Division (RCSD) in developing the Waste Characterization Report to analyze the composition and amounts of the United States' Municipal Solid Waste (MSW) and other wastes, and how these materials are recycled, combusted, and landfilled. The methodology used in this report is a ''top-down'' materials flow approach to estimate the size of the waste stream data. This report may typically involve one or more of the following statutes: CAA, CWA, RCRA, TSCA, FIFRA, EPCRA and the SDWA. Some of the data collected voluntarily from industry, may be claimed by industry to contain trade secrets or CBI. In accordance with the provisions of 40 CFR Part 2, Subpart B, ORCR has established policies and procedures for handling information collected from industry, under the authority of RCRA, including RCRA

Confidential Business Information Security Manuals.

ERG, Incorporated shall protect from unauthorized disclosure all information designated as confidential and shall abide by all RCRA CBI requirements, including procedures outlined in the RCRA CBI Security Manual.

The U.S. Environmental Protection Agency has issued regulations (40 CFR Part 2, Subpart B) that outline business confidentiality provisions for the Agency and require all EPA Offices that receive information designated by the submitter as CBI to abide by these provisions. ERG, Incorporated will be authorized to have access to RCRA CBI under the EPA ''Contractor Requirements for the Control and Security of RCRA Confidential Business Information Security Manual.''

EPA is issuing this notice to inform all submitters of information under all sections of RCRA that ERG, Incorporated under the contract may have access to RCRA CBI. Access to RCRA CBI under this contract will take place at ERG's Chantilly, Virginia and Prairie View, Kansas offices, and when necessary, EPA Headquarters only. Contractor personnel at each location will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to confidential information.

Dated: September 4, 2014.

Barnes Johnson,

Director, Office of Resource Conservation & Recovery.

[FR Doc. 2014–22473 Filed 9–29–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9917–31–Region–1]

Notice of Availability of Draft NPDES General Permit for Stormwater Discharges From Small Municipal Separate Storm Sewer Systems in Massachusetts

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of draft NPDES general permit.

SUMMARY: The Director of the Office of Ecosystem Protection, Environmental Protection Agency—Region 1 (EPA), is providing this Notice of Availability of a draft National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges from small Municipal Separate Storm Sewer Systems (MS4s) to certain waters of the Commonwealth of Massachusetts. The draft NPDES general permit establishes Notice of Intent (NOI) requirements, prohibitions, and management practices for stormwater discharges from small MS4s. EPA has substantially modified the previous two draft general permits released on February 4, 2010 and March 18, 2010 and is issuing a new draft general permit for all eligible MS4s in Massachusetts.

DATES: Comments must be received on or before December 29, 2014.

ADDRESSES: Submit comments by one of the following methods:

- *Email: Tedder.Newton@epa.gov*
- *Mail:* Newton Tedder, US EPA—Region 1, 5 Post Office Square—Suite 100, Mail Code—OEP06–4, Boston, MA 02109–3912.

No facsimiles (faxes) will be accepted.

The draft permit is based on an administrative record available for public review at EPA—Region 1, Office of Ecosystem Protection, 5 Post Office Square—Suite 100, Boston, Massachusetts 02109–3912. A reasonable fee may be charged for copying requests. The fact sheet for the draft permit sets forth principal facts and the significant factual, legal, methodological and policy questions considered in the development of the draft permit and is available upon request. A brief summary is provided as **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the draft permit may be obtained between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday excluding legal holidays from: Newton Tedder, Office of Ecosystem Protection, Environmental Protection Agency, 5 Post Office Square—Suite 100, Boston, MA 02109–3912; telephone: 617–918–1038; email: *Tedder.Newton@epa.gov*

SUPPLEMENTARY INFORMATION:

Public Comment Information

Public Hearing Information: EPA will hold a public hearing in accordance with 40 CFR 124.12 and will provide interested parties with the opportunity to provide written and/or oral comments for the official draft permit record. The public hearing will be held Wednesday, November 19, 2014 from at 1:00 p.m. at the following location: Leominster Public Library (Community Room), 30 West Street, Leominster, Massachusetts 01453. An Alternate date in case of cancelation due to inclement weather or other emergency is Wednesday, December 3, 2014 at the same location.

The public comment process and the public hearing will be conducted in accordance with 40 CFR 124, EPA's Procedures for Decision making. EPA will consider and respond to all significant comments before taking final action. The general permit shall be effective on the date specified in the **Federal Register** publication of the Notice of Availability of the final general permit. The final general permit will expire five years from the effective date.

All persons, including applicants, who believe any condition of the draft permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position by the close of the public comment period, either by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this **Federal Register**, or by submitting written or oral comments at the public hearing. Any supporting materials which are submitted shall be included in full and may not be incorporated by reference, unless they are already part of the administrative record in this proceeding, or consist of State or Federal statutes and regulations, EPA documents of general applicability, or other generally available reference materials.

Background of Proposed Permit

EPA is proposing to reissue three draft NPDES general permits for the discharge of stormwater from small MS4s to certain waters within the commonwealth of Massachusetts. The three permits are:

MAR041000—Traditional cities and towns

MAR042000—Non-traditional state, federal, county and other publicly owned systems

MAR043000—Non-traditional transportation systems

While these are technically distinct permits, for convenience we have grouped them together in a single document and have provided a single fact sheet for all three of them, and this document refers to the draft general ''permit'' in the singular. The draft general permit, appendices, and fact sheet are available at: *http://www.epa.gov/region1/npdes/stormwater/MS4_MA.html.*

The conditions in the draft permit are established pursuant to Clean Water Act (CWA) section 402(p)(3)(iii) to ensure that pollutant discharges from small MS4s are reduced to the Maximum Extent Practicable (MEP), protect water quality, and satisfy the appropriate requirements of the CWA. The regulations at 40 CFR 122.26(b)(16)

define a small municipal separate storm sewer system as ''all separate storm sewers that are:

(1) Owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States.

(2) Not defined as 'large' or 'medium' municipal separate storm sewer systems pursuant to paragraphs (b)(4) or (b)(7) or designated under paragraph (a)(1)(v) of this section [40 CFR 122.26].

(3) This term includes systems similar to separate storm sewer systems in municipalities such as systems at military bases, large hospital or prison complexes, and highways or other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.''

EPA issued a final general permit to address stormwater discharges from small MS4s on May 1, 2003. The 2003 general permit required small MS4s to develop and implement a Stormwater Management Program (SWMP) designed to control pollutants to the maximum extent practicable and protect water quality. This draft permit builds on the requirements of the previous general permit.

During 2010 EPA issued two separate draft Small MS4 General permits to replace the 2003 Small MS4 permit for eligible Operators located Massachusetts; one for Operators located in the North Coastal watershed and the other for those located in the Interstate, Merrimack and South Coastal watersheds. Based on comments and information gathered while developing responses, EPA has modified the initial draft general permits and is issuing a single new draft permit covering all eligible operators in Massachusetts pursuant to 40 CFR 124.6. The changes to the draft general permit include, but are not limited to: Provisions addressing discharges to impaired waters with and without an approved Total Maximum Daily Load and illicit discharge detection elimination and monitoring provisions. The draft general permit has also been revised to provide for coverage to MS4s that became subject to NPDES permit requirements with the issuance of updated urbanized area delineations based on the results of the 2010 Census.

Please note that the new Draft Permit completely supersedes both 2010 draft permits, and EPA is providing an entirely new comment period under 40 CFR 124.10. Consequently, all persons who believe any condition of the new Draft Permit is inappropriate must raise all reasonably ascertainable issues and submit all reasonably available arguments supporting their position during this public comment period, which includes the public hearing.

Obtaining Authorization

In order for a small MS4 to obtain authorization to discharge, it must submit a complete and accurate NOI containing the information in Appendix E of the draft general permit. The NOI must be submitted within 90 days of the effective date of the final permit. The effective date of the final permit will be specified in the **Federal Register** publication of the Notice of Availability of the final permit. A small MS4 must meet the eligibility requirements of the general permit found in Part 1.2 and Part 1.9 prior to submission of its NOI. A small MS4 will be authorized to discharge under the permit upon receipt of written notice from EPA following a public notice of the submitted NOI. EPA will authorize the discharge, request additional information, or require the small MS4 to apply for an alternative permit or an individual permit.

Non-Numeric Effluent Limitations

When EPA has not promulgated effluent limitation guidelines for a category of discharges, or if an operator is discharging a pollutant not covered by an effluent limitation guideline, permit limitations may be based on the best professional judgment (BPJ) of the agency or permit writer. For this permit, effluent limits are based on BPJ. The BPJ limits in this permit are in the form of non-numeric control measures, commonly referred to as best management practices (BMPs). Non-numeric limits are employed under limited circumstances, as described in 40 CFR § 122.44(k). EPA has interpreted the CWA to allow BMPs to take the place of numeric effluent limitations under certain circumstances. 40 CFR § 122.44(k), provides that permits may include BMPs to control or abate the discharge of pollutants when: ''(1) [A]uthorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances from ancillary industrial activities; (2) [a]uthorized under section 402(p) of the CWA for the control of stormwater discharges; (3) [n]umeric effluent limitations are infeasible; or (4) [t]he practices are reasonable to achieve effluent limitations and standards or to carry out the purpose of the CWA.'' The permit regulates stormwater discharges with BMPs. Due to the variability associated with stormwater, EPA believes the use of BMPs is currently the most appropriate method to regulate discharges of stormwater from municipal systems in accordance with the above referenced regulation.

Water Quality Based Effluent Limitations: Section 402(p)(3)(B)(iii) of CWA authorizes EPA to include in an MS4 permit ''such other provisions as [EPA] determine[s] appropriate for control of . . . pollutants.'' The draft permit includes provisions to ensure that discharges do not cause or contribute to exceedances of water quality standards. The provisions in Parts 2.1 and 2.2 of the draft general permit constitute the water quality-based effluent limitations of the permit. The purpose of these parts of the permit is to establish the broad inclusion of water quality-based effluent limitations for those discharges requiring additional controls in order to achieve water quality standards and other water quality related objectives. This specifically includes discharges to impaired waterbodies with and without an approved TMDL. These non-numeric effluent limitation requirements of this permit are expressed in the form of additional control measures and BMPs beyond what is required in the MEP section of the draft general permit (Part 2.3).

Requirements To Reduce Pollutant to the Maximum Extent Practicable: The draft general permit sets forth the requirements for the small MS4 to ''reduce the discharge of pollutants to the maximum extent practicable (MEP), including management practices, control techniques, and system, design and engineering methods'' (See section 402(p)(3)(B)(iii) of the CWA). EPA believes that implementation of best management practices (BMPs) designed to control stormwater runoff from the MS4 is generally the most appropriate approach for reducing pollutants to satisfy the MEP standard. Pursuant to 40 CFR 122.44(k), the draft permit contains BMPs, including development and implementation of a comprehensive stormwater management program (SWMP) as the mechanism to achieve the required pollutant reductions. The small MS4s are required to implement a SWMP that includes the following control measures: public education and outreach; public participation; illicit discharge detection and elimination;

construction stormwater management; stormwater management in new development and redevelopment; and good housekeeping in municipal operations. Implementation of the SWMP involves the identification of BMPs and measurable goals for BMPs. The draft permit identifies an objective for each minimum control measure. EPA views the MEP standard in the CWA as an iterative process. MEP should continually adapt to current conditions and BMP effectiveness. Compliance with the requirements of this general permit will meet the MEP standard. The iterative process of MEP consists of a permittee developing a program consistent with specific permit requirements, implementing the program, evaluating the effectiveness of the BMPs included as part of the program, then revising those parts of the program that are not effective at controlling pollutants, then implementing the revisions, and evaluating again. The changes contained in the draft general permit reflect the iterative process of MEP. Accordingly, the draft general permit contains more specific tasks and details than the 2003 general permit.

Authority: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: September 23, 2014.

H. Curtis Spalding,

Regional Administrator, Region 1.

[FR Doc. 2014–23262 Filed 9–29–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB Control Number.

DATES: Written PRA comments should be submitted on or before October 30, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, please send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), at 202–418–0217, or via the Internet at: *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0411.

Title: Procedures for Formal Complaints.

Form Number: FCC Form 485.

Type of Review: Extension of a currently-approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions, federal government, and state, local, or tribal governments.

Number of Respondents and Responses: 20 respondents; 301 responses.

Estimated Time per Response: 1–60 hours.

Frequency of Response: Recordkeeping requirement, on-occasion reporting requirement, and third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 206, 207, 208, 209, 301, 303, 304, 309, 316, 332, and 1302.

Total Annual Burden: 1,349 hours.

Total Annual Cost: $1,847,900.

Nature and Extent of Confidentiality: 47 CFR Section 1.731 provides for confidential treatment of materials disclosed or exchanged during the course of formal complaint proceedings when the disclosing party has identified the materials as proprietary or confidential. In the rare case in which a producing party believes that section 1.731 will not provide adequate protection for its assorted confidential material, it may request either that the opposing party consent to greater protection, or that the staff supervising the proceeding order greater protection.

Privacy Act Impact Assessment: The information collection requirements may affect individuals or households. As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a, and OMB regulations, M–03–22 (September 22, 2003), the FCC has completed both a system of records, FCC/EB–5, ''Enforcement Bureau Activity Tracking System,'' and a Privacy Impact Assessment (PIA), to cover the collection, maintenance, use, and disposal of all personally identifiable information (PII) that may be submitted as part of a formal complaint filed against a common carrier:

(a) The system of records notice (SORN), FCC/EB–5, ''Enforcement Bureau Activity Tracking System (EBATS),'' was published in the **Federal Register** on December 14, 2010 (75 FR 77872) and became effective on January 24, 2011. It is posted on the FCC's Privacy Act Web page at: *http://www.fcc.gov/omd/privacyact/records-systems.html.*

(b) The initial Privacy Impact Assessment (PIA) was completed on May 22, 2009. However, with the approval of the FCC/EB–5, ''EBATS,'' on January 24, 2011 and supplementation expected in Fall 2014, the Commission is now updating the PIA to include the information that is contained in this SORN. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 206, 207, 208, 209, 301, 303, 304, 309, 316, 332, and 1302.

Needs and Uses: Sections 206–209 of the Communications Act of 1934, as amended (the ''Act''), provide the statutory framework for adjudicating formal complaints against common carriers. To resolve complaints between providers regarding compliance with data roaming obligations, Commission Rule 20.12(e) adopts by reference the procedures already in place for

resolving Section 208 formal complaints against common carriers, except that the remedy of damages, is not available for complaints against commercial mobile data service providers.

Section 208(a) authorizes complaints by any person ''complaining of anything done or omitted to be done by any common carrier'' subject to the provisions of the Act.

Section 208(a) states that if a carrier does not satisfy a complaint or there appears to be any reasonable ground for investigating the complaint, the Commission shall ''investigate the matters complained of in such manner and by such means as it shall deem proper.'' Certain categories of complaints are subject to a statutory deadline for resolution. *See, e.g.,* 47 U.S.C. 208(b)(1) (imposing a five-month deadline for complaints challenging the ''lawfulness of a charge, classification, regulation, or practice''); 47 U.S.C. 271(d)(6) (imposing a 90-day deadline for complaints alleging that a Bell Operating Company has ceased to meet conditions imposed in connection with approval to provide in-region interLATA services). Formal complaint proceedings before the Commission are similar to civil litigation in federal district court. In fact, under section 207 of the Act, a party claiming to be damaged by a common carrier may file its complaint with the Commission or in any district court of the United States, ''but such person shall not have the right to pursue both such remedies'' (47 U.S.C. 207). The Commission has promulgated rules (Formal Complaint Rules) to govern its formal complaint proceedings that are similar in many respects to the Federal Rules of Civil Procedure. *See* 47 CFR Sections 1.720–1.736. These rules require the submission of information from the parties necessary to create a record on which the Commission can decide complex legal and factual issues. As described in section 1.720 of the rules, the Commission resolves formal complaint proceedings on a written record consisting of a complaint, answer or response, and joint statement of stipulated facts, disputed facts and key legal issues, along with all associated affidavits, exhibits and other attachments.

This collection of information includes the process for submitting a formal complaint against a common carrier. The Commission uses this information to determine the sufficiency of complaints and to resolve the merits of disputes between the parties. The Commission bases its orders in formal complaint proceedings upon evidence and argument produced by the parties in accordance with the Formal Complaint Rules. If the information were not collected, the Commission would not be able to resolve common carrier-related complaint proceedings, as required by section 208 of the Act.

In addition, the Commission has adopted most of this formal complaint process to govern data roaming complaints. Specifically, the Commission has extended, as applicable, the procedural rules in the Commission's Part I, Subpart E rules, 47 CFR Sections 1.716–1.718, 1.720, 1.721, and 1.723–1.735, to disputes arising out of the data roaming rule contained in 47 CFR Section 20.12(e). Therefore, in addition to being necessary to resolve common carrier-related complaint proceedings, this collection of information is also necessary to resolve data roaming-related complaint proceedings.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–23268 Filed 9–29–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before October 30, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0770.

Title: Sections 61.49, Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94–1; Fifth Report and Order, FCC 99–206 (New Services).

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 13 respondents; 13 responses.

Estimated Time per Response: 10 hours.

Frequency of Response: On occasion reporting requirements.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. sections 151, 154(i), 154(j), 201–205, 303(r), and 403.

Total Annual Burden: 130 hours.

Annual Cost Burden: $10,985.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: No information of a confidential nature is requested. However, respondents may request materials or information submitted to the Commission to be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: In an August 1999 *Fifth Report and Order and Further Notice of Proposed Rulemaking* (*Pricing Flexibility Order*), FCC–206, CC Docket Nos. 94–1 *et al.,* 64 FR 51280 (Sept. 22, 1999), the Commission permitted price cap local exchange carriers (LECs) to introduce new services on a streamlined basis, without prior approval or cost support requirements. The Commission eliminated the public interest showing required by section 69.4(g), and, except in the case of new loop-based switched access services, eliminated the new services test required by sections 61.49 (f) and (g). The information submitted by price cap LECs will be used to determine whether their proposed rates for new loop-based switched access services are in the public interest and whether they meet the new services test. The Commission has eliminated references to sections 1.774, 61.55, 61.58, 69.707, 69.13, and 69.729 because, based on further review, these sections are not applicable to this information collection and were inadvertently included in previous submissions. Also, these rule sections already have PRA coverage under collection 3060–0760.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–23270 Filed 9–29–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 1, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0430.

Title: Section 1.1206, Permit-but-Disclose Proceedings.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; and State, local, or tribal governments.

Number of Respondent and responses: 11,500 respondents; 34,500 responses.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Required to obtain benefits. Statutory authority for this collection of information is contained in sections 4(i) and (j), 303(r), and 409 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j), 303(r), and 409.

Estimated Time per Response: 45 minutes (0.75 hours).

Total Annual Burden: 25,875 hours.

Total Annual Costs: No cost.

Nature and Extent of Confidentiality: Consistent with the Commission's rules on confidential treatment of submissions, under 47 CFR 0.459, a presenter may request confidential treatment of *ex parte* presentations. In addition, the Commission will permit parties to remove metadata containing confidential or privileged information, and the Commission will also not require parties to file electronically *ex parte* notices that contain confidential information. The Commission will, however, require a redacted version to be filed electronically at the same time the paper filing is submitted, and that the redacted version must be machine-readable whenever technically possible.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission's rules, under 47 CFR 1.1206, require that a public record be made of *ex parte* presentations (*i.e.,* written presentations not served on all parties to the proceeding or oral presentations as to which all parties have not been given notice and an opportunity to be present) to decision-making personnel in ''permit-but-disclose'' proceedings, such as notice-and-comment rulemakings and declaratory ruling proceedings.

On February 2, 2011, the FCC released a *Report and Order and Further Notice of Proposed Rulemaking,* GC Docket Number 10–43, FCC 11–11, which amended and reformed the Commission's rules on *ex parte* presentations (47 CFR 1.1206(b)(2)) made in the course of Commission rulemakings and other permit-but-disclose proceedings. The modifications to the existing rules adopted in this Report and Order require that parties file more descriptive summaries of their *ex parte* contacts, by ensuring that other parties and the public have an adequate opportunity to review and respond to information submitted *ex parte,* and by improving the FCC's oversight and enforcement of the *ex parte* rules. The modified *ex parte* rules which contain information collection requirements

which OMB approved on December 6, 2011, are as follows: (1) *Ex parte* notices will be required for all oral *ex parte* presentations in permit-but-disclose proceedings, not just for those presentations that involve new information or arguments not already in the record; (2) If an oral *ex parte* presentation is limited to material already in the written record, the notice must contain either a succinct summary of the matters discussed or a citation to the page or paragraph number in the party's written submission(s) where the matters discussed can be found; (3) Notices for all *ex parte* presentations must include the name of the person(s) who made the *ex parte* presentation as well as a list of all persons attending or otherwise participating in the meeting at which the presentation was made; (4) Notices of *ex parte* presentations made outside the Sunshine period must be filed within two business days of the presentation; (5) The Sunshine period will begin on the day (including business days, weekends, and holidays) after issuance of the Sunshine notice, rather than when the Sunshine Agenda is issued (as the current rules provide); (6) If an *ex parte* presentation is made on the day the Sunshine notice is released, an *ex parte* notice must be submitted by the next business day, and any reply would be due by the following business day. If a permissible *ex parte* presentation is made during the Sunshine period (under an exception to the Sunshine period prohibition), the *ex parte* notice is due by the end of the same day on which the presentation was made, and any reply would need to be filed by the next business day. Any reply must be in writing and limited to the issues raised in the *ex parte* notice to which the reply is directed; (7) Commissioners and agency staff may continue to request *ex parte* presentations during the Sunshine period, but these presentations should be limited to the specific information required by the Commission; (8) *Ex parte* notices must be submitted electronically in machine-readable format. PDF images created by scanning a paper document may not be submitted, except in cases in which a word-processing version of the document is not available. Confidential information may continue to be submitted by paper filing, but a redacted version must be filed electronically at the same time the paper filing is submitted. An exception to the electronic filing requirement will be made in cases in which the filing party claims hardship. The basis for the hardship claim must be substantiated in the *ex parte* filing; (9) To facilitate stricter enforcement of the *ex parte* rules, the Enforcement Bureau is authorized to levy forfeitures for *ex parte* rule violations; (10) Copies of electronically filed *ex parte* notices must also be sent electronically to all staff and Commissioners present at the *ex parte* meeting so as to enable them to review the notices for accuracy and completeness. Filers may be asked to submit corrections or further information as necessary for compliance with the rules; and (11) Parties making permissible *ex parte* presentations in restricted proceedings must conform and clarify rule changes when filing an ex parte notice with the Commission.

The information is used by parties to permit-but-disclose proceedings, including interested members of the public, to respond to the arguments made and data offered in the presentations. The responses may then be used by the Commission in its decision-making. The availability of the *ex parte* materials ensures that the Commission's decisional processes are fair, impartial, and comport with the concept of due process in that all interested parties can know of and respond to the arguments made to the decision-making officials.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–23269 Filed 9–29–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 1, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1030.

Title: Service Rules for Advanced Wireless Services (AWS) in the 1.7 GHz and 2.1 GHz Bands.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; state, local, or tribal government; Federal Government and not for profit institutions.

Number of Respondents: 393 respondents; 83,505 responses.

Estimated Time per Response: 0.25 to 5 hours.

Frequency of Response: Annual, semi-annual, one time, and on occasion reporting requirements, recordkeeping requirement, third-party disclosure requirements, and every ten years reporting requirements.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in sections 1, 2, 4(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, and 333 of the Communications Act of 1934, as amended, and sections 6003, 6004, and 6401 of the Middle Class Tax Relief Act of 2012, Public Law 112–96, 126 Stat. 156, 47 U.S.C. 151, 152, 154(i),

201, 301, 302(a), 303, 307, 308, 309, 310, 316, 319, 324, 332, 333, 1403, 1404, and 1451.

Total Annual Burden: 24,417 hours.

Total Annual Cost: $508,120.

Privacy Impact Assessment: No impact(s).

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

Needs and Uses: The Commission seeks the Office of Management and Budget (''OMB'') approval for a revision to obtain the full three-year clearance for the requirements described below. We are revising the estimates of the currently approved information collections primarily to reflect the issuance of the *AWS–3 Report and Order,* FCC 14–31, whose information collection requirements for new spectrum bands would increase the number of respondents, responses, hourly burden, and annual costs associated with these bands. We are also updating prior estimates for other related spectrum bands. The following information collection requirements by AWS–3 applicants are not effective until approved by the Office of Management and Budget and apply to the following rule sections:

Section 27.14(k) and (s)—set forth performance requirements for AWS–3 licensees. Section 27.14(s) requires AWS–3 licensees to offer service to 40 percent of the population of their license areas within six years of licensing, and to 75 percent of the population within 12 years (accelerated to 10 years if the interim performance requirement is not met). These performance timeframes are different from those for AWS–4 due to the longer initial AWS–3 license terms (12 years versus 10 years for AWS–4). Section 27.14(k) requires AWS–3 licensees to demonstrate compliance with the performance requirements by filing construction notifications with the Commission within 15 days of the expiration of the applicable benchmark, certifying whether they meet the applicable performance requirements, and including a description and certification of the areas for which they are providing service. Construction notifications must include electronic coverage maps, supporting technical documentation, and any other information as the Wireless Telecommunications Bureau may prescribe by public notice.

Section 27.14(s)—requires AWS–3 licensees to make a ''renewal showing'' at the time of license renewal—independent of the performance requirements—as a condition of renewal. The showing must include a detailed description of the applicant's provision of service during the entire license period and address: (1) The level and quality of service provided by the applicant (*e.g.,* the population served, the area served, the number of subscribers, the services offered); (2) the date service commenced, whether service was ever interrupted, and the duration of any interruption or outage; (3) the extent to which service is provided to rural areas; (4) the extent to which service is provided to qualifying tribal land as defined in § 1.2110(f)(3)(i); and (5) any other factors associated with the level of service to the public.

Section 27.17(c)—requires that an AWS–3 licensee that permanently discontinues service must notify the Commission of the discontinuance within 10 days by filing FCC Form 601 or 605 requesting license cancellation. It also provides that an authorization will automatically terminate, without specific Commission action, if service is permanently discontinued, even if a licensee fails to file the required form requesting license cancellation. Sections 27.17(a) and (b) define permanent discontinuation of service as 180 days during which a licensee does not provide service to at least one unaffiliated subscriber.

Section 27.50(d)(3)—requires that a licensee operating an AWS–3 base or fixed station utilizing a power greater than 1640 watts EIRP or 1640 watts/MHz EIRP must be coordinated in advance with the following licensees authorized to operate within 120 kilometers (75 miles) of the base or fixed station: All Broadband Radio Service (BRS) licensees authorized in the 2155–2160 MHz band, and all AWS licensees authorized to operate on adjacent frequency blocks in the 2110–2180 MHz band.

Section 27.1131—requires AWS–3 licensees, prior to initiating operations from any base or fixed station, to coordinate their frequency usage with incumbent co-channel and adjacent-channel fixed point-to-point microwave licensees operating in the 2110–2150 MHz and 2160–2200 MHz bands. If coordination does not resolve potential conflicts, an AWS licensee may undertake to relocate the FS stations under Part 101, Subpart B of the Commission's rules. Although AWS–1 licensees have relocated many FS legacy operations, AWS–3 licensees will likely have to relocate some remaining incumbents, resulting in disclosures described below. Under section 101.79 of the Commission's rules, these requirements will sunset ten years after the first AWS license is issued in the band.

Section 27.1132—requires AWS–3 licensees in the 2155–2160/62 MHz band to protect BRS stations from interference or to relocate them prior to initiating operations. Under section 27.1253 of the Commission's rules, these requirements will sunset fifteen years after the first AWS license is issued in the band.

Section 27.1134(c)—requires AWS–3 licensees to coordinate with Federal Government incumbents before commencing operations in the 1695–1710 MHz band. For transmitters operating with a maximum EIRP of 20 dBm, coordination is required inside 27 specific Protection Zones detailed in U.S. note 88 to section 2.106 of the Commission's rules and in the 2014 Joint PN. For higher-powered operations, § 27.1134(c) and U.S. note 88 to § 2.106 both require coordination nationwide unless otherwise specified by FCC rule, order, or notice. The 2014 Joint PN (see below) refined the nationwide default zone for higher-power operations by adding 27 Protection Zones (larger than the zones for operations up to 20 dBm, to account for the higher power).

Section 27.1134(f)—requires AWS–3 licensees to coordinate with Federal Government incumbents before commencing operations in the 1755–1780 MHz band. While the default coordination requirement for this band is nationwide, the 2014 Joint PN (see below) effectively reduced the scope of coordination to specific Protection Zones for many AWS–3 licensees that limit transmitter power to 20 dBm EIRP.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2014–23271 Filed 9–29–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Information Collection Revision; Comment Request (3064–0189)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The Federal Deposit Insurance Corporation, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a revision of a continuing information collection, entitled, ''Company-Run Annual Stress

Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act,'' (3064–0189), as required by the Paperwork Reduction Act of 1995.

DATES: Comments must be received by December 1, 2014.

ADDRESSES: You may submit written comments by any of the following methods:

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: Comments@FDIC.gov.* Include ''Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $50 Billion or More'' on the subject line of the message.
- *Mail:* Gary A. Kuiper, Counsel; John W. Popeo, Counsel, Federal Deposit Insurance Corporation Legal Division, Attention: Comments, FDIC, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.
- *Public Inspection:* All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/* including any personal information provided.

Additionally, you may send a copy of your comments: By mail to the U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503 or by facsimile to 202.395.6974, Attention: Federal Banking Agency Desk Officer.

FOR FURTHER INFORMATION CONTACT: You can request additional information from Gary A. Kuiper, 202.898.3877; John W. Popeo, 202.898.6923, Federal Deposit Insurance Corporation Legal Division, 550 17th Street NW., Washington, DC 20429. In addition, copies of the templates referenced in this notice can be found on the FDIC's Web site (*http://www.fdic.gov/regulations/laws/federal/*

SUPPLEMENTARY INFORMATION: The FDIC is requesting comment on the following changes to the information collection:

Title: Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $50 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

OMB Control Number: 3064–0189.

Description: Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [1] (Dodd-Frank Act) requires certain financial companies, including state nonmember banks and state savings associations, to conduct annual stress tests [2] and requires the primary financial regulatory agency [3] of those financial companies to issue regulations implementing the stress test requirements.[4] A state nonmember bank or state savings association is a ''covered bank'' and therefore subject to the stress test requirements if its total consolidated assets are more than $10 billion. Under section 165(i)(2), a covered bank is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[5]

On October 15, 2012, the FDIC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirement.[6] The final rule requires covered banks to meet specific reporting requirements under section 165(i)(2). In 2012, the FDIC first implemented the reporting templates for covered banks with total consolidated assets of $50 billion or more and provided instructions for completing the reports.[7] This notice describes revisions by the FDIC to those reporting templates, the information required, and related instructions. These information collections will be given confidential treatment to the extent allowed by law (5 U.S.C. 552(b)(4)).

Consistent with past practice, the FDIC intends to use the data collected to assess the reasonableness of the stress test results of covered banks and to provide forward-looking information to the FDIC regarding a covered institution's capital adequacy. The FDIC also may use the results of the stress tests to determine whether additional analytical techniques and exercises could be appropriate to identify, measure, and monitor risks at the covered bank. The stress test results are expected to support ongoing improvement in a covered bank's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning.

The FDIC recognizes that many covered banks with total consolidated assets of $50 billion or more are required to submit reports using the Comprehensive Capital Analysis and Review (''CCAR'') reporting form FR Y–14A. The FDIC also recognizes the Board has modified the FR Y–14A, and, to the extent practical, the FDIC will keep its reporting requirements consistent with the Board's FR Y–14A in order to minimize burden on affected institutions. Therefore, the FDIC is revising its reporting requirements to remain consistent with the Board's FR Y–14A for covered banks with total consolidated assets of $50 billion or more.

Proposed Revisions to Reporting Templates for Institutions With $50 Billion or More in Assets

The revisions to the DFAST–14A reporting templates consist of adding data items, deleting data items, and redefining existing data items. These changes will (1) provide additional information to greatly enhance the ability of the FDIC to analyze the validity and integrity of firms' projections, (2) improve comparability across firms, and (3) increase consistency between the FR Y–14A reporting templates and DFAST–14A reporting templates. The FDIC has conducted a thorough review of the changes and believes that the incremental burden of these changes is justified given the need for these data to properly conduct the FDIC's supervisory responsibilities related to the stress testing.

Summary Schedule

Revisions to Income Statement Sub-Schedule

Respondents have noted a definitional difference between the realized gains (losses) on available-for-sale (''AFS'') and held-to-maturity (''HTM'') securities reported on the Income Statement (items 127 and 128) and the AFS and HTM totals computed on sub-schedule A.3.c (Projected Other-Than-Temporary Impairment (''OTTI'') for AFS and HTM Securities by Portfolio), resulting from the Revised Capital Framework. In order to accurately collect information for the Income Statement, the FDIC proposes changing items 127 and 128 to be reported items instead of being equal to the total amounts on sub-schedule A.3.c. Additionally, for consistency with changes proposed to sub-schedule

[1] Public Law 111–203, 124 Stat. 1376 (July 21, 2010).

[2] 12 U.S.C. 5365(i)(2)(A).

[3] 12 U.S.C. 5301(12).

[4] 12 U.S.C. 5365(i)(2)(C).

[5] 12 U.S.C. 5365(i)(2)(B).

[6] 77 FR 62417 (October 15, 2012).

[7] 77 FR 52719 (August 30, 2012) and 77 FR 70435 (November 26, 2012).

A.5 (Counterparty Risk) described below, items 59 and 62 (Trading Incremental Default Losses and Other CCR Losses) would be modified to be Trading Issuer Default Losses and CCR Losses, and item 61 (Counterparty Incremental Default Losses) would be removed.

Revisions to RWA and Capital Sub-Schedules

To better align the collection of regulatory capital components with schedule RC–R of the Reports of Condition and Income (''Call Report''), the definitions of the items on schedule A.1.d (Capital) have been modified to refer to or mirror the definitions that appear on the Call Report. Furthermore, in order to ensure comparability among respondents and that transition provisions are being accurately and consistently applied, respondents would be required to apply the appropriate transition provisions to all transition-affected items of schedule A.1.d per the revised regulatory capital rule. With regard to the RWA sub-schedules, the standardized approach RWA and market RWA items of schedule A.1.c.1 (General RWA) have been changed in accordance with modifications to schedule RC–R of the Call Report that are currently being considered, and moved to a separate schedule A.1.c.2 (Standardized RWA). These changes include both the modification and addition of items, for an overall addition of 12 items. Additionally, the computed items one through five of the current sub-schedule A.1.c.2 (Advanced RWA) would be removed. Despite the alignment of these schedules with the Call Report, the column of actual values has not been removed because the values reported on these schedules are assumed to have completed the transition schedule outlined in the Revised Capital Framework, whereas values reported on the Call Report follow the transition schedule.

Revisions to Retail Repurchase Sub-Schedule

Due to recent activity by respondents involving settlements related to their representation & warranty (''R&W'') liabilities, additional detail would be collected about the R&W liabilities. Specifically, items would be added that collect the unpaid principal balance (''UPB'') of loans covered by completed settlements for which liability remains and for which no liability remains by vintage beginning with 2004, as well as total settlement across vintages, for the following categories of loans: loans sold to Fannie Mae, loans sold to Freddie Mac, loans insured by the U.S. government, loans securitized with monoline insurance, loans secured without monoline insurance, and whole loans sold.

Revisions to Securities Sub-Schedule

Because covered bonds are a material exposure of companies that have unique characteristics relative to other asset categories currently on this sub-schedule, the FDIC would add a covered bond category to sub-schedules A.3.b, A.3.c, A.3.d, and A.3.e in order to appropriately and separately evaluate respondents' projections of these assets. Additionally, two columns would be added to collect information for each of the asset categories of sub-schedule A.3.d that would allow changes in market value to be distinguished from changes in portfolio allocation for each projected quarter: (1) Beginning Fair Market Value, and (2) Fair Value Rate of Change, which is the weighted average percent change in fair value over the quarter. Finally, to reduce reporting burden and increase efficiency in reporting, the nine sub-asset categories of Domestic Non-Agency Residential Mortgage-Backed Securities (''RMBS'') would be removed from the same sub-schedules, and the AFS and HTM portions of sub-schedule A.3.c would be combined with an additional column to identify AFS amounts versus HTM amounts.

Revisions to Trading Sub-Schedule

Because credit valuation adjustment (''CVA'') losses are modeled separately from trading portfolio losses, the FDIC proposes that the profit (loss) amount related to CVA hedges be reported separately from other trading activity in the trading sub-schedule.

Revisions to Counterparty Risk Sub-Schedule

In order to allow respondents to use alternative methodologies for estimating losses related to the default of issuers and counterparties, the requirement of using the incremental default risk (''IDR'') methodology would be removed. Accordingly, items 1, 1a and 1b (Trading Incremental Default Losses, Trading Incremental Default Losses from securitized products, and Trading Incremental Default Losses from other credit sensitive instruments) would be modified to be Trading Issuer Default Losses. Additionally, items 3 (Counterparty Incremental Default Losses) and 3a (Impact of CCR IDR Hedges) would be removed, item 4 (Other CCR Losses) would be modified to be CCR Losses, and the item, Effect of CCR Hedges, would be added.

Regulatory Capital Instruments Schedule

Proposed changes to the Regulatory Capital Instruments schedule would be responsive to industry feedback and ensure that information is being accurately captured. Specifically, the FDIC proposes (1) adding an item that collects employee stock compensation to the four quarterly redemption/repurchase and issuance activity sub-sections; (2) adding 18 items to the general risk-based capital rules section and 28 items to the revised regulatory capital section that collect activity other than issuances or repurchases for each instrument in the section, because respondents add this activity to other items; and (3) changing the capital balance items in the general risk-based capital rules section and the revised regulatory capital section from reported items to formulas, since they would be able to be computed using the items proposed above.

Regulatory Capital Transitions Schedule

Similar to the changes proposed to the RWA and Capital sub-schedules of the Summary Schedule, proposed changes to the Regulatory Capital Transitions Schedule would be made to better align the collection of regulatory capital components with modifications to schedule RC–R of the Call Report, which are currently being considered. The FDIC proposes (1) aligning the definitions of the items on the Capital Composition sub-schedule to be consistent with schedule RC–R; (2) modifying the RWA General sub-schedule to align with proposed revisions to schedule RC–R, including changing the name to Standardized RWA and modifying, removing, and adding items for a net increase of 15 items; (3) modifying, adding, and removing items of the Advanced RWA sub-schedule to align with sub-schedule A.1.c.2 (Advanced RWA on the Summary Schedule), for a net increase of 21 items; and (4) revising the Leverage Ratio sub-schedule in accordance with the supplementary leverage ratio rulemaking proposal, for a net increase of 10 items. Despite the alignment of these schedules with the Call Report, the column of actual values has not been removed because the values reported on these schedules are assumed to have completed the transition schedule outlined in the Revised Capital Framework, whereas values reported on the Call Report follow the transition schedule.

Operational Risk Schedule

Proposed changes to the Operational Risk Schedule would provide greater insight into the types and frequency of operational risk expenses incurred by respondents, which would improve ongoing supervisory activities.

The FDIC proposes adding a data item for firms to voluntarily disclose how much of their mortgage related litigation reserve is attributable to contractual representation and warranty claims.

Counterparty Credit Risk Schedule

Significant additions would be made to the Counterparty Credit Risk Schedule in order to more adequately and accurately capture exposure information related to derivatives and securities financing transactions (''SFTs''). These additions would remediate deficiencies discovered in the current collection related to exposure, including a lack of information regarding collateral, asset types, and total exposure to a given counterparty, and have been carefully evaluated internally and vetted with respondents.

The FDIC proposes: (1) Adding a sub-schedule that collects the derivative exposures at a legal-entity netting-agreement level for the top 25 non-central clearing counterparty (''non-CCP'') and non-G–7 counterparties, as well as all CCPs and the G–7 counterparties, that includes a breakout of collateral into cash and non-cash, and exposures into 14 asset categories; (2) changing the current SFT sub-schedule to collect exposures and collateral separately at a counterparty legal-entity netting-agreement level for the top 25 non-CCP and non-G–7 counterparties, as well as all CCPs and the G–7 counterparties, and adding asset sub-categories for a total of 30 specific asset types; (3) removing all columns with the institution specification of margin period of risk (''MPOR'') under the global market shocks from sub-schedules F.1.a through F.1.e and F.2; (4) removing the column Loss Given Default Derived from Unstressed Probability of Default on F.2; and (5) adding columns to worksheet F.1.e to collect both gross and net stressed and unstressed current exposure to central clearing counterparties.

Burden Estimates

The FDIC estimates the burden of this collection as follows:

Current

Number of Respondents: 4.

Annual Burden per Respondent: 1,040 hours.

Total Annual Burden: 4,160 hours.

Proposed

Estimated Number of Respondents: 4.

Annual Burden per Respondent: 1,040 hours.

Estimated Total Annual Burden: 4,160 hours.

The FDIC recognizes that the Board has estimated 88,341 hours for bank holding companies to prepare the Summary, Macroscenario, Operational risk, Regulatory capital transitions, Regulatory capital instruments, and Counterparty credit risk schedules submitted for the FR Y–14A. The FDIC believes that the systems covered institutions use to prepare the FR Y–14A reporting templates will also be used to prepare the reporting templates described in this notice. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the FDIC, including whether the information has practical utility;

(b) The accuracy of the FDIC'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 on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated at Washington, DC, this 24th day of September.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–23240 Filed 9–29–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 24, 2014.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *State Bank Financial Corporation,* Atlanta, Georgia; to merge with Georgia-Carolina Bancshares, Inc., and thereby acquire its subsidiary, First Bank of Georgia, both in Augusta, Georgia.

Board of Governors of the Federal Reserve System, September 25, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–23249 Filed 9–29–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day 14–0909]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is

necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

CDC Diabetes Prevention Recognition Program (DPRP)—Revision—Division of Diabetes Translation, National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Evidence from efficacy and effectiveness research studies has shown that lifestyle modifications leading to weight loss and increased physical activity can prevent or delay type 2 diabetes in individuals with prediabetes or those at high risk of developing diabetes. To translate these research findings into practice, section 399V–3 of Public Law 111–148, directed Centers for Disease Control ''to determine eligibility of entities to deliver community-based type 2 diabetes prevention services,'' monitor and evaluate the services, and provide technical assistance. To this end, CDC's Division of Diabetes Translation (DDT) established and administers the Diabetes Prevention Recognition Program (DPRP), which recognizes organizations that deliver diabetes prevention programs according to requirements set forth in the ''Centers for Disease Control and Prevention Recognition Program Standards and Operating Procedures'' (*DPRP Standards*). Two levels of recognition are provided: Pending recognition, for new applicants that have submitted an application and meet eligibility criteria defined by the *DPRP Standards,* and Full recognition, for programs that have demonstrated effectiveness according to *DPRP standards.* DDT maintains a public registry of these organizations, which can be used by people at high risk of type 2 diabetes, their health care providers, and health payers to locate organizations that offer DPRP-recognized diabetes prevention programs.

In 2011, CDC received OMB approval to collect information needed to administer the DPRP (CDC Diabetes Prevention Recognition Program, OMB No. 0920–0909, exp. 11/30/2014). Two types of information are collected from organizations seeking DPRP recognition: Application data and evaluation data. The one-time application form can be completed on-line at any time. In addition, organizations submit de-identified process and outcome evaluation data to CDC electronically once per year. The due dates for these submissions are based on organizations' effective dates (the first day of the month following application approval). CDC uses the process and outcome data to monitor and evaluate program effectiveness and to provide targeted technical assistance to applicants.

CDC requests an additional three years of OMB approval to continue collecting the information needed to administer the DPRP. Based on additional translational research, experience with the DPRP from 2011–2014, and feedback from applicants, recognized organizations and stakeholders, CDC plans to revise the *DPRP Standards* and the associated information collection. A key change relates to incorporation of a new mode of service delivery. Because future programs will be allowed to deliver lifestyle programs in a virtual or electronic mode, DPRP requirements for hour-long sessions and written materials for participants have been dropped. A new program mode data element (in-person, virtual, other) will be added to the DPRP application form to facilitate the identification and evaluation of programs, by mode. This information will also be published in the DPRP registry. Additionally, CDC plans to initiate the following changes in the data elements collected: (1) Add fields, if applicable, for contact information for an additional organizational contact and data preparer to the application form. These additional organization contacts are necessary to facilitate communication in light of a large volume of turnover in recognized organizations and to enable DPRP staff to provide technical assistance directly to the data preparer. (2) Add Participant State [of residence] to the evaluation data. This information will allow DPRP to capture the reach of virtual programs and allow for reporting by state or region. (3) Simplify the codes for Participation Prediabetes Determination by reducing the number of required responses from five to three. (4) Discontinue the collection of the Core Group Code, Location Code, Lifestyle Coach ID, Session Type and Session ID.

Additional changes to the *DPRP Standards* or DPRP information collection may be requested during the period of the Revision request, as CDC continues discussions with recognized programs and potential applicants and reviews results from ongoing studies.

During the period of this Revision, CDC estimates receipt of approximately 350 DPRP application forms per year. The estimated burden per response is one hour. In addition, CDC estimates receipt of annual evaluation data submissions from 1,200 organizations. Evaluation data will be received from a mix of new DPRP applicant organizations as well as previous applicants whose performance is being assessed for compliance with the *DPRP Standards.* The estimated burden per response is one hour. The estimated burden per response is modest since the information requested for DPRP recognition is routinely collected by most organizations that deliver lifestyle programs. Participation in the DPRP is voluntary, and there are no costs to respondents other than their time. The total estimated annualized burden hours are 1,550.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)
Public sector organizations that deliver type 2 diabetes prevention programs.	DPRP Application Form	140	1	1
	DPRP Evaluation Data	480	1	1
Private sector organizations that deliver type 2 diabetes prevention programs.	DPRP Application Form	210	1	1
	DPRP Evaluation Data	720	1	1

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–23237 Filed 9–29–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Proposed Projects: Evaluation of the Transitional Living Program (TLP).

Title: Evaluation of the Transitional Living Program (TLP).

OMB No.: 0970–0383.

Description: The Runaway and Homeless Youth Act (RHYA), as amended by Public Law 106–71 (42 U.S.C. 5701 et seq.), provides for the Transitional Living Program (TLP), a residential program lasting up to 18 months designed to prepare older homeless youth ages 16–21 for a healthy and self-sufficient adulthood. Section 119 of RHYA requires a study on the long-term housing outcomes of youth after exiting the program.

The proposed collection is being carried out in two steps:

1. Interviews with TLP grantee administrators and front line staff about program structure, implementation, and approaches to service delivery.

2. A set of surveys to be administered to run away and homeless youth to measure their short-term and longer-term outcomes such as demographic characteristics, receipt of TLP or ''TLP-like'' services, housing, employment, education, social connections (e.g., social relationships, civic engagement), psychosocial well-being (e.g., depressive symptoms, traumatic stress, risky behavior, history of abuse), and other measures related to self-sufficiency and well-being (exposure to violence, financial competence).

This information will be used to better understand the most effective practices that improve the long-term outcomes for runaway and homeless youth and reduce future episodes of homelessness.

Respondents: (1) Youth ages 16–21 participating in Transitional Living Programs and (2) the Executive Director and front line staff representing TLP grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Site Visit Interviews				
Program Overview Survey: Executive Director Interview Guide (1 Executive Director respondent per grantee)	14	1	1.00	14.00
Program Overview Survey: Program Staff Interview Guide (4 Program Staff respondents per grantee)	56	1	2.00	112.00
Youth Development Survey Interview Guide (1 Executive Director and 1 Program Staff respondent per grantee)	28	1	0.50	14.00
Young Adult Surveys				
Young Adult Baseline Survey	1250	1	0.75	937.50
Young Adult 3-Month Follow Up Survey	1000	1	0.54	540.00
Young Adult 6-Month Tracking Survey	1000	1	0.17	170.00
Young Adult 9-Month Tracking Survey	1000	1	0.17	170.00
Young Adult 12-Month Follow Up Survey	1000	1	0.75	750.00
Young Adult 15-Month Tracking Survey	1000	1	0.17	170.00
Young Adult 18-Month Follow Up Survey	1000	1	0.75	750.00

Estimated Total Burden Hours: 3627.50.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn:

Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–23206 Filed 9–29–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0345]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Data To Support Drug Product Communications as Used by the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 30, 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 0910–0695. 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.

Data To Support Drug Product Communications as Used by the Food and Drug Administration—(OMB Control Number 0910–0695)—Extension

Testing of communication messages in advance of a communication campaign provides an important role in improving FDA communications as they allow for an in-depth understanding of individuals' attitudes, beliefs, motivations, and feelings. The methods to be employed include individual in-depth interviews, general public focus group interviews, intercept interviews, self-administered surveys, gatekeeper surveys, and professional clinician focus group interviews. The methods to be used serve the narrowly defined need for direct and informal opinion on a specific topic and, as a qualitative research tool, have two major purposes:

(1) To obtain information that is useful for developing variables and measures for formulating the basic objectives of risk communication campaigns; and

(2) To assess the potential effectiveness of messages and materials in reaching and successfully communicating with their intended audiences.

FDA will use these methods to test and refine its ideas and to help develop messages and other communications but will generally conduct further research before making important decisions, such as adopting new policies and allocating or redirecting significant resources to support these policies.

FDA will use this mechanism to test messages about regulated drug products on a variety of subjects related to consumer, patient, or health care professional perceptions and about use of drug products and related materials, including but not limited to, direct-to-consumer prescription drug promotion, physician labeling of prescription drugs, Medication Guides, over-the-counter drug labeling, emerging risk communications, patient labeling, online sale of medical products, and consumer and professional education.

Annually, FDA projects about 45 communication studies using the variety of test methods listed in this document. FDA is requesting this burden so as not to restrict the Agency's ability to gather information on public sentiment for its proposals in its regulatory and communications programs.

In the **Federal Register** of April 7, 2014 (79 FR 19096), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received one comment; however, this comment did not address the information collection.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Interviews/Surveys	19,822	1	19,822	0.24 (14 minutes)	4,757

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: September 24, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–23236 Filed 9–29–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and

Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than December 1, 2014.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Maternal, Infant and Early Childhood Home Visiting (MIECHV) Program Competitive Grant Final Report OMB No. 0915–xxxx—New

Abstract: On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act (the Act), Section 2951 of the Act amended Title V of the Social Security Act by adding a new section, 511, which authorized the creation of the Maternal, Infant and Early Childhood Home Visiting Program (MIECHV) (*http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h3590enr.txt.pdf,* pages 216–225). The legislative authority of this Act was extended by the Protecting Access to Medicare Act of 2014 (Pub. L. 113–93). The Act responds to the diverse needs of children and families in communities at risk and provides an unprecedented opportunity for collaboration and partnership at the federal, state, and community levels to improve health and development outcomes for at risk children through evidence-based home visiting programs.

Under this program, competitive funding has been awarded since June 2011 for Competitive Development Grants and Competitive Expansion Grants. Competitive Development Grants were intended to support the efforts of states and jurisdictions with modest evidence-based home visiting programs to expand the depth and scope of these efforts, with the intent to develop the infrastructure and capacity needed to seek a Competitive Expansion Grant in the future. Competitive Expansion Grants were intended to support the efforts of states and jurisdictions that had already made significant progress towards a high quality home visiting program or embedding their home visiting program into a comprehensive, high-quality early childhood system.

Since federal fiscal year 2011, 19 states have been awarded Competitive Development Grants, and 26 states have been awarded Competitive Expansion Grants. These competitive grants are for 2 years (Development Grants) and 4 years (Expansion Grants), respectively. Grantees of the competitive grant program will need to complete final reports in order to comply with HRSA reporting requirements. Grantees that were awarded Competitive Development Grants during federal fiscal year 2011 were eligible for Competitive Expansion Grants in federal fiscal year 2013. For this reason, some grantees have been awarded up to two Competitive Grants to date. Ten grantees have both a Competitive Development Grant and a Competitive Expansion Grant. Additional funds are being made available for Competitive Grants in federal fiscal year 2015. Up to 35 grants are anticipated to be awarded on March 1, 2015, with a project period equal to 2 years and 7 months. Grantees are expected to use 2015 competitive grant funds to provide ongoing support to high-quality evidence-based home visiting programs and for the development and expansion of evidence-based home visiting programs funded, in whole or in part, by the MIECHV program through increased enrollment and retention of families served. After Competitive Grant issuance in 2015, some MIECHV grantees may have up to three competitive grants for which final reports need to be submitted.

HRSA is collecting information from MIECHV grantees that have received competitive grant funds as part of the agency's final reporting requirements. The final report will be completed by grantees funded under the Competitive Grant Program and submitted to HRSA within 90 days of the project period end date.

The burden estimates presented in the table below are based on consultations with a few states on the final reporting requirements described in the competitive grant guidance documents.

Need and Proposed Use of the Information: Submission of a final report is a reporting requirement under the grant award. The final report will enable assessment of program effectiveness and impact on the health and development of service recipients. Each final report will be assessed to measure and quantify the degree to which each grantee was successful in implementing the grant and ensuring yearly program improvement. Data will be extracted from final reports and aggregated, using suitable analytic approaches, to compare, contrast, and identify successes, areas for improvement, and promising practices across the program. These findings will be used to identify the accomplishments of the MIECHV program, support program or grantee improvement, and craft or inform dissemination strategies.

Likely Respondents: MIECHV grantees that have received a competitive (D89) grant award.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

Total Estimated Annualized burden hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
MIECHV Competitive Grant Final Report—Fiscal Year 2011 and 2012 Development Grantees	19	1	19	25	475

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
MIECHV Competitive Grant Final Report—Fiscal Year 2011, 2012, 2013, and 2014 Expansion Grantees	31	1	31	25	775
MIECHV Competitive Grant Final Report—Fiscal Year 2015 Expansion Grantees	35	1	35	25	875
Total					2125

HRSA specifically requests comments on (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.

Dated: September 24, 2014.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–23175 Filed 9–29–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than December 1, 2014.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program Administrative Requirements (Regulations and Policy). OMB No. 0915–0047—Extension.

Abstract: The statutory authorities for the Health Professions Student Loan (HPSL) Program, as authorized by Public Health Service (PHS) Act sections 721–722 and 725–735, and the Nursing Student Loan (NSL) Program, as authorized by PHS Act sections 835–842, contain a number of recordkeeping and reporting requirements for academic institutions and loan applicants. The applicable regulations for these programs under 42 CFR Part 57 details the various requirements (see chart below).

Need and Proposed Use of the Information: The requirements are essential for assuring that borrowers are aware of their rights and responsibilities, academic institutions have accurate records of the history and status of each loan account in order to pursue aggressive collection efforts to reduce default rates, and that academic institutions maintain adequate records for audit and assessment purposes to help the U.S. Department of Health and Human Services safeguard federal funds made through the Federal Capital Contribution (FCC). Academic institutions are free to use improved information technology to manage the information required by the regulations.

Likely Respondents: Financial Aid Directors working at institutions participating in the HPSL and NSL Programs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

Total Estimated Annualized burden hours:

RECORDKEEPING REQUIREMENTS

Regulatory/section requirements	Number of recordkeepers	Hours per year	Total burden hours
HPSL Program:			
57.206(b)(2), Documentation of Cost of Attendance	435	1.17	509
57.208(a), Promissory Note	435	1.25	544
57.210(b)(1)(i), Documentation of Entrance Interview	435	1.25	544
57. 210(b)(1)(ii), Documentation of Exit Interview	*477	0.33	157
57.215(a) & (d), Program Records	*477	10	4,770

RECORDKEEPING REQUIREMENTS—Continued

Regulatory/section requirements	Number of recordkeepers	Hours per year	Total burden hours
57.215(b), Student Records	*477	10	4,770
57.215(c), Repayment Records	*477	18.75	8,944
HPSL Subtotal	477		20,238
NSL Program:			
57.306(b)(2)(ii), Documentation of Cost of Attendance	304	0.3	91
57.308(a), Promissory Note	304	0.5	152
57.310(b)(1)(i), Documentation of Entrance Interview	304	0.5	152
57. 310(b)(1)(ii), Documentation of Exit Interview	*486	0.17	83
57.315(a)(1) & (a)(4), Program Records	*486	5	2,430
57.315(a)(2), Student Records	*486	1	486
57.215(b)(3), Repayment Records	*486	2.51	1,220
NSL Subtotal	486		4,6145

* Includes active and closing schools HPSL data include active and closing Loans for Disadvantaged Students (LDS) program schools

REPORTING REQUIREMENTS

Regulatory/section requirements	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total burden hours
HPSL:					
57.206(a)(2), Student Financial Aid Transcript	4,600	1	4,600	0.25	1,150
57.208(c), Loan Information Disclosure	435	68.73	29,898	0.0833	2,490
57.210(b)(1)(i), Entrance Interview	435	68.73	29,898	0.167	4,993
57.210(b)(1)(ii), Exit Interview	*477	12	5,724	0.5	2,862
57.210(b)(1)(iii), Notification of Repayment	*477	30.83	14,706	0.167	2,456
57.210(b)(1)(iv), Notification During Deferment	*477	24.32	11,601	0.0833	966
57.210(b)(1)(vi), Notification of Delinquent Accounts	*477	10.28	4,904	0.167	819
57.210(b)(1)(x), Credit Bureau Notification	*477	8.03	3,830	0.6	2,298
57.210(b)(4)(i), Write-off of Uncollectable Loans	20	1	20	3	60
57.211(a), Disability Cancellation	10	1	10	0.75	8
57.215(a)(2), Administrative Hearings	0	0	0	0	0
57.215(a)(d), Administrative Hearings	0	0	0	0	0
HPSL Subtotal					18,102
NSL:					
57.306(a)(2), Student Financial Aid Transcript	4,100	1	4,100	0.25	1,025
57.310(b)(1)(i), Entrance Interview	304	23.51	7,147	0.167	1,193
57.310(b)(1)(ii), Exit Interview	*486	3.77	1,832	0.5	916
57.310(b)(1)(iii), Notification of Repayment	*486	6.18	3,003	0.167	501
57.310(b)(1)(iv), Notification During Deferment	*486	0.65	316	0.083	26
57.310(b)(1)(vi), Notification of Delinquent Accounts	*486	4.61	2,240	0.167	374
57.310(b)(1)(x), Credit Bureau Notification	*486	8.3	4,034	0.6	2,420
57.310(b)(4)(i), Write-off of Uncollectable Loans	20	1	20	3.5	70
57.311(a), Disability Cancellation	10	1	10	0.8	8
57.315(a)(1)(ii), Administrative Hearings	0	0	0	0	0
57.316(a)(d), Administrative Hearings	0	0	0	0	0
NSL Subtotal					6,533

* Includes active and closing schools.

HRSA specifically requests comments on (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.

Dated: September 23, 2014.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–23181 Filed 9–29–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than December 1, 2014.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: The Health Professions Student Loan (HPSL) and Nursing Student Loan (NSL) Programs: Deferment-HRSA Form 519 and AOR–HRSA Form 501

OMB No. 0915–0044—Extension

Abstract: The HPSL program, as authorized by Public Health Service (PHS) Act sections 721–722, and 725–735, provides long-term, low-interest loans to students attending schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, and pharmacy. The NSL program as authorized by PHS Act sections 835–842, provides long-term, low-interest loans to students who attend eligible schools of nursing in programs leading to a diploma in nursing, including an associate degree, a baccalaureate degree, or graduate degree in nursing.

Need and Proposed Use of the Information: Participating HPSL and NSL schools are responsible for determining eligibility of applicants, making loans, and collecting monies owed by borrowers on their outstanding loans. The Deferment Form (Deferment-HRSA Form 519) provides the schools with documentation of a borrower's deferment status, as detailed for the HPSL program under 42 CFR 57.210 and for NSL under 42 CFR 57.310. The Annual Operating Report (AOR–HRSA Form 501) provides the U.S. Department of Health and Human Services with information from participating schools (including schools that are no longer disbursing loans but are required to report and maintain program records, student records, and repayment records until all student loans are repaid in full and all monies due to the federal government are returned) relating to HPSL and NSL program operations and financial activities.

Likely Respondents: Financial Aid Directors working at institutions participating in the HPSL and NSL programs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

Total Estimated Annualized burden hours:

Instrument	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Deferment—HRSA Form 519	3,234	1	3,234	.533333	1,725
AOR–HRSA Form 501	834	1	834	12	10,008
Total	4,068		4,068		11,733

HRSA specifically requests comments on (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.

Dated: September 23, 2014.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–23179 Filed 9–29–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than December 1, 2014.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of

the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: HRSA OFAM Grantee Customer Satisfaction Survey. OMB No. 0915–xxxx—NEW.

Abstract: The Office of Federal Assistance Management (OFAM) within HRSA plans to survey HRSA grant recipients to better understand their opinions about HRSA's grants processes and to improve the way HRSA conducts business with them. This survey will focus on grantee customer satisfaction areas related to the grants life cycle, grantee relationships with HRSA staff (e.g., Project Officers, Grants Management Officers), technical assistance received from HRSA bureaus and offices, availability of grant resources, and grantee access to guidance and instructional documents, etc. The seven (7) grants management areas, which are directly related to the grants life cycle, are: Customer Service/Cooperation; Policies and Procedures; Pre-Award Phase; Award Phase; Reporting/Post-Award Administration; Technical Assistance; and Priorities for Improvement. The ability to receive this information from external customers will provide OFAM with a repository of information which will be incorporated into the OFAM's strategic efforts to improve grants management services and customer service overall.

Need and Proposed Use of the Information: The *HRSA OFAM Grantee Customer Satisfaction Survey* will provide meaningful and relevant results to agency decision makers about various customer satisfaction domains (e.g., efficiency, timeliness, usefulness, responsiveness, quality and overall satisfaction with HRSA project officers, products, and services). The information collected will assist HRSA in its efforts to gauge, understand and effectively respond to the needs and concerns of its customers, especially as they relate to the aforementioned areas. The survey results will provide HRSA with concrete indicators regarding the best areas in which to dedicate time, energy, and resources to improve customer service. This information will be used to support agency-wide continuous quality improvement (CQI) efforts. It will also be used by HRSA to improve the efficiency, quality, and timeliness of its grants business processes, as well as to strengthen its partnership with its external customers.

Likely Respondents: HRSA Grantees, specifically individuals who hold positions as a grantee's Grant Administrator, Business Officer, or Project Director/Principal Investigators, etc.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
HRSA OFAM Grants Management Customer Satisfaction Survey	3,000	1	1,500	0.25 (15/60)	375

HRSA specifically requests comments on (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.

Dated: September 23, 2014.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–23172 Filed 9–29–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than December 1, 2014.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10C–03, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Enrollment and Re-Certification of

Entities in the 340B Drug Pricing Program and collection of Manufacturer Data to Verify 340B Drug Pricing Program Ceiling Price Calculations.

OMB No. 0915–0327—[Revision].

Abstract: Section 602 of Public Law 102–585, the Veterans Health Care Act of 1992, enacted as Section 340B of the Public Health Service Act (PHS Act; ''Limitation on Prices of Drugs Purchased by Covered Entities''), provides that a manufacturer who sells covered outpatient drugs to eligible entities must sign a Pharmaceutical Pricing Agreement (PPA) with the Secretary of Health and Human Services in which the manufacturer agrees to charge a price for covered outpatient drugs that will not exceed an amount determined under a statutory formula (''ceiling price'').

A manufacturer subject to a PPA must offer all covered outpatient drugs at no more than the ceiling price to a covered entity listed in the 340B Program database. The manufacturer shall rely on the information in the 340B database to determine if the covered entity is participating in the 340B Program or for any notifications of changes to eligibility that may occur within a quarter. By signing the PPA, the manufacturer agrees to comply with all applicable statutory and regulatory requirements, including any changes that occur after execution of the PPA.

Covered entities which choose to participate in the 340B Program must comply with the requirements of Section 340B(a)(5) of the PHS Act. Section 340B(a)(5)(A) prohibits a covered entity from accepting a discount for a drug that would also generate a Medicaid rebate. Further, Section 340B(a)(5)(B) prohibits a covered entity from reselling or otherwise transferring a discounted drug to a person who is not a patient of the entity.

Need and Proposed Use of the Information: Section 340B(d)(1)(B)(i) of the PHS Act requires the development of a system to enable the Secretary to verify the accuracy of ceiling prices calculated by manufacturers under subsection (a)(1) and charged to covered entities, which shall include the following:

(I) Developing and publishing through an appropriate policy or regulatory issuance, precisely defined standards and methodology for the calculation of ceiling prices under such subsection.

(II) Comparing regularly the ceiling prices calculated by the Secretary with the quarterly pricing data that is reported by manufacturers to the Secretary.

(III) Performing spot checks of sales transactions by covered entities.

(IV) Inquiring into the cause of any pricing discrepancies that may be identified and either taking, or requiring manufacturers to take, such corrective action as is appropriate in response to such price discrepancies.

HRSA's Office of Pharmacy Affairs (OPA) has previously obtained approval for information collections in support of 340B covered entity recertification and registration, as well as registration of contract pharmacy arrangements and the PPA itself. OPA is requesting comments on an additional information collection in response to the above pricing verification requirements.

Pricing data submission, validation and dissemination:

In order to implement Section 340B(d)(1)(B)(i)(II), HRSA has already developed a system to prospectively calculate 340B ceiling prices from data obtained from the Centers for Medicare and Medicaid Services as well as OPA-identified commercial databases. However, in order to conduct the comparison, HRSA must require manufacturers to submit the quarterly pricing data as referenced.

HRSA has developed a mechanism for secure manufacturer submissions; the Agency currently proposes collecting Average Manufacturer Price, Unit Rebate Amount, Package Sizes, National Drug Code and manufacturer-determined 340B ceiling price for each product subject to a PPA. Once any discrepancies between the manufacturer and OPA-calculated prices have been resolved, the validated prices will be made available to registered covered entities via a secure Internet-accessible platform as required by Section 340B(d)(1)(B)(iii).

Accurate and timely pricing data submissions are critical to successful implementation of the 340B Program, ensuring that covered entities have confidence that the amounts being charged are in accordance with statutorily-defined ceiling prices. The burden imposed on manufacturers by this requirement is low because the information requested is readily available.

Likely Respondents: Drug Manufacturers.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

The annual estimate of burden is as follows:

Reporting requirement	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Hospital Enrollment, Additions & Recertifications					
340B Program Registrations & Certifications for Hospitals	546	1	546	2.00	1092
Certifications to Enroll Hospital Outpatient Facilities	606	1	606	.50	303
Hospital Annual Recertifications	4842	1	4842	.50	2421
Registrations and Recertifications for Entities Other Than Hospitals					
340B Registrations for Community Health Centers	253	1	253	1.0	253
340B Registrations for Family Planning Programs, STD/TB Clinics and Various Other Eligible Entity Types	353	1	353	1.0	353
Community Health Center Annual Recertifications	4507	1	4507	.50	2253.5
Family Planning Annual Recertifications	3879	1	3879	.50	1939.5
STD & TB Annual Recertifications	2754	1	2754	.50	1377

Reporting requirement	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Annual Recertification for entities other than Hospitals, Community Health Centers, Family Planning, STD or TB Clinics	1174	1	1174	.50	587
Other Information Collections					
Submission of Administrative Changes for any Covered Entity	2500	1	2500	.50	1250
Submission of Administrative Changes for any Manufacturer	350	1	350	.50	175
Manufacturer Data Required to Verify 340B Ceiling Price Calculations	600	4	2400	.50	1200
Contracted Pharmacy Services Registration & Recertifications					
Contracted Pharmacy Services Registration	2500	1	2500	1.0	2500
Total	24,664		26,464		15,704

HRSA specifically requests comments on: (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.

Dated: September 23, 2014.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–23183 Filed 9–29–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on the National Health Service Corps; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: National Advisory Council on the National Health Service Corps (NHSC).

Date And Time: October 23, 2014 from 1:00 p.m.–2:30 p.m. EST.

Place: The meeting will be via audio conference call.

Status: The meeting will be open to the public.

Agenda: The Council is holding a meeting via conference call to discuss the accomplishments of the NHSC in fiscal year (FY) 2014 and activities and goals for FY 2015. The public can join the meeting via audio conference call on the date and time specified above using the following information: Dial-in number: 1–800–619–8528; Passcode: 2240736.

Public Comment: There will be an opportunity for the public to comment towards the end of the call.

For Further Information Contact: Ed Mekeel, Bureau of Health Workforce, Health Resources and Services Administration, Parklawn Building, Room 13–64, 5600 Fishers Lane, Rockville, Maryland 20857, email: *emekeel@hrsa.gov,* or telephone: 301–443–6156.

Dated: September 23, 2014.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–23178 Filed 9–29–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2014–0107; OMB Control Number 1625–0011]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-Day Notice Requesting Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding Information Collection Requests (ICRs), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a Reinstatement, with change, of a previously approved collection for which approval has expired for the following collection of information: 1625–0011, Applications for Private Aids to Navigation and for Class I Private Aids to Navigation on Artificial Islands and Fixed Structures. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before October 30, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2014–0107] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by email via: *OIRA-submission@omb.eop.gov.*

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF 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:* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, 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 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 Collections. 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. These comments will help OIRA determine whether to approve the ICRs referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2014–0107], and must be received by October 30, 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–2014–0107]; 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 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–2014–0107'' 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–2014–0107'' 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.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Numbers: 1625–0011.

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).

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (79 FR 33573, June 11, 2014) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request

1. *Title:* Applications for Private Aids to Navigation and for Class I Private Aids to Navigation on Artificial Islands and Fixed Structures.

OMB Control Number: 1625–0011.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Respondents: Owners of private aids to navigation.

Abstract: Information received from the private aids to navigation applications is essential for safe navigation. The forms are used to collect vital safety information such as the geographic position of the aid, as well as the characteristic of the aid, the light signal, and other related safety information.

Forms: CG–2554 and CG–4143.

Burden Estimate: The estimated burden has decreased from 3,000 hours to 2,000 hours a year due to a decrease in the average annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: September 11, 2014.

Thomas P. Michelli,

Acting Chief Information Officer, U.S. Coast Guard.

[FR Doc. 2014–23296 Filed 9–29–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[FR–5818–N–01]

Announcement of Requirements and Registration for ''Innovation in Affordable Housing Student Design and Planning Competition''

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: This notice announces the second year of the Innovation in Affordable Housing Student Design and Planning Competition. The competition requires teams of graduate students from multiple disciplines to submit plans in response to a real life affordable housing design issue. The goals of this new competition are: To encourage research and innovation in quality affordable housing design that strengthens the social and physical fabric of low and moderate-income communities and neighborhoods, to raise practitioner and future practitioner capacity to produce more livable and sustainable housing for low and moderate-income people through disseminating best practices, and to foster cross-cutting team-work within the design and community development process.

DATES: February 20, 2015. Although teams may begin registering now, the competition will officially launch on December 19, 2014, when the real life affordable housing design issue is released. The deadline for phase one of the competition will be February 9, 2015. Finalists will be announced on February 20, 2015, and will have until April 2015, to prepare their presentations.

FOR FURTHER INFORMATION CONTACT: Claire Desjardins, Research Utilization Division, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW., Room 8110, Washington, DC 20410, telephone 202–402–5945. Email: *Claire.Y.Desjardins@hud.gov.*

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition

Entrants in the Innovation in Affordable Housing Design are requested to present their plans for a site owned by a public housing authority (PHA). This presentation will include architectural designs, neighborhood planning, and financial plans.

Eligibility Rules for Participating in the Competition

The competition is open to any contestant, defined as a team of United States citizens or permanent residents of the United States who are currently enrolled in a graduate level program at a university in the United States. The team members must represent at least three related academic disciplines and will be supported by a faculty advisor. Individuals may not participate in more than one team.

To be eligible to win a prize under this challenge (Challenge), an individual or entity—

1. Shall have registered to participate in the competition under the rules promulgated by HUD;
2. Shall have complied with all the requirements under this section;
3. In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States;
4. May not be a Federal entity or Federal employee acting within the scope of their employment;
5. Shall not be a HUD employee working on their applications or submissions during assigned duty hours;
6. May not be a judge of the competition, or any other party involved with the design, production, execution, or distribution of the Challenge or their immediate family (spouse, parents or step-parents, siblings and step-siblings, and children and step-children);
7. Federal grantees may not use Federal funds to develop challenge applications under the America COMPETES Reauthorization Act of 2011 (COMPETES Act) unless consistent with the purpose of their grant award;
8. Federal contractors may not use Federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge submission.

An individual or entity shall not be ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

By participating in this Challenge, contestants agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this prize contest, whether the injury, death, damage, or loss arises through negligence or otherwise. By participating in this Challenge, contestants agree to indemnify the Federal Government against third party claims for damages arising from or related to Challenge activities.

Registration Process for Participants: All Contestants can register on the competition Web site, *http://www.huduser.org/portal/challenge/home.html.* Interested parties can also read all official rules and sign up to receive more information and competition updates on this site.

Submission Period Begins: 12:01 a.m., EDT, December 19, 2014.

Submission Period Ends: 11:59 p.m., EDT, February 9, 2015.

Amount of the Prize:

The winning team of the competition will be awarded $20,000. The runner-up team will be awarded $10,000. Prizes awarded under this competition may be subject to Federal income taxes. HUD will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

Basis Upon Which Winner Will Be Selected:

Submissions to the competition will be assessed by an informed jury of approximately five practitioners and experts in the fields of architecture, urban planning, affordable housing, and other relevant areas, in compliance with the requirements of the COMPETES Act. Jury members will be named after the commencement of the competition.

The jury will make decisions based on the following criteria: Completeness of design, applicability, financial and economic viability, planning criterion, and innovation and creativity.

Additional Information:

The finalists will be invited to a site visit of the PHA in early March, with expenses paid for two team members. All rules and competition information and updates can be found at *http://www.huduser.org/portal/challenge/home.html.*

Copyright and Intellectual Property: Upon submission, each teams warrants that the team members are the sole owners of the submission, and that the submission is wholly original to the team and does not infringe on any copyright or other rights of any third party of which the team is aware.

Submission Rights: By participating in this Challenge, each Team grants to HUD an irrevocable, paid-up, royalty-free, non-exclusive license to post, link to, share, and display publicly on the

Web. The Public Housing Authority may use ideas from submissions in their future efforts to address the affordable housing design issue.

Compliance With Rules and Contacting Contest Winners

Finalists and the Contest Winners must comply with all terms and conditions of these Official Rules, and winning is contingent upon fulfilling all requirements herein. The initial finalists will be notified by email after the date of the judging.

Privacy

Personal information provided to HUD by Contestants registering or filling out the submission form through *huduser.org* is protected by the Privacy Act, and is used to respond to Contestants in matters regarding their submission, announcements of entrants, finalists, and winners of the Contest. Winners are permitted to cite that they won this contest.

General Conditions:

HUD reserves the right to cancel, suspend, and/or modify the Competition, or any part of it, for any reason, at HUD's sole discretion.

Participation in this competition constitutes a contestant's and teams full and unconditional agreement to abide by the competition's official rules found at *http://www.huduser.org/portal/challenge/home.html.*

Authority: 15 U.S.C. 3719.

Dated: September 23, 2014.

Katherine M. O'Regan,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2014–23279 Filed 9–29–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N190; FXFR1337088SSO0]

Marine Mammals; Incidental Take During Specified Activities; Proposed Incidental Harassment Authorization

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application and proposed incidental harassment authorization; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the United States Coast Guard (USCG) for authorization to take small numbers of marine mammals by harassment incidental to the replacement of pier piles and the potable water line at USCG Station Monterey in Monterey County, California. In accordance with provisions of the Marine Mammal Protection Act of 1972 (MMPA), as amended, we request comments on our proposed authorization for the applicant to incidentally take, by harassment, small numbers of southern sea otters from November 1, 2014, to October 31, 2015. We anticipate no take by injury or death and include none in this proposed authorization, which would be for take by harassment only.

DATES: Comments and information must be received by October 30, 2014.

ADDRESSES: You may submit comments by any one of the following methods:

1. *U.S. mail or hand-delivery:* Steve Henry, Field Supervisor, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, CA 93003.

2. *Fax:* 805–644–3958, attention to Steve Henry, Field Supervisor.

3. *Electronic mail (email): R8_SSO-IHA_Comment@fws.gov*. Please include your name and U.S. mail address in your message.

Electronic copies of the incidental harassment authorization request, the Final Environmental Assessment (EA), and Marine Mammal Monitoring Plan may be obtained by writing to the address specified above, telephoning the contact listed in **FOR FURTHER INFORMATION CONTACT**, or visiting the Internet at *http://www.fws.gov/ventura/endangered/species/info/sso.html*. Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned U.S. mail address.

FOR FURTHER INFORMATION CONTACT: To request copies of the application, the list of references used in this notice, and other supporting materials, contact Lilian Carswell at the address in **ADDRESSES**, or by email at *Lilian_Carswell@fws.gov*.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA, as amended (16 U.S.C. 1371 (a)(5)(A) and (D)), authorize the Secretary of the Interior to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, provided that we make certain findings and either issue regulations or, if the taking is limited to harassment, provide a notice of a proposed authorization to the public for review and comment.

We may grant authorization to incidentally take marine mammals if we find that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. As part of the authorization process, we prescribe permissible methods of taking and other means of effecting the least practicable impact on the species or stock and its habitat, and requirements pertaining to the monitoring and reporting of such takings.

The term ''take,'' as defined by the MMPA, means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill, any marine mammal. Harassment, as defined by the MMPA, means ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [the MMPA calls this Level A harassment], or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [the MMPA calls this Level B harassment].''

The terms ''negligible impact,'' ''small numbers,'' and ''unmitigable adverse impact'' are defined in 50 CFR 18.27, the Service's regulations governing take of small numbers of marine mammals incidental to specified activities. ''Negligible impact'' is defined as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' The term ''small numbers'' is also defined in the regulations, but we do not rely on that definition here, as it conflates the terms ''small numbers'' and ''negligible impact,'' which we recognize as two separate and distinct requirements. Instead, in our small numbers determination, we evaluate whether the number of marine mammals likely to be taken is small relative to the size of the overall population. ''Unmitigable adverse impact'' is defined as ''an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase

the availability of marine mammals to allow subsistence needs to be met.'' The subsistence provision applies to northern sea otters (*Enhydra lutris kenyoni*) in Alaska but not to southern sea otters (from here forward, ''sea otters'').

Summary of Request

In July 2013, we received a request from the USCG (Applicant) for MMPA authorization to take by harassment southern sea otters (*Enhydra lutris nereis*) incidental to the replacement of pier piles and the potable water line at USCG Station Monterey in Monterey Harbor, California. The Applicant proposes to remove and replace 17 timber piles that structurally support the patrol boat pier (Pier), replace the existing potable water line, and improve associated structures to maintain the structural integrity of the Pier and potable water line. Pile driving activities would be limited to the period from June 15 to October 15, but other construction activities could occur at any time during the 1-year authorization window. On April 3, 2014, we were notified that, due to Federal funding issues affecting its contracting timelines, the USCG was requesting that the start date of its 1-year authorization window be delayed to September 2014. On June 20, 2014, we were notified that the USCG was requesting another delay in its start date, to October 15, 2014. A detailed description of the proposed action is contained in the incidental harassment authorization request submitted to us by the USCG (URS 2013). The proposed action is expected to result in take, by Level B Harassment only, of sea otters.

Description of the Activity

The proposed action would involve removing the existing timber deck, timber stringers, steel pile caps, steel support beams, and hardware to access the 17 timber piles that need to be replaced. The timber piles, which are approximately 14 to 16 inches (in) (36 to 41 centimeters (cm)) in diameter and covered with polyvinyl chloride (PVC) wraps, would be removed by means of a vibratory extractor. Each timber pile would be replaced with a steel pipe pile up to 18 in (46 cm) in diameter, with 0.5 in (1.3 cm) thick walls. Each steel pipe pile would be positioned and installed in the footprint of the extracted timber pile. The new steel pipe piles would not be filled with concrete. Other material and hardware removed to conduct the pile replacement would be replaced with in-kind materials. Due to dense substrate at the project site, a majority of the steel pipe pile installation would likely require impact pile driving, but vibratory pile driving would be conducted to the extent feasible, with an impact hammer used for proofing the piles. Pre-drilling would be permitted but discontinued when the pile tip is approximately 5 feet (ft) (1.5 meters (m)) above the required pile tip elevation. If the steel pipe pile could not be driven 30 ft (9 m) below the mudline with an impact hammer due to the substrate or jetty armor, the pile would be posted onto the armor stone using 36 in (91 cm) diameter concrete pedestals and dowels anchored into the armor stone. Concrete slurry would be used to cement stone within 5 ft (1.5 m) of posted steel pipe piles to further secure the piles.

Pile extraction and driving equipment would not be located on the existing Pier but on a barge positioned in a manner that would not impede access to the floating docks or disrupt Pier access. The barge would be secured so that pedestrians would not be able to access it. Several proposed ancillary repairs to the Pier deck and floating dock are associated with this project. Specifically, under-deck repairs would involve restoring bearings at pedestals and sea walls with non-shrink grout pads and replacing underwater pile struts. Above-deck repairs would include removing abandoned mooring hardware, replacing missing sections of curb, and replacing isolated deck planks that have deteriorated. Repairs to the floating dock would include repairing tie rods, repairing concrete spall, relocating and securing gangway wear plate(s), replacing cleats, replacing missing rubstrips, and replacing underwater pile struts.

Best management practices would be employed during demolition and construction activities to prevent debris from falling into the water. A sound attenuation system (bubble curtain) would be used during impact hammer pile driving. The bubble curtain creates an underwater wall of air around the pile to dissipate in-water sound waves. The Applicant has proposed additional measures to reduce impacts on marine mammals. We discuss these measures below under ''Mitigation Measures.''

To facilitate supplementary monitoring of effects on sea otters in or near the project area, the Service has requested, and the USCG has agreed to provide, 24-hour advance notice of pile driving activity and a record of the start and stop times of all pile driving activities once they are completed.

a. Timing of Activity

The proposed pile extraction and driving activities would occur between June 15 and October 15 of 2015. Pile driving activities would be expected to require no more than 10 days of the total construction time, with a maximum of 60 to 70 minutes of pile driving occurring per day. In total, approximately 10 to 12 hours of underwater and airborne noise would be expected to result from pile driving and extraction activities associated with the proposed action. Other construction activities could occur at any time during the November 1, 2014, to October 31, 2015, authorization window and would likely require a maximum of 60 work days for completion.

b. Geographic Location of Activity

The USCG Station Monterey is located at 100 Lighthouse Avenue, in the city and county of Monterey, California. The Pier is on the eastern portion of the USCG Station's waterfront facility, along a jetty that extends approximately 1,300 ft (396 m) east into Monterey Harbor. The Pier and floating docks are on the southern side of the jetty.

Description of Marine Mammals in the Area of the Activity

Several species of marine mammals occur in the proposed construction area, including the Pacific harbor seal (*Phoca vitulina richardsi*), California sea lion (*Zalophus californianus*), harbor porpoise (*Phocoena phocoena*), killer whale (*Orcinus orca*), and gray whale (*Eschrichtius robustus*). These species are under the jurisdiction of the National Marine Fisheries Service and are considered under a separate proposed IHA notice (79 FR 13991; March 12, 2014). The only marine mammal species under the jurisdiction of the Service that occurs in the proposed construction area is the sea otter.

Southern sea otters are listed as threatened under the Endangered Species Act of 1973, as amended (ESA) (42 FR 2965; January 14, 1977), and, because of their threatened status, are automatically considered ''depleted'' under the MMPA. The State of California also recognizes the sea otter as a fully protected mammal (Fish and Game Code section 4700) and as a protected marine mammal (Fish and Game Code section 4500). All members of the sea otter population in California are descendants of a small group that survived the fur trade and persisted near Big Sur, California. Historically ranging from at least as far north as Oregon (Valentine et al. 2008) to Punta Abreojos, Baja California, Mexico, in the south, sea otters currently occur in only two areas of California. The mainland population ranges from San Mateo

County to Santa Barbara County, and a translocated population exists at San Nicolas Island. The most recent (2013) California-wide index of abundance is 2,941 individuals (*www.werc.usgs.gov/seaottercount*). Additional general information on status and trends of the sea otter may be found in the stock assessment report, available at *http://www.fws.gov/ventura/endangered/species/info/sso.html.*

Sea otters occur in the Monterey Bay Harbor area year round. Census data for 2013 and 2014 indicate that there are, on average, three to four sea otters per 1,640 ft (500 m) of coastline within Monterey Harbor and in the immediately adjacent shoreline areas (U.S. Geological Survey (USGS) 2013, 2014). Figure 6–2 of URS (2013) shows the expected extent of attenuated underwater noise resulting from the proposed project to thresholds of 190, 180, and 160 decibels (dB) re 1 micro-Pascal (μPa) root mean square (RMS). Direct observations indicate that approximately six independent (adult or juvenile) sea otters utilize the area expected to be exposed to underwater noise of 160 dB or higher, about half of which are adult females with pups (Staedler, pers. comm. 2014). Sea otters typically use this area to rest and to forage. In areas close to the proposed project location (within the modeled underwater 180 to 190 dB zone), sea otters occasionally use a passage through the rocks to access the kelp beds north of the jetty from the harbor (M. Staedler, Monterey Bay Aquarium Sea Otter Research and Conservation Program, pers. comm. 2014).

Potential Impacts of the Proposed Action on Sea Otters

In this section we provide a qualitative discussion of the potential impacts of the proposed project. The ''Estimated Take by Incidental Harassment'' section later in this document includes a quantitative analysis of the number of individuals that may be taken by Level B harassment as a result of this activity.

Marine mammals exposed to high-intensity sound repeatedly or for prolonged periods can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak et al. 1999; Schlundt et al. 2000; Finneran et al. 2002, 2005). A permanent threshold shift (PTS) is said to occur when the loss of hearing sensitivity is unrecoverable, whereas a temporary threshold shift (TTS) is said to occur when the animal's hearing threshold recovers over time (Southall et al. 2007). Noise exposures resulting in TTS can cause PTS if repeated over time. Chronic exposure to excessive, but not high-intensity, noise can cause masking at the frequency band that some animals utilize for vital biological functions (Clark et al. 2009). Noise can also cause other forms of disturbance when marine mammals alter their normal patterns of behavior to move away from the source.

Relatively little is known regarding the effects of noise on sea otters, but they have not been reported to be particularly sensitive to noise disturbance, especially in comparison to other marine mammals (Riedman 1983, 1984). Many marine mammals depend on acoustic cues for vital biological functions, such as orientation, communication, locating prey, and avoiding predators. However, sea otters are not known to use acoustic information to orient or to locate prey, nor are they known to communicate underwater. Ghoul and Reichmuth (in press) obtained aerial and underwater audiograms for a captive adult male sea otter and evaluated his hearing in the presence of noise. In air, the sea otter's hearing was similar to that of a sea lion but less sensitive to high-frequency (greater than 22 kHz) and low-frequency (less than 2 kHz) sounds than terrestrial mustelids. Underwater, the sea otter's hearing was less sensitive than that of sea lions and other pinnipeds, particularly at frequencies below 1 kHz. Critical ratios were more than 10 dB above those measured in pinnipeds, suggesting that sea otters have a relatively poor capacity to detect acoustic signals in noise.

Observed responses of wild sea otters to disturbance are highly variable, probably reflecting the level of noise and activity to which they have been exposed and become acclimated over time and the particular location and social or behavioral state of that individual (G. Bentall, Monterey Bay Aquarium Sea Otter Research and Conservation Program, pers. comm. 2010). Sea otters appeared to be relatively undisturbed by pile driving activities in Elkhorn Slough during the construction of the Parsons Slough Sill, with many showing no response to pile driving and generally reacting more strongly to passing vessels associated with construction than to the sounds of machinery (Elkhorn Slough National Estuarine Research Reserve (ESNERR) 2011). However, these animals were likely acclimated to loud noises, as they occupied an area near an active railroad track, which produced in-air sound levels comparable to those produced by the vibratory driving of H piles (ESNERR 2011).

The most likely effect of the proposed project on sea otters is behavioral disturbance due to construction noise and activity. Potentially affected areas include the harbor and the area immediately north of the jetty. Underwater and airborne noise generated by pile replacement work may cause sea otters that rest or forage within or near the harbor to relocate temporarily to nearby areas. Behavioral changes resulting from disturbance could include startle responses, the interruption of resting behaviors (while in-water or hauled out on nearby docks), and changes in foraging patterns. Most likely, sea otters would move away from the noise source and would be temporarily displaced from the pile replacement work area.

The National Marine Fisheries Service (NMFS) employs acoustic exposure criteria to define Level A harassment (injury) and Level B harassment (disturbance) resulting from sound for the marine mammal species under its jurisdiction. For underwater noise, NMFS currently uses 180 and 190 dB re 1 μPa (received levels) as the thresholds for Level A harassment of cetaceans and pinnipeds, respectively. NMFS uses 120 and 160 dB re 1 μPa (received levels) as the thresholds for Level B harassment due to non-impulsive (vibratory pile driving and removal) and impulsive (impact pile driving) sources, respectively, for both cetaceans and pinnipeds. For airborne noise, NMFS uses 90 and 100 dB re 20 μPa (received levels) as a guideline (but not formal threshold) for the onset of Level B harassment for harbor seals and all other pinnipeds, respectively (79 FR 13991; March 12, 2014). NMFS does not have a guideline for the onset of Level A harassment of pinnipeds by airborne noise (A. Scholik-Schlomer, Office of Protected Resources, Marine Mammal and Sea Turtle Conservation Division, pers. comm. 2014). However, Southall et al. (2007) propose an injury criterion for sea lions exposed to airborne noise of 172.5 dB re 20 μPa.

In the absence of sufficient data on which to base noise exposure thresholds specific to sea otters, but in light of evidence suggesting that the hearing sensitivities of sea lions and sea otters are generally comparable (although underwater, sea otter hearing appears to be less sensitive than sea lion hearing), we use the thresholds, guidelines, and criteria applicable to sea lions as proxies. With regard to underwater noise, we use the thresholds adopted by NMFS for pinnipeds (e.g., sea lions) to evaluate whether noise exposure levels would constitute Level A or Level B harassment of sea otters. With regard to

airborne noise, we use the guideline that NMFS uses for pinnipeds other than harbor seals to evaluate whether anticipated exposure levels resulting from this project would constitute Level B harassment of sea otters and the injury criterion proposed in Southall et al. (2007) for sea lions to evaluate whether the anticipated airborne noise exposures would constitute Level A harassment. Specifically, we use 190 dB re 1 μPa as the threshold for Level A harassment underwater and 120 dB re 1 μPa (for non-impulse sources) and 160 dB re 1 μPa (for impulse sources) as the thresholds for Level B harassment underwater. Similarly, we adopt for sea otters the 100 dB re 20 μPa guideline that NMFS uses for in-air Level B harassment of pinnipeds other than harbor seals. We use the Southall et al. (2007) criterion of 172.5 dB re 20 μPa for sea lions to approximate the airborne noise levels that may cause injury to sea otters.

Potential Effects of the Proposed Action on Sea Otter Habitat

No permanent impacts on habitat are proposed or would occur as a result of this project. The Proposed Action would not increase the Pier's existing footprint, and no new structures would be installed that would result in the loss of additional habitat. Therefore, no restoration of habitat would be necessary. A temporary, small-scale loss of foraging habitat may occur if sea otters leave the area during pile extraction and driving activities.

Potential Impacts on Subsistence Needs

The subsistence provision of the MMPA does not apply.

Mitigation Measures

The USCG has proposed the following measures to prevent Level A harassment (injury) and to reduce the extent of potential effects from Level B harassment (disturbance) to marine mammals.

1. Noise attenuation: Noise attenuation systems (i.e., bubble curtains) would be used during all impact pile driving to interrupt the acoustic pressure and reduce the impact on marine mammals. By reducing underwater sound pressure levels at the source, bubble curtains would minimize the size of the Level A harassment exclusion zone and reduce the area within which Level B harassment would occur, thereby minimizing the number of sea otters affected.

2. Establishment of Level A and Level B harassment zones based on in-water and in-air empirical sound measurements of pile driving and removal: A Level A harassment exclusion zone would include all areas where underwater sound pressure levels were expected to reach or exceed 190 dB re 1 μPa. Modeled distances to the 190 dB isopleth are 33 ft (10 m) or less for attenuated noise and 75 ft (23 m) or less for unattenuated noise. To provide a margin of safety, a provisional conservative exclusion zone would be established during initial pile extraction and driving efforts while hydroacoustic measurements were made to establish actual field conditions. A bubble curtain would be employed, but during initial pile extraction and driving, the exclusion zone would be set at the modeled distances for unattenuated noise. The Level A and Level B harassment zones would be adjusted, in consultation with NMFS and the Service, once field conditions for impulse and non-impulse noise sources were established through hydroacoustic monitoring. Airborne noise monitoring would also be conducted to ensure that noise levels were consistent with those anticipated. Regardless of the results of field measurements, the radius of the Level A exclusion zone would be a minimum of 33 ft (10 m) to prevent the injury of sea otters from machinery. An exclusion zone of this radius would also preclude the possibility that sea otters could be exposed to airborne noise levels with the potential to cause injury. Airborne noise levels from pile driving at a distance of 33 ft (10 m) from the source are expected to be 104 dB re 20 μPa for vibratory driving and 116 dB re 20 μPa for impact driving (K. Bayer, URS, pers. comm. 2014). These noise levels are well below the potential threshold for injury, 172.5 dB re 20 μPa.

3. Visual monitoring and shutdown procedures: The exclusion zone would be monitored visually prior to any pile extraction and driving activities to ensure that the area was clear of any sea otters. Pile extraction or driving would not commence (or re-commence following a shutdown) until sea otters were not sighted within the exclusion zone for a 15-minute period. If a sea otter entered the exclusion zone during pile replacement work, work would stop until the animal left the exclusion zone. Monitoring would be conducted by qualified observers familiar with marine mammal species, including sea otters, and their behavior. The observer would monitor the exclusion zone from the best vantage point possible (the Pier itself, the jetty, or adjacent boat docks in the harbor) to determine whether sea otters entered the exclusion zone.

4. Soft-start procedures: A ''soft-start'' technique would be used to allow sea otters to vacate the area before the pile driver reached full power. For vibratory hammers, the contractor would initiate the driving or extraction for 15 seconds at reduced energy, followed by a 1-minute waiting period. This procedure would be repeated two additional times before continuous driving or extraction proceeded. For impact driving, an initial set of three strikes would be made by the hammer at 40 percent energy, followed by a 1-minute waiting period and two subsequent three-strike sets before the initiation of continuous driving. A soft start would be used in any instance following a down time of 30 minutes or more.

5. Daylight construction period: Work would occur only during daylight hours (7 a.m. to 7 p.m.) to facilitate visual observation of the exclusion zone.

Monitoring and Reporting

The USCG would follow two detailed monitoring plans: One for conducting acoustic measurements and one for documenting marine mammal observations. The acoustic monitoring plan would ensure that measurements are recorded to provide data on actual noise levels during construction and provide data to ensure that the marine mammal exclusion zone is enforced during pile extraction and driving activities. The marine mammal monitoring plan would provide details on data collection for each marine mammal species observed in the project area during the construction period. Monitoring would include the following: Marine mammal behavior observations, count of the individuals observed, and the frequency of the observations.

Acoustic Monitoring

Both underwater and airborne noise would be measured. Hydroacoustic monitoring would be conducted by a qualified monitor during pile extraction and driving activities. Details would be developed during work plan preparation, but could include monitoring one pile in every set of three piles during installation. A reference location would be established at the estimated 180 dB contour (approximately 330 ft (100 m) from the pile). Noise measurements would be taken at the reference location and at locations every 20 ft (6 m) until the 180 dB level (Level A threshold) is found. Measurements would be taken at two depths: One in mid-water column, and one near the bottom but at least 3 ft (0.9 m) above the bottom. Marine mammal exclusion zones would be adjusted according to the results of this monitoring. Additional acoustical

monitoring details would be developed in conjunction with NMFS and the Service prior to the start of construction.

Airborne noise monitoring would be conducted at two locations. One location would be at 49 to 98 ft (15 to 30 m) from the pile driving operation to provide near-source noise measurements. This location would likely be a fixed position with an intended clear view of pile driving operations. The second system would be established at the haul-out area on the jetty. The actual position would be determined in the field, depending on access and security issues. This position is anticipated to be 262 to 492 ft (80 to 150 m) from the piles driven. Airborne sound levels would be continuously monitored for the duration of pile extraction or installation. The maximum 1/8th second average (i.e., L_{max}) of each 1 second (or pile strike) and the energy average level (L_{eq}) for each pile would be measured in real time. Airborne sound levels would be measured in decibels referenced to 20 μPa.

Marine Mammal Monitoring and Reporting

The USCG would employ protected species observers trained in marine mammal identification and behavior and approved by NMFS and the Service.

- Biological monitoring would occur on two separate days within one week before the first day of construction to establish baseline observations. Baseline observations would be used for comparison with observations during pile driving and removal activities.
- Monitoring for marine mammal presence would commence 30 minutes before any pile driving or removal activities and conclude 30 minutes after any pile driving or removal activities.
- Monitoring of marine mammals around the construction site would be conducted using high-quality binoculars as necessary (e.g., Zeiss, 10 × 42 power).
- Marine mammal visual monitoring would occur from the best vantage points available, including the USCG Pier, jetty, adjacent docks within the harbor, or watercraft, in order to maintain a comprehensive view of the exclusion zone and adjacent areas during the survey period. Monitors would be equipped with radios or cell phones for maintaining contact with work crews.
- Vessel-based visual marine mammal monitoring within the 120 dB and 160 dB level B harassment zones would be conducted during 10 percent of the vibratory pile driving and removal and impact pile driving activities, respectively.
- Data collection would consist of a count of all marine mammals by species, a description of behavior (if possible), location, direction of movement, type of construction that is occurring, time that pile replacement work begins and ends, any acoustic or visual disturbance, and time of the observation. Environmental conditions such as weather, visibility, temperature, tide level, current, and sea state would also be recorded.
- Weekly monitoring reports that summarize the monitoring results, construction activities, and environmental conditions would be submitted to NMFS and the Service.
- A final report would be submitted to NMFS and the Service within 90 days after completion of the proposed project.
- The Service would require the USCG to notify the Service's Ventura Fish and Wildlife Office and the Monterey Bay Aquarium by telephone within one hour of sighting an injured sea otter in the vicinity of the construction site, or within 24 hours of sighting a dead sea otter in the vicinity of the construction site. The USCG would be required to provide a description of the condition of the animal(s) or carcass(es), location, time of discovery, observed behavior (if alive), and photographic or video documentation, if available. In the unanticipated event that the construction activities clearly caused the injury or death of a sea otter, the USCG would be required immediately to suspend all activities and immediately to report the incident by telephone to the Service's Ventura Fish and Wildlife Office and the Monterey Bay Aquarium. The USCG would not be permitted to resume activities until notified by the Service by email, letter, or telephone.

Estimated Take by Incidental Harassment

Based on the proposed construction methodology and mitigation, including use of an exclusion zone, no Level A harassment is anticipated as a result of the proposed project. Behavioral harassment (Level B) will be considered to have occurred when sea otters are exposed to (1) in-air noise of 100 dB or greater or (2) underwater noise of 160 dB RMS or greater for impulse noise (impact pile driving) and 120 dB RMS for continuous noise (vibratory pile extraction and driving). For continuous noise, RMS levels are based on a time constant of 10 seconds, and those RMS levels should be averaged across the entire event. For impact pile driving, the overall RMS level should be characterized by integrating sound energy for each acoustic pulse across 90 percent of the acoustic energy in each pulse, and averaging all the RMS levels for all pulses.

URS (2013) estimated the number of exposures of sea otters to underwater and airborne sound, using a formula based on the following assumptions:

- All piles to be installed would have a noise disturbance distance equal to the pile that causes the greatest noise disturbance (i.e., the piling furthest from shore, in this case the easternmost pile along the jetty).
- An average of two or three piles would be installed and removed per day. The best estimate of the number of days during which pile driving would occur is 10 days, and this was used in all modeling calculations.
- Mitigation (e.g., a noise attenuation system such as a bubble curtain) would be used during impact pile driving.
- An individual sea otter can only be taken once per method of installation during a 24-hour period.

URS (2013) calculated the number of exposures using the following formula: Take Estimate = *n* multiplied by AOI multiplied by 10 days of activity, where: *n* (number of animals per unit area) is the density estimate used for each species (for the sea otter, the unit of area is linear km of coastline) and AOI (area of influence) is the area encompassed by all locations where the sound pressure levels equal or exceed the threshold being evaluated. Multiplying *n* by AOI produces an estimate of the abundance of animals that could be present in the area of exposure per day. Because the final take estimate must be a whole number, values are rounded up to the next whole number.

The AOI impact is the estimated range of noise impact for a given threshold. Because the work will be conducted near the jetty, underwater noise is not expected to spread spherically from the source. Underwater noise contours were therefore modeled using SoundPlan. The contours were then imported to ArcGIS to calculate the area within the contours and determine the AOI for each threshold. The AOI for vibratory pile driving encompasses the area out to the 120 dB isopleth (Level B threshold), while the AOI for impact driving encompasses the area out to the 160 dB isopleth (Level B threshold). It is assumed that an underwater noise attenuation system, such as a bubble curtain with an estimated 10 dB attenuation, would be used as a mitigation measure. However, the actual attenuation that will be achieved in the field is unknown and would likely vary

with each installation. Airborne noise would spread spherically from the source; therefore, the AOI for airborne impacts was calculated as the area within a circle (Area = *pi* multiplied by radius squared).

Although 10 days of total in-water work are proposed, pile extraction or driving would only occur periodically during that time. An average work day (beginning 2 hours after sunrise and ending 2 hours before sunset) is approximately 8 to 9 hours, depending on the month. Although it is anticipated that only 60 to 70 minutes would be spent pile driving per day, to take into account deviations from the estimated times for pile installation and extraction, and to account for the additional use of the impact pile driver in case of failure of the vibratory hammer to reach the desired embedment depth, the potential impacts were modeled as if the entire day could be spent pile driving.

Based on these assumptions and an abundance of 8 sea otters per 0.62 mile (1 kilometer) of coastline for the Monterey Harbor and adjacent areas (USGS 2012), URS estimated that during 10 days of pile driving, there could be 44 exposures to underwater sound within the 160 dB threshold zone for impact driving, 480 exposures to underwater sound within the 120 dB threshold zone for vibratory driving, 10 exposures to airborne sound resulting from impact driving, and 4 exposures to airborne sound resulting from vibratory driving (URS 2013). Approximately 8 sea otters occur in the area that would be exposed to impulsive underwater noise of 160 dB or greater, and approximately 48 sea otters occur within the entire area that could be exposed to project-related sound exceeding the Level B harassment thresholds (defined by the 120 dB threshold for continuous underwater noise, which is larger than and encompasses all other threshold zones).

Thus, we expect 44 potential exposures (for up to 8 otters) within the 160 dB (underwater impulsive) threshold zone and 494 potential exposures (for up to 48 otters) within the 120 dB (underwater continuous) or 100 dB (airborne) threshold zones.

Findings

We propose the following findings regarding this action:

Negligible Impact

We find that any incidental take by harassment that is reasonably likely to result from the proposed project would not adversely affect the sea otter by means of effects on rates of recruitment or survival, and would, therefore, have no more than a negligible impact on the stock. In making this finding, we considered the best available scientific information, including: (1) The biological and behavioral characteristics of the species; (2) information on distribution and abundance of sea otters within the area of the proposed activity; (3) the potential sources of disturbance during the proposed activity; and (4) the potential response of sea otters to disturbance.

The estimated 44 potential exposures (for up to 8 otters) within the 160 dB (underwater impulsive) threshold zone and 494 potential exposures (for up to 48 otters) within the 120 dB (underwater continuous) or 100 dB (airborne) threshold zones are expected to result in negligible impact, because sea otters do not appear to be particularly sensitive to noise (and often do not react visibly to it) and because any behavioral reactions to noise are expected to be temporary and of short duration. In particular, the estimate of the number of sea otters that would be harassed by exposure to project-related sound based on the 120 dB threshold may overstate impacts, because this threshold is sometimes at or even below the ambient noise level in certain locations. For instance, Illingworth & Rodkin, Inc., measured ambient noise levels in the Monterey Harbor in the project area and found that ambient sounds were in the 110 to 120 dB range, with frequent acoustic events, such as boat traffic, resulting in sound levels that exceeded 120 dB (URS 2013, Appendix A).

The mitigation measures outlined above are intended to minimize the number of sea otters that could be disturbed by the proposed activity. Any impacts to individuals are expected to be limited to Level B harassment of short duration. Responses of sea otters to disturbance would most likely be common behaviors such as diving and/or swimming away from the source of the disturbance. No take by injury or death is anticipated. Because any Level B harassment that occurs would be of short duration, and because no take by injury or death is anticipated, we find that the anticipated harassment caused by the proposed activities is not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival.

Our finding of negligible impact applies to incidental take associated with the proposed activity as mitigated through this authorization process. This authorization establishes monitoring and reporting requirements to evaluate the potential impacts of the authorized activities, as well as mitigation measures designed to minimize interactions with, and impacts to, sea otters.

Small Numbers

For small numbers take analysis, the statute and legislative history do not expressly require a specific type of numbers analysis, leaving the determination of ''small'' to the agency's discretion. The sea otter population in California consists of approximately 2,941 animals. The number of sea otters that could potentially be taken by harassment in association with the proposed project, approximately 48 animals, is 1.6 percent of the population size. We find that the number of sea otters utilizing the affected area is small relative to the size of the population.

Impact on Subsistence

The subsistence provision of the MMPA does not apply to southern sea otters.

Endangered Species Act

The proposed activity will occur within the range of the southern sea otter, which is listed as threatened under the ESA. The Applicant has initiated interagency consultation under section 7 of the ESA with the Service's Ventura Fish and Wildlife Office. We will also complete intra-Service section 7 consultation on our proposed issuance of the IHA.

National Environmental Policy Act (NEPA)

The impacts associated with the project are described in a final EA prepared on behalf of the USCG (URS 2014). The Service will review the EA and decide either to adopt it or prepare its own NEPA document before making a determination on the issuance of an IHA. Our analysis will be completed prior to issuance or denial of the IHA and will be available at *http://www.fws.gov/ventura/endangered/species/info/sso.html.*

Government-to-Government Relations With Native American Tribal Governments

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, Secretarial Order 3225, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes on a Government-to-Government basis. We

have evaluated possible effects on federally recognized Indian Tribes and have determined that there are no effects.

Proposed Authorization

The Service proposes to issue an IHA for small numbers of sea otters harassed incidentally by the Applicant while the applicant is completing waterfront repairs at USCG Station Monterey, with a 1-year authorization window beginning November 1, 2014, and ending October 31, 2015. Authorization for incidental take beyond this period would require a request for renewal.

The final IHA would incorporate the mitigation, monitoring, and reporting requirements discussed in this proposal. The Applicant would be responsible for following those requirements. These authorizations would not allow the intentional taking of sea otters.

If the level of activity exceeded that described by the Applicant, or the level or nature of take exceeded those projected here, the Service would reevaluate its findings. The Secretary may modify, suspend, or revoke an authorization if the findings are not accurate or the conditions described in this notice are not being met.

Request for Public Comments

The Service requests interested persons to submit comments and information concerning this proposed IHA. Consistent with section 101(a)(5)(D)(iii) of the MMPA, we are opening the comment period on this proposed authorization for 30 days (see **DATES**).

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: September 23, 2014.

Polly Wheeler,

Acting Deputy Regional Director, Pacific Southwest Region.

[FR Doc. 2014–23233 Filed 9–29–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORW00000 L16100000.AL0000 LXSS02H0000 15XL5017AP HAG14–0201]

Notice of Meeting of the San Juan Islands National Monument Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the Bureau of Land Management's (BLM) San Juan Islands National Monument Advisory Committee (MAC) will meet as indicated below.

DATES: The MAC will meet October 29–30, 2014, from 10:15 a.m.–3:45 p.m. both days, at the San Juan Island Grange, 152 N 1st Street, Friday Harbor, Washington 98250. The first day of the meeting will be devoted to new member orientation and an introduction to the resource management plan process. The second day of the meeting will include establishing MAC goals and beginning a collaborative project on public outreach, closing with a public comment period.

FOR FURTHER INFORMATION CONTACT: Marcia deChadenèdes, San Juan Islands National Monument Manager, P.O. Box 3, 37 Washburn Ave., Lopez Island, Washington 98261, (360) 468–3051, or *mdechade@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 12-member San Juan Islands MAC was chartered to provide information and advice regarding the development of the San Juan Islands National Monument's resource management plan. Members represent an array of stakeholder interests in the land and resources from within the local area and statewide. Planned agenda items include training on the Federal Advisory Committee Act, advisory committee procedures, the resource management plan process, MAC goal setting, and a collaborative project on public outreach. On October 30, 2014, at 2:45 p.m., members of the public will have the opportunity to make comments to the MAC during a one-hour public comment period. All advisory committee meetings are open to the public. Persons wishing to make comments during the public comment period should register in person with the BLM by 2 p.m. on October 30, 2014, at the meeting location. Depending on the number of persons wishing to comment, the length of comments may be limited. The public may send written comments to the MAC at San Juan Islands National Monument, Attn. MAC, P.O. Box 3, 37 Washburn Ave., Lopez Island, Washington 98261. The BLM appreciates all comments.

Jody L. Weil,

Oregon State Office Deputy State Director for Communications.

[FR Doc. 2014–23235 Filed 9–29–14; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02015200, 14XR0687NA, RX185279294000000]

Notice of Availability and Notice of Public Hearings for the Draft Environmental Impact Statement/ Environmental Impact Report for Long-Term Water Transfers, Central Valley and Bay Area, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation and the San Luis & Delta-Mendota Water Authority have made available for public review and comment the Long-Term Water Transfers Draft Environmental Impact Statement/ Environmental Impact Report (EIS/EIR). The Draft EIS/EIR addresses water transfers to Central Valley Project (CVP) contractors south of the Delta and in the San Francisco Bay area from CVP and non-CVP sources from north of the Delta using Delta pumps (both CVP and State Water Project (SWP) facilities). Water transfers would occur through various methods such as groundwater substitution, cropland idling, reservoir release, and conservation, and would include individual and multiyear transfers from 2015 through 2024.

DATES: Send written comments on the Draft EIS/EIR on or before December 1, 2014.

Three hearings to receive oral or written comments will be held on the following dates:

- Wednesday, October 15, 2014, 2:00 p.m.–4:00 p.m., Sacramento, California.
- Thursday, October 16, 2014, 6:00 p.m.–8:00 p.m., Los Banos, California.

• Tuesday, October 21, 2014, 6:00 p.m.–8:00 p.m., Chico, California.

ADDRESSES: Send written comments or requests for copies to Mr. Brad Hubbard, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825; or via email to *bhubbard@usbr.gov*.

The hearing locations are:

• Sacramento—Quality Inn and Suites at Cal Expo, 1413 Howe Avenue, Sacramento, California 95825, (916) 922–9833.

• Los Banos—San Luis & Delta-Mendota Water Authority, 842 Sixth Street, Los Banos, California 93635, (209) 826–9696.

• Chico—Chico Masonic Family Center, 1110 W. East Avenue, Chico, California 95926, (530) 342–7143.

To request a compact disc of the Draft EIS/EIR, please contact Mr. Brad Hubbard as indicated above, or call (916) 978–5204. The Draft EIS/EIR may be viewed at the Bureau of Reclamation's Web site at *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=18361.* See **SUPPLEMENTARY INFORMATION** section for locations where copies of the Draft EIS/EIR are available for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Brad Hubbard, Project Manager, Bureau of Reclamation, via email at *bhubbard@usbr.gov,* or at (916) 978–5204; or Ms. Frances Mizuno, Assistant Executive Director, San Luis & Delta-Mendota Water Authority, via email at *frances.mizuno@sldmwa.org,* or at (209) 832–6200.

SUPPLEMENTARY INFORMATION: Hydrologic conditions, climatic variability, and regulatory requirements for operation of water projects commonly affect water supply availability in California. Project supplies are often the primary source of water for south of Delta users, and the complex factors constraining operational decisions not only strain total annual water supplies, but regularly create mismatched timing between planting decisions and announcement of final water supply allocations, making advance planning for water shortages necessary and routine. These conditions and resulting shortages create a need for water transfers to help meet water demands.

The purpose of Long-Term Water Transfers is to facilitate voluntary water transfers from willing sellers upstream of the Delta to water users south of the Delta and in the San Francisco Bay Area. The maximum approvable quantity transferable to any contractor cannot exceed that contractor's total contract supply, but instead helps to make up for shortages. Such transfers need to be implementable within narrow annual windows for decisions on each end and flexible enough to address highly variable shortages and annual differences in farming decisions north and south of the Delta.

The objectives for long-term water transfers through 2024 include:

• Develop supplemental water supply for the San Luis & Delta-Mendota Water Authority (SLDMWA) member agencies during times of CVP shortages to meet anticipated demands up to the total CVP contract quantities.

• Allow for transfers to meet the need of SLDMWA member agencies for a supplemental water supply that are quickly implementable and flexible enough to respond to changes in hydrologic conditions and CVP allocations.

• Provide a framework to facilitate transfers that will be needed in most years.

The EIR/EIS analyzes four alternative actions. Alternative 1 is No Action.

Alternative 2, Full Range of Transfers, is the Proposed Action. This alternative combines all potential transfer measures that met the purpose and need and were carried forward through the screening process. Alternative 3, No Cropland Modifications, includes conservation, groundwater substitution, and reservoir release. Alternative 4, No Groundwater Substitution, includes conservation, cropland idling transfers—rice, field and grains, crop shifting, and reservoir release.

Transfers of CVP supplies and transfers that require use of CVP facilities are subject to review by the Bureau of Reclamation (Reclamation) in accordance with the Central Valley Project Improvement Act of 1992, Reclamation's water transfer guidelines, and California State law. Pursuant to Federal and State law and subject to separate written agreement, Reclamation and the Department of Water Resources would facilitate water transfers involving CVP contract water supplies and CVP and SWP facilities. Buyers and sellers would be responsible for negotiating the terms of the transfers, including amount of water for transfer, method to make water available, and price.

The EIS/EIR identifies potential selling parties in northern California, methods by which water could be made available for transfer, and maximum amounts of water available through each method. The EIS/EIR also identifies potential purchasing agencies south of the Delta and the proposed use of transfer water.

The EIS/EIR analyzes alternative transfer methods to make water available through operational flexibility of the existing system. Groundwater substitution transfers occur when sellers forego diversion of their surface water supplies and pump an equivalent amount of groundwater as an alternative supply. The purchasing agency would receive the foregone surface water supply. The quantity of water available for transfer would account for potential stream flow losses as a result of groundwater-surface water interaction. Cropland idling would make water available for transfer that would have been used for agricultural irrigation without the transfer. Typically, the proceeds from the water transfer would pay farmers to idle land that they would have placed in production. Reservoir release transfers would involve releasing water from non-Project entities (not part of the CVP or SWP) for transfer that would have otherwise remained in storage. Conservation transfers involve actions to reduce the diversion of surface water by the transferring entity by reducing irrecoverable water losses.

Water transfers under the Proposed Action involving conveyance through the Delta would be implemented within the operational parameters of the existing system, which includes Biological Opinions on the Continued Long-term Operations of the CVP/SWP and any other regulatory restrictions in place at the time of implementation of the water transfers. Current operational parameters applicable to the transfer water include use of the SWP's Harvey O. Banks Pumping Plant and CVP's C.W. ''Bill'' Jones Pumping Plant during July through September only.

Public Review of Draft EIS

Copies of the Draft EIS/EIR are available for public review at the following locations:

1. Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 95825.
2. Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225.
3. Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW., Main Interior Building, Washington, DC 20240–0001.
4. San Luis & Delta-Mendota Water Authority, 842 6th Street, Los Banos, CA 93635.

Special Assistance for Public Hearings

If special assistance is required to participate in the scoping meeting, please contact Mr. Louis Moore at (916) 978–5106, or via email at *wmoore@usbr.gov.* Please contact Mr. Moore at least 10 working days prior to the

meeting. A telephone device for the hearing impaired (TDD) is available at (916) 978–5608.

Public Disclosure

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: August 13, 2014.

Pablo R Arroyave,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. 2014–23234 Filed 9–29–14; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1SS08011000SX066A00067F134S180110; S2D2SS08011000SX066A00033F13XS501520]

Action Subject to Intergovernmental Review

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement, are notifying the public that we intend to grant funds to eligible applicants for purposes authorized under the Abandoned Mine Land (AML) Reclamation Program. Additionally we are notifying the public that we intend to grant funds to eligible applicants for regulating coal mining within their jurisdictional borders. We will award these grants during fiscal year 2015.

DATES: A state single point of contact and other interested state or local entities may submit written comments regarding AML and regulatory funding by December 31, 2014.

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

- *Electronic mail:* Send your comments to *jbautista@osmre.gov.*
- *Mail, hand-delivery, or courier:* Send your comments to Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252–SIB, 1951 Constitution Avenue NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Jay Bautista, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW., MS 130–SIB, Washington, DC 20240; Telephone (202) 208–7411.

SUPPLEMENTARY INFORMATION:

Grant Notification

We are notifying the public that we intend to grant funds to eligible applicants for purposes authorized under the Abandoned Mine Land (AML) Reclamation Program. Additionally we are notifying the public that we intend to grant funds to eligible applicants for regulating coal mining within their jurisdictional borders. We will award these grants during fiscal year 2015. Eligible applicants are those states and tribes with a regulatory program or reclamation plan approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.,* and the State of Tennessee. Under Executive Order (E.O.) 12372, we must provide state and tribal officials the opportunity to review and comment on proposed federal financial assistance activities. Of the eligible applicants, nineteen states and tribes do not have single points-of-contact under the E.O.12372 review process; therefore, we are required to publish this notice as an alternate means of notification.

Description of the AML Program

SMCRA established the Abandoned Mine Reclamation Fund to receive the AML fees used to finance reclamation of AML coal mine sites. Grants to eligible states and tribes are funded from permanent (mandatory) appropriations. Recipients use these funds to reclaim the highest priority AML coal mine sites that were left abandoned prior to the enactment of SMCRA in 1977, eligible non-coal sites, and for non-reclamation projects.

Description of the Regulatory Program

Title VII of SMCRA authorizes us to provide grants to states and Indian tribes to develop, administer, and enforce state regulatory programs addressing surface coal mining operations. Title V and Title VII authorize states and tribes to develop regulatory programs pursuant to SMCRA and, upon approval of regulatory programs, to assume regulatory primacy and act as the regulatory authority, and to administer and enforce their respective approved SMCRA regulatory programs. Our regulations at 30 CFR Chapter VII implement the provisions of SMCRA.

Dated: September 22, 2014.

Joseph G. Pizarchik,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 2014–23168 Filed 9–29–14; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–904]

Certain Acousto-Magnetic Electronic Article Surveillance Systems, Components Thereof, and Products Containing Same; Commission's Determination To Review an Initial Determination Terminating the Investigation Based on a Settlement Agreement and Issuance of a Consent Order; Issuance of a Consent Order; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 13) terminating the investigation based on settlement and issuance of a consent order. On review, the Commission modifies the ID by revising the proposed consent order to be in compliance with the Commission's rules, issues the revised consent order, and terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation

on January 15, 2014, based on a complaint filed on behalf of Tyco Fire & Security GmbH of Switzerland; Sensormatic Electronics, LLC of Boca Raton, Florida; and Tyco Integrated Security, LLC of Boca Raton, Florida (collectively ''Complainants''). 79 *FR* 2692–93 (Jan. 15, 2014). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the sale for importation, importation, or sale within the United States after importation of certain acousto-magnetic electronic article surveillance systems, components thereof, and products containing same by reason of infringement of U.S. Patent No. 5,729,200 and U.S. Patent No. 6,181,245. The notice of investigation named Ningbo Signatronic Technologies, Ltd., of Ningbo, China; All-Tag Security Americas, Inc., of Boca Raton, Florida; All-Tag Security Hong Kong Co., Ltd. of Tsuen Wan N.T., Hong Kong; All-Tag Europe SPRL of Brussels, Belgium; All-Tag Security UK, Ltd. of Cheshire, United Kingdom; Best Security Industries of Delray Beach, Florida; and Signatronic Corporation of Boca Raton, Florida as respondents (collectively ''Respondents''). The Office of Unfair Import Investigations (''OUII'') was also named as a party to the investigation.

On August 11, 2014, Complainants and Respondents filed a joint motion to terminate the investigation based upon a settlement agreement, a consent order stipulation and a proposed consent order. The moving parties represented that there are no other agreements, written or oral, express or implied between them concerning the subject matter of this investigation other than the consent order stipulation, settlement agreement and consent order. The moving parties provided public versions of the settlement agreement. OUII filed a response stating that it did not oppose the motion.

On August 25, 2014, the ALJ granted the motion for termination of the investigation. The ALJ found that the consent order stipulation complied with the Commission's rules but made no such finding as to the proposed consent order. The ALJ also found that there was no evidence that terminating the investigation based on settlement and consent order would be contrary to the public interest. No petitions for review were filed.

The Commission has determined to review the subject ID. Commission Rule 210.21(c)(4) states in part that ''[t]he Commission will not issue consent orders with terms beyond those provided for in this section. . . .'' The Commission finds that the parties' proposed consent order includes not only the provisions specified in Rule 210.21(c)(4), but also includes additional terms from the consent order stipulation. On review, the Commission revises the proposed consent order to bring it into compliance with the Commission's rules, issues the revised consent order, and terminates the investigation. The settlement agreement and consent order resolve all claims asserted in the investigation.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: September 24, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–23184 Filed 9–29–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—AllSeen Alliance, Inc.

Notice is hereby given that, on September 2, 2014, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), AllSeen Alliance, Inc. (''AllSeen Alliance'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing 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, Shanghai Fortune Techgroup Co., Ltd., Xuhui District, Shanghai, PEOPLE'S REPUBLIC OF CHINA; Vedams, Inc., San Jose, CA; Legrand France, Limoges, FRANCE; Microsoft Corporation, Redmond WA; Grid2Home, San Diego, CA; FreeWings Technologies Co., Ltd.; Yingzhou District, Ningbo, PEOPLE'S REPUBLIC OF CHINA; MachineShop, Inc., Boston, MA; ControlBEAM Digital Automation, Irvine, CA; Cloud of Things, Givat Brenner, ISRAEL; Revolv Inc., Boulder, CO; Shaspa GmbH, Boeblingen, GERMANY; Electrolux Home Products, Inc., Charlotte, NC; ISI Technology, Charleston, SC; Tellient, San Diego, CA; and Ping Identity, Denver, CO, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AllSeen Alliance intends to file additional written notifications disclosing all changes in membership.

On January 29, 2014, AllSeen Alliance 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 March 4, 2014 (79 FR 12223).

The last notification was filed with the Department on June 26, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 23, 2014 (79 FR 42817).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–23144 Filed 9–29–14; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on ROS-Industrial Consortium-Americas

Notice is hereby given that, on September 4, 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''), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium-Americas (''RIC-Americas'') 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, Caterpillar Inc., Peoria, IL; Flextronics, San Jose, CA; and Siemens Corporation, Berkeley, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RIC-Americas intends to file additional written notifications disclosing all changes in membership.

On April 30, 2014, RIC-Americas 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 9, 2014 (79 FR 32999).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–23286 Filed 9–29–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—DVD Copy Control Association

Notice is hereby given that, on September 4, 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''), DVD Copy Control Association (''DVD CCA'') 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, City Brand International Limited, Shenzhen, People's Republic of China, has been added as a party to this venture.

Also, Eclipse Data Technologies, Pleasanton, CA; Hitachi Ltd., Tokyo, Japan; Hong Kong ASA Multimedia Co., Ltd., Kowloon, Hong Kong–China; Marubun Corporation, Tokyo, Japan; MediaCore, Inc., Gyeonggi-Do; Republic of Korea; and Nutron International Co., Ltd., Shenzhen, Guangdong, People's Republic of China, have withdrawn as parties to this venture.

In addition, Silicon Application Company Limited has changed its name to Silicon Application Corp., Shenzhen, People's Republic of China.

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 DVD CCA intends to file additional written notifications disclosing all changes in membership.

On April 11, 2001, DVD CCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on May 14, 2014. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 19, 2014 (79 FR 35187).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2014–23283 Filed 9–29–14; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Voluntary Protection Program Information

ACTION: Notice.

SUMMARY: On September 30, 2014, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) revision titled, ''Voluntary Protection Program Information,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 30, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201409-1218-003* (this link will only become active on October 1, 2014) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Voluntary Protection Program (VPP) Information ICR. The VPP is a partnership between labor, management, and government designed to recognize and promote excellence in safety and health management. In order to participate in the VPP, an applicant submits an application and an annual self-evaluation containing a detailed description of its safety and health management programs to the OSHA, which uses the information to conduct a preliminary analysis of the worksite's programs and to make a preliminary determination regarding the worksite's qualifications for the VPP. This ICR has been classified as a revision, because existing VPP forms have been modified and the collection will include additional forms that enable the OSHA to improve the tracking and monitoring of VPP participants.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0239. The current approval is scheduled to expire on September 30, 2014; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 30, 2014 (79 FR 36834).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by October 30, 2014. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0239. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Voluntary Protection Program Information.

OMB Control Number: 1218–0239.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 2,549.

Total Estimated Number of Responses: 5,650.

Total Estimated Annual Time Burden: 134,475 hours.

Total Estimated Annual Other Costs Burden: $4,884,132.

Dated: September 24, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–23165 Filed 9–29–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice.

SUMMARY: This notice announces the Office of Management and Budget's (OMB) approval of the supply and service recordkeeping requirements for the Office of Federal Contract Compliance Programs (OFCCP). This also includes approval of a revised Scheduling Letter, Itemized Listing, and Compliance Check Letter covering the Executive Order (EO) 11246 non-construction, supply and service, aspects of the agency's program that is subject to the Paperwork Reduction Act of 1995 (PRA). This notice announces OMB approval of control number 1250–0003.

FOR FURTHER INFORMATION CONTACT: Debra A. Carr, Director, Division of Policy and Program Development, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Ave. NW., Room C–3325, Washington, DC 20210 (202) 693–0104. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: OFCCP first announced its intent to seek renewal of its OMB approved recordkeeping requirements, including the Scheduling Letter, Itemized Listing, and Compliance Check Letter, in a notice published in the **Federal Register** on May 12, 2011 (76 FR 27670). OFCCP published a second notice on September 28, 2011 (76 FR 60083). In the information collection request (ICR), OFCCP proposed revisions to the Scheduling Letter and Itemized Listing that had been approved by OMB on September 30, 2008, for a three-year period (hereinafter ''2008 Letter'' or ''2008 Itemized Listing'').[1] OMB renewed its approval of the ICR under OMB control number 1250–0003. The approval expires 03/31/2016. The Scheduling Letter and Itemized Listing OMB approved reflect OFCCP's review and consideration of the public comments submitted in response to 2011 **Federal Register** notices.

The nonsubstantive changes proposed in 2011, and incorporated in the OMB approved renewal, update or correct legal citations, change language used in the text to better reflect the regulatory structure of compliance evaluations, and revise the writing style to improve the readability and clarity of the documents. The limited number of substantive changes that OFCCP incorporated in the OMB approved renewal reduce the cost and burden imposed on contractors; maintain contractor flexibility when submitting employment activity data; support effective and efficient agency enforcement in the area of pay discrimination; and incorporate changes required by OFCCP's recent regulatory activity. An overview of the substantive changes to the Scheduling Letter, Itemized Listing, and Compliance Check Letter is below.

I. Scheduling Letter

In 2013, new regulations implementing the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), as amended, eliminated 41 CFR part 60–250, Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Special Disabled Veterans, Veterans of the Vietnam Era, Recently Separated Veterans, and Other Protected Veterans. The ICR incorporates this change.

II. Itemized Listing

The Itemized Listing, used in conjunction with the Scheduling Letter, identifies for contractors the documents and information that they must provide for the desk audit phase of an OFCCP compliance evaluation. During the public comment period on the revisions proposed to the Itemized Listing in 2011, OFCCP received several valuable comments from a variety of stakeholders. This OMB approved renewal reflects these comments whereby OFCCP substantially reverts to the 2008 Itemized Listing, including continuing to allow contractors to submit employment activity data by either job group or job title. Maintaining the option of reporting employment activity by either job group or job title eliminates the burden that some commenters associated with collecting, analyzing and reporting data in two different ways as OFCCP proposed in 2011. Contractors will continue to provide this data by sex; however, they will submit race and ethnicity information using five specified categories instead of two broad categories (i.e., minority and nonminority).

To reduce the potential cost and burden that some commenters associated with the Itemized Listing even further, OFCCP made changes to aspects of its compensation data requirements. OFCCP changed the 2008 Itemized Listing so that it no longer requires that contractors submit annualized aggregate compensation data. Instead, contractors will submit individualized employee compensation data as of the date of the workforce analysis in their Affirmative Action Programs, also noting the job title, job group and EEO–1 category. By adopting this approach, OFCCP opted to modify its 2011 proposal. This change is

[1] The 2008 Letter originally was scheduled to expire on September 30, 2011. The 2008 Letter and Itemized Listing received month-to-month extensions while the ICR was under OMB review.

expected to reduce the cost and burden that some commenters associated with collecting, tabulating, and analyzing data to submit in aggregate form. OFCCP also refined its definition of compensation, as proposed in 2011, to include consideration of hours worked, incentive pay, merit increases, locality pay, and overtime.

In the 2008 Letter, OFCCP encouraged the use of electronic submission of the data. In the OMB approved renewal, the agency is requiring contractors to provide the data electronically but only if they maintain it in an electronic format that is useable and readable. This provides contractors with more flexibility when compared to what OFCCP proposed in 2011, and the provision may contribute to faster and more efficient compliance evaluations.

Finally, OFCCP was required to make several changes to the 2008 Itemized Listing based on recent regulatory changes. The Section 503 of the Rehabilitation Act of 1973 and VEVRAA final rules, published in September 2013, changed the data collection, recordkeeping and reporting requirements of these two regulations. The VEVRAA rulemaking also eliminated 41 CFR part 60–250, and OFCCP rescinded the Voluntary Guidelines and Compensation Standards in February 2013 (78 FR 13508). Therefore, OFCCP had no discretion and incorporated these regulatory changes into the renewal of this ICR.

III. The Compliance Check Letter

In 2011, OFCCP proposed changes to the 2008 Compliance Check Letter. However, none of the changes the agency proposed was substantive.

As provided in 5 CFR 1320.5(b) and 1320.6(a), an agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number. The agency must inform individuals who are to respond to the collection that they are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Dated: September 24, 2014.

Debra A. Carr,

Director, Division of Policy and Program Development, Office of Federal Contract Compliance Programs.

[FR Doc. 2014–23177 Filed 9–29–14; 8:45 am]

BILLING CODE 4510–45–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

TIME AND DATE: The Legal Services Corporation's Board of Directors and its six committees will meet October 5–7, 2014. On Sunday, October 5, the first committee meeting will commence at 3:30 p.m., Eastern Daylight Time (EDT), with each committee meeting thereafter commencing promptly upon adjournment of the immediately preceding meeting, and the Finance Committee meeting will commence at 4:30 p.m. On Monday, October 6, the first committee meeting will commence at 7:45 a.m., EDT, with each committee meeting thereafter commencing promptly upon adjournment of the immediately preceding meeting. On Tuesday, October 7, the Board of Directors meeting will commence at 8 a.m., EDT, and will continue until the conclusion of the agenda.

PLACE: Hilton Albany Hotel, 40 Lodge Street, Albany, New York 12207.

PUBLIC OBSERVATION: Unless otherwise noted herein, the Board and all committee meetings will be open to public observation. Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348;
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the presiding Chair may solicit comments from the public.

Meeting Schedule

	* Time
SUNDAY, OCTOBER 5, 2014	
1. Operations & Regulations Committee	3:30 p.m.
2. Delivery of Legal Services Committee	
MONDAY, OCTOBER 6, 2014	
1. Audit Committee	7:45 a.m.
2. Governance and Performance Review Committee	
3. Institutional Advancement Committee	
4. Finance Committee	4:30 p.m.
TUESDAY, OCTOBER 7, 2014	
1. Board of Directors	8 a.m.

STATUS: Open, except as noted below.

Board of Directors—Open, except that, upon a vote of the Board of Directors, a portion of the meeting may be closed to the public to hear briefings by management and LSC's Inspector General, and to consider and act on the General Counsel's report on potential and pending litigation involving LSC and on a list of prospective funders.**

Audit Committee—Open, except that the meeting may be closed to the public to hear a briefing on the Office of Compliance and Enforcement's active enforcement matter(s) and follow-up to open investigation referrals from the Office of the Inspector General.**

Institutional Advancement Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to consider and act on a list of prospective funders, and to discuss the donor report and 40th anniversary follow-up.**

A verbatim written transcript will be made of the closed session of the Board, Audit Committee, and Institutional Advancement Committee meetings. The transcript of any portions of the closed sessions falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) and (10), will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

October 5, 2014

Operations & Regulations Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting of July 20, 2014
3. Report on updating population data for grants to serve migratory and other agricultural workers
   - Ron Flagg, General Counsel
4. Report on Rulemaking Agenda
   - Ron Flagg, General Counsel
   - Stefanie Davis, Assistant General Counsel
   - Mark Freedman, Senior Assistant

* Please note that all times in this notice are in the *Eastern Daylight Time.*

** Any portion of the closed session consisting solely of briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session. 5 U.S.C. 552b(a)(2) and (b). *See also* 45 CFR 1622.2 and 1622.3.

General Counsel
5. Consider and act on 45 CFR Part 1614—Private Attorney Involvement
   - Ron Flagg, General Counsel
   - Stefanie Davis, Assistant General Counsel
   - Mark Freedman, Senior Assistant General Counsel
   - Public Comment
6. Other public comment
7. Consider and act on other business
8. Consider and act on adjournment of meeting

Delivery of Legal Services Committee

Open Session

1. Approval of Agenda
2. Approval of minutes of the Committee's Open Session meeting of July 21, 2014
3. Panel presentation: The Difference That Leadership from the Judiciary Makes: How the New York State Task Force on Increasing Access to Justice Affects Legal Services Across New York
   - Lillian M. Moy, Executive Director, Legal Aid Society of Northeastern New York
   - William J. Hawkes, Executive Director, Neighborhood Legal Services
   - C. Kenneth Perri, Executive Director, Legal Assistance of Western New York
   - Paul J. Lupia, Executive Director, Legal Aid Society of Mid-New York
   - Barbara Finkelstein, Executive Director, Legal Services of the Hudson Valley
   - Jim Sandman, President, Legal Services Corporation (*Moderator)*
4. Public comment
5. Consider and act on other business
6. Consider and act on motion to adjourn the meeting

October 6, 2014

Audit Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting of July 21, 2014 meeting
3. Briefing by Office of Inspector General
   - Jeffrey Schanz, Inspector General
4. Management update regarding risk management
   - Ron Flagg, Vice President of Legal Affairs
5. Briefing about referrals by the Office of Inspector General to the Office of Compliance and Enforcement regarding matters from the annual Independent Public Accountants' audits of grantees and OIG Reports on Selected Internal Controls
   - Jeffrey Schanz, Inspector General
   - John Seeba, Assistant IG for Audits
   - Lora Rath, Director of Compliance and Enforcement
6. Public comment
7. Consider and act on other business

Closed Session

8. Approval of minutes of the Committee's Closed Session meeting of July 21, 2014
9. Briefing by Office Compliance and Enforcement on active enforcement matter(s) and follow-up to open investigation referrals from the Office of Inspector General
   - Lora Rath, Director of Compliance and Enforcement
10. Consider and act on adjournment of meeting

Governance and Performance Review Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting of July 20, 2014
3. Report on progress in implementing GAO Recommendations
   - Carol Bergman, Director of Government Relations & Public Affairs
4. Report on Board and Committee evaluations
   - Carol Bergman
5. Report on LSC research agenda
   - Public Welfare Foundation Grant, Jim Sandman, President
   - Margaret Cargill Foundation Grant, Jim Sandman
6. Consider and act on other business
7. Public comment
8. Consider and act on motion to adjourn meeting

Institutional Advancement Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting of July 20, 2014
3. Report on September 40th Anniversary Conference
4. Communications Subcommittee report
   - Julie Reiskin, Chairperson, Communications Subcommittee
   - Carl Rauscher, Director of Communications and Media Relations
5. Public comment
6. Consider and act on other business

Closed Session

1. Approval of minutes of the Committee's Closed Session meeting of July 20, 2014
2. Consider and act on prospective funders
3. Donor report
4. 40th Anniversary follow-up
5. Consider and act on adjournment of meeting

Finance Committee

Open Session

1. Approval of agenda
2. Approval of the minutes of the Committee's Open Session telephonic meeting of June 27, 2014
3. Approval of the minutes of the Committee's Open Session telephonic meeting of July 16, 2014
4. Approval of the minutes of the Committee's Open Session meeting of July 21, 2014
5. Presentation on LSC's Financial Reports for the ten-month period ending July 31, 2014
   - David Richardson, Treasurer/Comptroller
6. Report on status of FY 2015 and FY 2016 appropriation
   - Carol Bergman, Director, Government Relations and Public Affairs
7. Consider and act on Resolution #2014–XXX, Temporary Operating Authority for FY 2015
   - David Richardson, Treasurer/Comptroller
8. Public comment
9. Consider and act on other business
10. Consider and act on adjournment of meeting

October 7, 2014

Board of Directors

Open Session

1. Pledge of Allegiance
2. Approval of agenda
3. Approval of minutes of the Board's Open Session meeting of July 22, 2014
4. Chairman's Report
5. Members' Reports
6. President's Report
7. Inspector General's Report
8. Consider and act on Resolution 2014–XXX in recognition of service by Thomas D. Coogan
9. Consider and act on Resolution 2014–XXX in memoriam of John Donald Robb, Jr.
10. Consider and act on the report of the Delivery of Legal Services Committee
11. Consider and act on the report of the Finance Committee
12. Consider and act on the report of the Audit Committee
13. Consider and act on the report of the Operations and Regulations Committee

14. Consider and act on the report of the Governance and Performance Review Committee
15. Consider and act on the report of the Institutional Advancement Committee
16. Report on implementation of recommendations of the Pro Bono Task Force Report and Pro Bono Innovation Fund
17. Public comment
18. Consider and act on other business
19. Consider and act on whether to authorize an executive session of the Board to address items listed below, under Closed Session

Closed Session

20. Approval of minutes of the Board's Closed Session of July 22, 2014
21. Management Briefing
22. Inspector General Briefing
23. Consider and act on General Counsel's report on potential and pending litigation involving LSC
24. Consider and act on list of prospective funders
25. Consider and act on motion to adjourn meeting

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

Non-confidential Meeting Materials: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC Web site, at *http://www.lsc.gov/board-directors/meetings/board-meeting-notices/non-confidential-materials-be-considered-open-session.*

Accessibility: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: September 25, 2014.

Atitaya C. Rok,

Staff Attorney.

[FR Doc. 2014–23321 Filed 9–26–14; 4:15 pm]

BILLING CODE 7050–01–P

NATIONAL SCIENCE FOUNDATION

Conservation Act of 1978; Notice of Waste Permit Application Received

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act and request for comments.

SUMMARY: Notice is hereby given that the National Science Foundation (NSF) has received a waste management permit application for the United States Antarctic Program (USAP), submitted to NSF pursuant to regulations issued under the Antarctic Conservation Act of 1978.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application on or before October 30, 2014. The permit application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Polly A. Penhale at the above address or at (703) 292–7420.

SUPPLEMENTARY INFORMATION: Antarctic Waste Regulations in 45 CFR part 671 require U.S. citizens, corporations, or other entities to obtain a permit for the use or release of designated pollutants in Antarctica and for the release of any waste in the Antarctic. NSF has received a permit application under this regulation for USAP activities in Antarctica. The permit applicant is: Lockheed Martin, 7400 South Tucson Way, Centennial, CO 80112.

The permit application applies to USAP activities conducted by all supporting organizations at all USAP facilities and operations in Antarctica. The proposed duration of the permit is from October 1, 2014 through September 30, 2019.

Lockheed Martin (LM) and other supporting organizations provide broad-based logistical support, technical support, and transportation services to the USAP. This includes the transport of both hazardous and non-hazardous waste from Antarctica to the United States.

LM operations include procuring, transporting to Antarctica, and tracking materials containing designated pollutants that are required for USAP operations, and for NSF and NSF grantees. LM is also responsible for fuel operations including fuel storage, distribution, and resupply; and record-keeping of fuel use. LM collects, stores, and ships both hazardous and non-hazardous waste materials and is responsible for the final disposition of these materials once they are returned to the United States. LM also provides training and technical guidance to enhance the safety and effectiveness of U.S. waste management practices in Antarctica.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2014–23209 Filed 9–29–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

SES Performance Review Board

AGENCY: National Transportation Safety Board.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the National Transportation Safety Board, Performance Review Board (PRB).

FOR FURTHER INFORMATION CONTACT: Emily T. Carroll, Chief, Human Resources Division, Office of Administration, National Transportation Safety Board, 490 L'Enfant Plaza SW., Washington, DC 20594–0001, (202)314–6233.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, United States Code requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor and considers recommendations to the appointing authority regarding the performance of the senior executive.

The following have been designated as members of the Performance Review Board of the National Transportation Safety Board:

The Honorable Mark R. Rosekind, Member, National Transportation Safety Board; PRB Chair

The Honorable Robert L. Sumwalt, III; Member, National Transportation Safety Board

David Tochen, General Counsel, National Transportation Safety Board

Florence A.P. Carr, Director, Bureau of Trade Analysis, Federal Maritime Commission

Jerold Gidner, Tribal Team Lead, Government Sector for the Extractive

Industries Transparency Initiative, Department of the Interior
David L. Mayer, Managing Director, National Transportation Safety Board (substitute only for Mr. Tochen's rating review)
Anthony P. Scardino, Chief Financial Officer, U.S. Patent and Trademark Office (Alternate)

Dated: September 24, 2014.

Candi R. Bing,

Federal Register Liaison.

[FR Doc. 2014–23142 Filed 9–29–14; 8:45 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0237]

Event Reporting Guidelines

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG–1022, Revision 3, Supplement 1, ''Event Reporting Guidelines: 10 CFR 50.72(b)(3)(xiii).'' This final NUREG–1022, Revision 3, Supplement 1 endorses the Nuclear Energy Institute (NEI) 13–01, ''Reportable Action Levels for Loss of Emergency Preparedness Capabilities,'' dated July 2014. NEI 13–01 provides specific guidance for reporting to the NRC any event that results in a major loss of emergency assessment capability, offsite response capability, or offsite communications capability.

DATES: The final NUREG is effective on September 30, 2014.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2011–0237 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0237.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The final NUREG–1022, Revision 3, Supplement 1 is available in ADAMS under Accession No. ML14267A447. NEI 13–01, dated July 2014, is also available in ADAMS under Accession No. ML14197A206.

• *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.

II. Background

The NRC staff issued a **Federal Register** notice on May 2, 2014 (79 FR 25158), that requested comments on a draft NUREG–1022, Revision 3, Supplement 1. The NRC received one public comment from the Nuclear Energy Institute (NEI). A disposition of the comments may be found in Appendix A of NUREG–1022, Revision 3, Supplement 1. The final NUREG–1022, Revision 3, Supplement 1 will become effective immediately.

NUREG–1022, Revision 3, ''Event Reporting Guidelines: 10 CFR 50.72 and 50.73,'' (ADAMS Accession No. ML13032A220) contains guidelines that the NRC considers acceptable for use in meeting the requirements of §§ 50.72 and 50.73 of Title 10 of the *Code of Federal Regulations* (10 CFR). The NRC uses the information reported under 10 CFR 50.72 and 10 CFR 50.73 in responding to emergencies, monitoring ongoing events, confirming licensing bases, studying potentially generic safety problems, assessing trends and patterns of operational experience, monitoring performance, identifying precursors of more significant events, and providing operational experience to the industry. Sections 1 and 2 of NUREG–1022, Revision 3 contain general guidance applicable to all event reports. Section 3 of NUREG–1022, Revision 3 contains guidance for each of the specific reporting criterion found within the rule. Section 4 of NUREG–1022 Revision 3 contains additional general guidance applicable to reports submitted under 10 CFR 50.72. Section 5 of NUREG–1022, Revision 3 contains additional general guidance applicable to reports submitted under 10 CFR 50.73.

Section 3.2.13 of NUREG–1022, Revision 3 provides guidance for reporting to the NRC the events listed under 10 CFR 50.72(b)(3)(xiii): any event that results in a major loss of emergency assessment capability, offsite response capability, or offsite communications capability. Although some of the guidance is specific, much of the guidance is general in nature. In many areas, the decision to report under 10 CFR 50.72(b)(3)(xiii) involves a licensee's use of engineering judgment. A licensee's use of engineering judgment can result in inconsistent application. During public meetings conducted on April 3, 2013 (ADAMS Accession No. ML13100A390), and on May 7, 2013 (ADAMS Accession No. ML13109A228), the NRC discussed with external stakeholders, including the NEI, what specific considerations might be evaluated against when the NRC determines if acceptable engineering judgment was applied by a licensee. NEI 13–01, ''Reportable Action Levels for Loss of Emergency Preparedness Capabilities,'' (ADAMS Accession No. ML13281A794) was then drafted with the purpose of providing a detailed uniform approach to reporting under 10 CFR 50.72(b)(3)(xiii). By letter dated October 8, 2013 (ADAMS Accession No. ML13281A780), NEI requested NRC's endorsement of NEI 13–01.

On May 2, 2014 (79 FR 25158), the NRC proposed to endorse NEI 13–01 dated October 2013 via a Draft for Comment NUREG–1022, Revision 3, Supplement 1 (ADAMS Accession No. ML14114A384). The NRC received five comments from NEI (ADAMS Accession No. ML14149A243). On July 3, 2014, a public meeting was held to discuss the comments (ADAMS Accession No. ML14192B164). A summary of how the five comments were dispositioned is found in Appendix A of NUREG–1022, Revision 3, Supplement 1.

NEI 13–01 was then revised to reflect the discussions held on July 3, 2014. By letter dated July 16, 2014 (ADAMS Accession No. ML14197A205), NEI requested NRC endorsement of NEI 13–01 dated July 2014 (ADAMS Accession No. ML14197A206). NEI 13–01 provides more specific guidance for reporting under 10 CFR 50.72(b)(3)(xiii) and, as a result, reduces the need for engineering judgment. It should also be noted that some of the specific guidance found in NEI 13–01 differs from certain specific positions found in Section 3.2.13 of NUREG 1022, Revision 3.

NUREG–1022, Revision 3, Supplement 1, ''Event Reporting Guidelines: 10 CFR 50.72(b)(3)(xiii)'' (ADAMS Accession No. ML14267A447) endorses NEI 13–01, ''Reportable Action Levels for Loss of Emergency Preparedness Capabilities,'' dated July 2014, as an acceptable alternative to guidance found in Section 3.2.13 of NUREG–1022, Revision 3, for reporting considerations associated with 10 CFR 50.72(b)(3)(xiii).

Since Sections 1, 2, and 4 of NUREG–1022, Revision 3 contain general guidance for event reporting that would still be applicable to reports submitted under 10 CFR 50.72(b)(3)(xiii), these sections are not considered superseded by licensee adoption of NEI 13–01.

III. Backfitting and Issue Finality

NUREG–1022, Revision 3, Supplement 1, provides guidance on the method that the NRC staff finds acceptable for a licensee to meet the information and collection requirements of 10 CFR 50.72(b)(3)(xiii). The issuance of this guidance is not backfitting, as the term is defined in 10 CFR 50.109, or inconsistent with the issue finality provisions on 10 CFR part 52, because information collection and reporting requirements are not included within the scope of the NRC's backfitting protections or part 52 finality provisions.

Dated at Rockville, Maryland, this 24th day of September 2014.

For the Nuclear Regulatory Commission.

Scott A. Morris,

Director, Division of Inspections and Regional Support, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–23282 Filed 9–29–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0207]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 4, 2014 to September 17, 2014. The last biweekly notice was published on September 16, 2014.

DATES: Comments must be filed by October 30, 2014. A request for a hearing must be filed by December 1, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0207. 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.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mable Henderson, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3760, email: *Mable.Henderson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0207 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0207.
- *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 (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0207 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR Part 2.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://*

www.nrc.gov/site-help/e-submittals/getting-started.html. System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Entergy Nuclear Operations, Inc., Docket No. 50–255, Palisades Nuclear Plant (PNP), Van Buren County, Michigan

Date of amendment request: July 29, 2014. A publicly-available version is in ADAMS under Accession No. ML14211A520.

Description of amendment request: The amendment would change the Operating License at PNP. Specifically, the amendment requests authorization to implement 10 CFR 50.61a, ''Alternate fracture toughness requirements for protection against pressurized thermal shock events,'' in lieu of 10 CFR 50.61, ''Fracture toughness requirements for protection against pressurized thermal shock events.'' PNP currently complies with 10 CFR 50.61. The 10 CFR 50.61 screening criteria define a limiting level of embrittlement beyond which plant operation cannot continue without further evaluation. As described in NUREG–1806, ''Technical Basis for Revision of the Pressurized Thermal Shock (PTS) Screening Limit in the PTS Rule (10 CFR 50.61),'' August 2007, the screening criteria in the PTS rule is overly conservative and the risk of through-wall cracking due to a PTS event is much lower than previously estimated. A publically-available version of NUREG–1806 is in ADAMS under Accession No. ML072830074.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards

consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This amendment request would allow implementation of the 10 CFR 50.61a alternate pressurized thermal shock (PTS) rule in lieu of the 10 CFR 50.61 PTS rule, and would not involve a significant increase in the probability or consequences of an accident. Application of 10 CFR 50.61a in lieu of 10 CFR 50.61 would not result in physical alteration of a plant structure, system or component, or installation of new or different types of equipment. Further, application of 10 CFR 50.61a would not significantly affect the probability of accidents previously evaluated in the Updated Final Safety Analysis Report (UFSAR) or cause a change to any of the dose analyses associated with the UFSAR accidents because accident mitigation functions would remain unchanged. Use of 10 CFR 50.61a would change how fracture toughness of the reactor vessel is assessed and does not affect reactor vessel neutron radiation fluence. As such, implementation of 10 CFR 50.61a in lieu of 10 CFR 50.61 would not increase the likelihood of a malfunction.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

The amendment request would allow implementation of the 10 CFR 50.61a alternate PTS rule in lieu of 10 CFR 50.61. No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed change. No physical plant alterations are made as a result of the proposed change. The proposed change does not challenge the performance or integrity of any safety-related system. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The amendment request would authorize implementation of 10 CFR 50.61a in lieu of 10 CFR 50.61. Regulation 10 CFR 50.61a would maintain the same functional requirements for the facility as 10 CFR 50.61. It establishes screening criteria that limit levels of embrittlement beyond which operation cannot continue without further plant-specific evaluation or modifications. Sufficient safety margins are maintained to ensure that any potential increases in core damage frequency and large early release frequency resulting from implementation of 10 CFR 50.61a are negligible. As such, there would be no significant reduction in the margin of safety as a result of use of the alternate PTS rule. The margin of safety associated with the acceptance criteria of accidents previously evaluated in the UFSAR is unchanged. The proposed change would have no effect on the availability, operability, or performance of the safety-related systems and components.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. William Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Ave., White Plains, NY 10601.

NRC Branch Chief: David L. Pelton.

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Units 1 and 2, Ogle County, Illinois

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–010, 50–237 and 50–249, Dresden Nuclear Power Station, Units 1, 2 and 3, Grundy County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: August 11, 2014. A publicly-available version is in ADAMS under Accession No. ML14224A245.

Description of amendment request: The proposed changes would revise the description for the Emergency Response Organization (ERO) requalification training frequency for Exelon personnel defined in Exelon's governing Emergency Plans for the named stations from annually to ''once per calendar year not to exceed 18 months between training sessions.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Exelon has evaluated the proposed changes to the affected sites' Emergency Plans and determined that the changes do not involve a Significant Hazards Consideration. In support of this determination, an evaluation of each of the three (3) standards, set forth in 10 CFR 50.92, ''Issuance of amendment,'' is provided below.

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not increase the probability or consequences of an accident. The proposed changes do not involve the modification of any plant equipment or affect plant operation. The proposed changes will have no impact on any safety-related Structures, Systems, or Components (SSC).

The proposed changes would revise the ERO requalification frequency from an annual basis to once per calendar year not to exceed 18 months between training sessions defined in the Emergency Plan for the applicable Exelon facility. The proposed changes will align the Exelon legacy plants under one standard regarding the annual requalification training frequency for ERO personnel.

Therefore, the proposed changes to the Emergency Plan requalification training frequency for the affected sites do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes have no impact on the design, function, or operation of any plant SSC. The proposed changes do not affect plant equipment or accident analyses. The proposed changes only affect the administrative aspects of the annual ERO requalification training frequency requirements.

Therefore, the proposed changes to the Emergency Plan requalification training frequency for the affected sites do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analyses. There is no change being made to safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes. Margins of safety are unaffected by the proposed changes to the frequency in the ERO requalification training requirements.

Therefore, the proposed changes to the Emergency Plan requalification training frequency for the affected sites do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Bradley Fewell, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Travis L. Tate.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of application for amendments: July 25, 2014. A publicly-available version is in ADAMS under Accession No. ML14211A017.

Description of amendment request: The proposed amendment would change the definition in the PBAPS, Units 2 and 3, Technical Specifications (TS) for RECENTLY IRRADIATED FUEL. Specifically, the amendment would revise requirements pertaining to secondary containment hatches in order to facilitate activities performed during refueling outages.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, with NRC staff revisions provided in [brackets], which is presented below:

1. Will operation of the facility in accordance with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to revise the PBAPS, Units 2 and 3, TS definition for RECENTLY IRRADIATED FUEL do not introduce new equipment or new equipment operating modes, nor do the proposed changes alter existing system relationships. The proposed changes do not affect plant operation, [any] design function, or any analysis that verifies the capability of a Structure, System, or Component (SSC) to perform a design function. There are no changes or modifications to [any] plant SSC. The plant Engineered Safety Features (ESFs) will continue to function as designed in all modes of operation. There are no significant changes to procedures or training being introduced by the proposed changes to the TS definition.

Based upon the results of the [fuel handling accident (FHA)] analysis, it has been demonstrated that, with the requested changes, the dose consequences remain within the regulatory guidance provided by the NRC as specified in 10 CFR 50.67 and associated Regulatory Guide (RG) 1.183 [ADAMS Accession No. ML003716792]. The calculations used to evaluate the consequences of the FHA accident in support of the proposed changes do not by themselves affect the plant response, but better represent the physical characteristics of the release, so that appropriate mitigation techniques may be applied. Therefore, the consequences of an accident previously evaluated are not significantly increased.

There is no adverse impact on systems designed to mitigate the consequences of accidents. The proposed changes do not adversely affect system or component pressures, temperatures, or flowrates for systems designed to prevent accidents or mitigate the consequences of an accident. Since these conditions are not adversely affected, the likelihood of failure of [an] SSC is not increased.

The proposed changes do not increase the likelihood of the malfunction of any SSC or impact any analyzed accident. Consequently, the probability or consequences of an accident previously evaluated are not affected.

Based on the above, Exelon concludes that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to revise the PBAPS, Units 2 and 3, TS definition for RECENTLY IRRADIATED FUEL do not alter the design function or operation of any SSC. There are no changes or modifications to [any] plant SSC. The plant ESFs will continue to function as designed. There is no new system component being installed, no new construction, and no performance of a new test or maintenance function. The proposed TS changes do not create the possibility of a new credible failure mechanism or malfunction. The proposed changes do not introduce new accident initiators or precursors of a new or different kind of accident. New equipment or personnel failure modes that might initiate a new type of accident are not created as a result of the proposed changes. [Secondary containment] integrity is not adversely impacted and radiological consequences from the analyzed FHA remain within specified regulatory limits. The proposed changes do not adversely impact system or component pressures, temperatures, or flowrates for systems designed to prevent accidents or mitigate the consequences of an accident. Since these conditions are not adversely impacted, the likelihood of failure of [an] SSC is not increased. Consequently, the proposed changes cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

Based on the above, Exelon concludes that the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to revise the PBAPS, Units 2 and 3, TS definition for RECENTLY IRRADIATED FUEL do not alter the design function or operation of any SSC. There are no changes or modifications to [any] plant SSC. The plant ESFs will continue to function as designed. The proposed changes do not increase system or component pressures, temperatures, or flowrates for systems designed to prevent accidents or mitigate the consequences of an accident.

Safety margins and analytical conservatisms have been evaluated and have been found acceptable. The analyzed event has been evaluated and margin has been retained to ensure that the analysis adequately bounds the postulated FHA event. The dose consequences resulting from analyzing the FHA design basis accident comply with the requirements of 10 CFR 50.67 and the guidance of RG 1.183.

The proposed changes continue to ensure that the doses at the Exclusion Area Boundary (EAB) and Low Population Zone (LPZ) boundary, as well as the Main Control Room (MCR), remain within corresponding regulatory limits.

Based on the above, Exelon concludes that the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for Licensee: J. Bradley Fewell, Esquire, Vice President and Deputy General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Kennett Square, PA 19348.

Acting NRC Branch Chief: Robert G. Schaaf.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit 2, (BVPS–2) Beaver County, Pennsylvania

Date of amendment request: June 2, 2014, as supplemented by letter dated August 8, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML14153A388, and ML14223A540, respectively.

Description of amendment request: The amendment would change the BVPS–2 technical specifications (TSs). Specifically, the proposed license amendment would revise TS 4.3.2, ''Drainage,'' to correct the minimum drain elevation for the spent fuel storage pool specified in the TS. In accordance with 10 CFR Part 50, Appendix B, Section XVI, ''Corrective Action,'' the proposed amendment is required to resolve a TS discrepancy regarding an existing plant design feature.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Previously evaluated accidents including a fuel handling accident and spent fuel cask drop accident are not affected by the proposed amendment. Reducing the minimum water level above fuel stored in the spent fuel storage pool in the event of inadvertent draining as proposed would not involve a significant increase in the probability of a previously evaluated accident. Maloperation or passive piping failure causing inadvertent draining of the spent fuel storage pool is not postulated concurrent with the fuel handling or spent fuel cask drop accident. The proposed amendment would not result in any failure modes that could initiate an analyzed accident, and does not increase the likelihood of a malfunction of a system, structure or component; therefore, the probability of analyzed accidents is not affected.

There are no changes to how the station will be operated, limiting conditions for operation, or limiting safety system settings. The proposed amendment does not affect the capability of a system, structure or component to perform a design function. Since design functions are not affected by the proposed amendment, the consequences of previously evaluated accidents are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Reducing the minimum water level above fuel stored in the spent fuel storage pool in the event of inadvertent draining as proposed does not create any new failure mechanisms, malfunctions, or accident initiators and does not change design functions or system operation in a way that affects the ability of systems, structures, and components to perform design functions.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

General Design Criterion 61, ''Fuel storage and handling and radioactivity control,'' of 10 CFR 50, Appendix A, states in part that fuel storage and handling systems shall be designed with suitable shielding for radiation protection.

The proposed change involves a reduction in the minimum elevation of piping and penetrations of the spent fuel storage pool specified in the Technical Specifications. In the event maloperation or passive piping failure causes inadvertent draining of the spent fuel storage pool, the remaining water level in the pool ensures the stored fuel remains covered, provides adequate shielding for personnel, and affords adequate assurance of safety when judged against the current regulatory standard of General Design Criterion 61.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David W. Jenkins, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

Acting NRC Branch Chief: Robert G. Schaaf.

FirstEnergy Nuclear Operating Company (FENOC), Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Perry, OH

Date of amendment request: June 23, 2014. A publicly-available version is in ADAMS under Accession No. ML14174A633.

Description of amendment request: The proposed amendment updates the technical specification (TS) pressure and temperature (P/T) figures using an NRC approved methodology to adjust the P/T limit curves for previously missing data, addresses the reactor coolant system (RCS) vacuum condition that can occur under certain conditions, and aligns the heatup/cooldown requirements of the TS with the limits in the associated P/T figures. Additionally editorial changes are proposed related to the P/T figures including clarifications and updates to the associated titles, labeling, and notes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The P/T [pressure and temperature] limits define RCS [reactor coolant system] operational limits to avoid encountering pressure, temperature, and temperature rate of change conditions that reduce safety margins with respect to nonductile brittle failure of the reactor coolant pressure boundary (RCPB). The figures are not accident initiators or accident mitigating features, but preclude operation in an unanalyzed condition.

This proposed amendment does not change the design function of the RCS or RCPB and does not change the way the plant is maintained or operated when using the P/T limit curves. This proposed amendment does not affect any plant systems that are accident initiators and does not affect any accident mitigating feature.

The proposed amendment does not affect the operability requirements for the RCS, as verification of operating within the P/T limits will continue to be performed, as required. Compliance with and continued verification of the P/T limits support the capability of the RCS to perform its required design functions, consistent with the plant safety analyses.

Changing the figures will not change any of the dose analyses associated with the USAR [updated safety analysis report] Chapter 15 accidents because they do not affect the source term, containment isolation or radiological release assumptions used in any accident previously evaluated. Plant accident mitigation functions and requirements remain unchanged.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The P/T limits define RCS operational parameters to protect the RCPB and are not accident initiators or accident mitigating features. The limits are conservatively calculated using an NRC approved methodology. This proposed amendment does not change the design function of the RCS or RCPB, and does not change the way the plant is operated or maintained. This proposed amendment does not affect any plant systems that are accident initiators, does not affect any accident mitigating feature, and does not create a new or different kind of accident.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The P/T limits define RCS operational parameters, which are established to protect the reactor vessel. The analysis supporting the curve changes utilize methods previously reviewed and approved by the NRC.

Margin of safety is related to the ability of the fission product barriers (fuel cladding, reactor coolant system, and primary containment) to perform their design functions during and following postulated accidents. This proposed amendment does not directly involve or physically affect fuel cladding or the primary containment.

The amendment request proposes to update the P/T limit figures using an NRC approved methodology. The curves maintain the margin of safety for RCPB materials that are exposed to neutron radiation.

The proposed amendment does not involve a physical change to the plant, does not change methods of plant operation within prescribed limits, and does not change methods of maintenance on equipment important to safety. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

Based on the responses to the three questions above, FENOC [FirstEnergy Nuclear Operating Company] concludes that the proposed amendment does not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Attorney, FirstEnergy Corporation, Mail Stop. A–GO–15, 76 South Main Street, Akron, OH 44308.

NRC Branch Chief: Travis L. Tate.

Florida Power and Light Company, et al. (FPL), Docket Nos. 50–335 and 50–389, St. Lucie Plant, Units 1 and 2, St. Lucie County, Florida

Date of amendment request: June 9, 2014. A publicly-available version is in ADAMS under Accession No. ML14175A121.

Description of amendment request: The amendments would revise Technical Specification (TS) 6.2, Organization, specifically TS 6.2.2.e. to allow the station technical assistant (STA) position to be manned by a single STA, a shift supervisor who meets the qualifications for the STA, or an individual with a senior reactor operator's license who meets the qualifications for the STA on each unit in MODES 1, 2, 3, or 4. This criterion was omitted from FPL's license amendment request dated July 26, 2013 (ADAMS Accession No. ML13219A840), that addressed shift staffing requirements. As a result, it was omitted from the corresponding license amendments dated February 7, 2014 (ADAMS Accession No. ML14016A248). This criterion was previously approved by the NRC and incorporated into the St. Lucie Units 1 and 2 TSs by Amendment Nos. 173 and 113, respectively.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes define the method for manning the shift technical advisor (STA) position and do not reduce the unit staffing requirements. In addition, the changes correct a typographical error. The changes do not affect the minimum shift compliment in any mode of operation nor decrease the effectiveness of shift personnel. The STA position will continue to be manned by qualified personnel. The proposed changes are administrative and editorial in nature and will not result in any significant increase in the probability of consequences of an accident as previously evaluated. Further, the proposed changes do not introduce additional risk or greater potential for consequences of an accident that has not previously been evaluated. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes define the method for manning the shift technical advisor position and do not reduce the unit staffing requirements. In addition, the changes correct a typographical error. The proposed changes are administrative and editorial in nature. No new or different type of equipment will be installed. The proposed changes will not introduce new failure modes/effects that could lead to an accident for which consequences exceed that of accidents previously analyzed. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes define the method for manning the STA position and do not reduce the unit staffing requirements. In addition, the changes correct a typographical error. The changes do not affect the minimum shift compliment in any mode of operation nor decrease the effectiveness of shift personnel. The STA position will continue to be manned by qualified personnel. The proposed changes will not involve a significant reduction in a margin of safety in that the changes are administrative and editorial in nature. No plant equipment or accident analyses will be affected. Additionally, the proposed changes will not relax any criteria used to establish safety limits, safety system settings, or the bases for any limiting conditions for operation. Safety analysis acceptance criteria are not affected. Plant operation will continue within the design basis.

The proposed changes do not adversely affect systems that respond to safely shutdown the plant, and maintain the plant in a safe shutdown condition. Consequently, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light, 700 Universe Blvd., MS LAW/JB, Juno Beach, Florida 33408–0420.

Acting NRC Branch Chief: Lisa M. Regner.

Florida Power and Light Company, Docket No. 50–389, St. Lucie Plant, Unit 2, St. Lucie County, Florida

Date of amendment request: January 30, 2014. A publicly-available version is in ADAMS under Accession No. ML14049A284.

Description of amendment request: The amendment would revise the Technical Specification (TS) surveillance requirements (SRs) for snubbers to conform to revisions to the Snubber Testing Program allowing a year extension to the existing interval for the snubber program transition. This revision would meet the requirements of the Operation and Maintenance (OM) Code and Subsection ISTD, ''Preservice and Inservice Examination and Testing of Dynamic Restraints (Snubbers) in Light Water Reactor Nuclear Power Plants,'' of the American Society of Mechanical Engineers OM Code, 2004 Edition with 2005 and 2006 Addenda.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes would revise SR 4.7.9 to conform the TS to the revised surveillance program for snubbers. Snubber examination, testing and service life monitoring will continue to meet the requirements of 10 CFR 50.55a(g). Snubber examination, testing and service life monitoring is not an initiator of any accident previously evaluated. Therefore, the probability of an accident previously evaluated is not significantly increased. Snubbers will continue to be demonstrated OPERABLE by performance of a

program for examination, testing and service life monitoring in compliance with 10 CFR 50.55a or authorized alternatives. The proposed change to TS ACTION 3.7.9 for inoperable snubbers is administrative in nature and is required for consistency with the proposed change to SR 4.7.9. The proposed change does not adversely affect plant operations, design functions or analyses that verify the capability of systems, structures, and components to perform their design functions therefore, the consequences of accidents previously evaluated are not significantly increased. Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve any physical alteration of plant equipment. The proposed changes do not alter the method by which any safety-related system performs its function. As such, no new or different types of equipment will be installed, and the basic operation of installed equipment is unchanged. The methods governing plant operation and testing remain consistent with current safety analysis assumptions. Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes ensure snubber examination, testing and service life monitoring will continue to meet the requirements of 10 CFR 50.55a(g). Snubbers will continue to be demonstrated OPERABLE by performance of a program for examination, testing and service life monitoring in compliance with 10 CFR 50.55a or authorized alternatives.

The proposed change to TS ACTION 3.7.9 for inoperable snubbers is administrative in nature and is required for consistency with the proposed change to SR 4.7.9. Therefore, it is concluded that the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light, 700 Universe Blvd., MS LAW/JB, Juno Beach, Florida 33408–0420.

Acting NRC Branch Chief: Lisa M. Regner.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station (CNS), Nemaha County, Nebraska

Date of amendment request: July 14, 2014. A publicly-available version is in ADAMS under Accession No. ML14202A205.

Description of amendment request: The proposed amendment would delete Technical Specification 5.5.3, ''Post Accident Sampling,'' thereby eliminating the program requirements to have and maintain the post-accident sampling system. The changes are consistent with NRC-approved Industry/Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–413, ''Elimination of Requirements for a Post Accident Sampling System (PASS).'' The availability of this technical specification improvement was announced in the **Federal Register** on March 20, 2002, as part of the consolidated line item improvement process. CNS will continue to have the ability to obtain samples, utilizing PASS, following an accident.

Basis for proposed no significant hazards consideration determination: The licensee stated in its application that it reviewed the proposed no significant hazards consideration determination published on December 27, 2001 (66 FR 66949), as part of the consolidated line item improvement process. The licensee stated that it concluded that the proposed determination presented in the notice is applicable to CNS and the determination is incorporated by reference to satisfy the requirements of 10 CFR 50.91(a). As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 [Three Mile Island, Unit 2] accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radionuclides within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

Acting NRC Branch Chief: Eric R. Oesterle.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: July 17, 2014. A publicly-available version is in ADAMS under Accession No. ML14203A045.

Description of amendment request: The proposed amendment would move the Linear Heat Generation Rate (LHGR) and Single Loop Operation LHGR Limit from the Technical Requirements Manual (TRM) to the Technical Specifications (TS).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

LHGR limits have been defined to provide sufficient margin between the steady-state operating condition and any fuel damage condition to accommodate uncertainties and to assure that no fuel damage results even during the worst anticipated transient condition at any time. The proposed change to move the LHGR limits from the TRM to TS, including the change to TS 3.4.1, Recirculation Loops Operating, and TS 3.7.7, Main Turbine Bypass System, does not modify the limits, change assumptions for the accident analysis, or change operation of the station.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not modify the limits, change assumptions for the accident analysis, or change operation of the station.

The proposed change does move LHGR limits that have been defined to provide sufficient margin between the steady-state operating condition and any fuel damage condition to accommodate uncertainties and to assure that no fuel damage results even during the worst anticipated transient condition at any time from the TRM to TS.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed change to move the LHGR limits from the TRM to TS, including the change to TS 3.4.1 and TS 3.7.7, does not modify the limits, change assumptions for the accident analysis, or change operation of the station.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John C. McClure, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

Acting NRC Branch Chief: Eric R. Oesterle.

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: June 23, 2014. A publicly-available version is in ADAMS under Accession No. ML14175B387.

Description of amendment request: The proposed amendment would modify Technical Specification (TS) requirements to address NRC Generic Letter (GL) 2008–01, ''Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems,'' as described in Technical Specification Task Force (TSTF) Change Traveler TSTF–523, Revision 2, ''Generic Letter 2008–01, Managing Gas Accumulation.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the Proposed Change Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated?

Response: No.

The proposed change revises or adds SRs [Surveillance Requirements] that require verification that the Emergency Core Cooling Systems (ECCS), Residual Heat Removal (RHR) System, and the Reactor Core Isolation Cooling (RCIC) System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. Gas accumulation in the subject systems is not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The proposed SRs ensure that the subject systems continue to be capable to perform their assumed safety function and are not rendered inoperable due to gas accumulation. Thus, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the Proposed Change Create the Possibility of a New or Different Kind of Accident from any Accident Previously Evaluated?

Response: No.

The proposed change revises or adds SRs that require verification that the ECCS, RHR System, and RCIC System are not rendered inoperable due to accumulated gas and to provide allowances which permit performance of the revised verification. The proposed change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the proposed change does not impose any new or different requirements that could initiate an accident. The proposed change does not alter assumptions made in the safety analysis and is consistent with the safety analysis assumptions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the Proposed Change Involve a Significant Reduction in a Margin of Safety?

Response: No.

The proposed change revises or adds SRs that require verification that the ECCS, RHR System, and RCIC System are not rendered inoperable due to accumulated gas and to

provide allowances which permit performance of the revised verification. The proposed change adds new requirements to manage gas accumulation in order to ensure that the subject systems are capable of performing their assumed safety functions. The proposed SRs are more comprehensive than the current SRs and will ensure that the assumptions of the safety analysis are protected. The proposed change does not adversely affect any current plant safety margins or the reliability of the equipment assumed in the safety analysis. Therefore, there are no changes being made to any safety analysis assumptions, safety limits, or limiting safety system settings that would adversely affect plant safety as a result of the proposed change.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. James Petro, P. O. Box 14000 Juno Beach, FL 33408–0420.

NRC Branch Chief: David L. Pelton.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, (Seabrook) Rockingham County, New Hampshire

Date of amendment request: July 24, 2014. A publicly-available version is in ADAMS under Accession No. ML14209A918.

Description of amendment request: The proposed amendment would revise Seabrook Technical Specifications (TSs) by increasing the voltage limit for a full load rejection test of the emergency diesel generator specified in surveillance requirement 4.8.1.1.2.f.3 of TS 3.8.1.1, ''A.C. [alternating current] Sources—Operating.'' The proposed amendment also revises the TS definition of the terms ''Operable—Operability.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, with NRC staff revisions provided in [brackets], which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to increase in the [emergency diesel generator] EDG full load rejection overvoltage limit from 4784 [volts] V to 4992V is not an accident initiator. The overvoltage transient is an expected response to a full load rejection. The magnitude and duration of the proposed overvoltage limit have been considered and determined to have no detrimental effects on the connected equipment that is exposed to the voltage transient. The proposed change does not affect the EDG design function or how the EDG is operated. Since the EDG is not impacted, the EDG remains capable of performing its intended design function of supplying power to emergency safeguards equipment. The proposed change to the definition of operable—operability is administrative in nature and does not alter the meaning of the defined terms.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to revise the definition of the terms operable—operability and to increase the EDG full load rejection overvoltage limit from 4784V to 4992V are not accident initiators. The overvoltage transient is an expected response to a full load rejection. The magnitude and duration of the proposed overvoltage limit have been considered and determined to have no detrimental effects on the connected equipment that is exposed to the voltage transient. The proposed changes do not introduce any new failure modes.

The changes do not involve a physical alteration to the plant (i.e., no new or different type of equipment will be installed) or a change in the methods for operating the plant. The proposed changes do not affect the EDG design function or how the EDG is operated. Since the EDG is not impacted, the EDG remains capable of performing its intended design function of supplying power to emergency safeguards equipment. The change to the definition of operable—operability makes grammatical corrections and adds clarity but makes no change to the meaning of the terms.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to increase in the EDG full load rejection overvoltage limit from 4784V to 4992V has been evaluated with consideration of the effect on the EDG and connected equipment that would be exposed to the higher voltage transient. Based on review of equipment specifications, test data, and manufacturer's input, it was concluded that there would be no detrimental effects to the EDG or connected equipment that is exposed to the higher voltage transient. The EDG remains capable of performing its intended design function of supplying power to emergency safeguards equipment.

The proposed change to the definition of operable—operability is administrative in nature and does not alter any criterion used to establish operability of plant structure, systems, or components.

The proposed amendment does not involve changes to any safety analyses assumptions, safety limits, or limiting safety system settings. The changes do not adversely impact plant operating margins or the reliability of equipment credited in the safety analyses.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Blair, Managing Attorney, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

Acting NRC Branch Chief: Robert G. Schaaf.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, (Seabrook) Rockingham County, New Hampshire

Date of amendment request: July 24, 2014. A publicly-available version is in ADAMS under Accession No. ML14209A919.

Description of amendment request: The proposed amendment would revise the Seabrook Technical Specifications (TS). The proposed change modifies TS 3.3.3.1, ''Radiation Monitoring for Plant Operations,'' to eliminate duplicate requirements, resolve an inconsistency, and correct a deficiency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, with NRC staff revisions provided in [brackets], which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The instruments involved with the proposed changes to the technical specifications (TS) are not initiators of any accidents previously evaluated, and the probability and consequences of accidents previously evaluated are unaffected by the proposed changes. There is no change to any equipment response or accident scenario, and the changes impose no additional challenges to fission product barrier integrity. The proposed changes do not alter the design, function, operation, or configuration of any plant structure, system, or component (SSC). As a result, the outcomes of accidents previously evaluated are unaffected. The

proposed changes modify the TS to eliminate duplicate requirements, resolve an inconsistency, and correct a deficiency.

Therefore, the proposed changes do not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes. The changes do not challenge the integrity or performance of any safety-related systems. No plant equipment is installed or removed, and the changes do not alter the design, physical configuration, or method of operation of any plant SSC. No physical changes are made to the plant, so no new causal mechanisms are introduced.

Therefore, the proposed changes to the TS do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The ability of any operable SSC to perform its designated safety function is unaffected by the proposed changes. The proposed changes do not alter any safety analyses assumptions, safety limits, limiting safety system settings, or method of operating the plant. The changes do not adversely impact plant operating margins or the reliability of equipment credited in the safety analyses.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Blair, Managing Attorney, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

Acting NRC Branch Chief: Robert G. Schaaf.

NextEra Energy Seabrook LLC, Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Date of amendment request: July 24, 2014. A publicly-available version is in ADAMS under Accession No. ML14216A404.

Description of amendment request: The proposed amendment would incorporate revised reactor coolant system (RCS) pressure-temperature limits in the Technical Specification (TS) applicable to 55 effective full-power years. The change will also provide new overpressure protection setpoints and lower the RCS temperature at which the TS is applicable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the Technical Specifications (TS) do not impact the physical function of plant structures, systems, or components (SSCs) or the manner in which SSCs perform their design function. Operation in accordance with the proposed TS will ensure that all analyzed accidents will continue to be mitigated by the SSCs as previously analyzed. The proposed changes do not alter or prevent the ability of operable SSCs to perform their intended function to mitigate the consequences of an initiating event within assumed acceptance limits. The proposed changes neither adversely affect accident initiators or precursors, nor alter design assumptions.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed), create new failure modes for existing equipment, or create any new limiting single failures. The changes to the pressure—temperature limits, power operated relief valve setpoints, and the over pressure protection system effective temperature will continue to ensure that appropriate fracture toughness margins are maintained to protect against reactor vessel failure, during both normal and low temperature operation. The proposed changes are consistent with the applicable NRC approved methodologies (i.e., WCAP–14040, Rev. 4 and ASME Code Case N–641). Plant operation will not be altered, and all safety functions will continue to perform as previously assumed in accident analyses.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers (i.e., fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed changes will not adversely affect the operation of plant equipment or the function of any equipment assumed in the accident analysis. The proposed changes were developed using NRC approved methodologies and will continue to ensure an acceptable margin of safety is maintained. The safety analysis acceptance criteria are not affected by this change. The proposed changes will not result in plant operation in a configuration outside the design basis. The proposed changes do not adversely affect systems that respond to safely shutdown the plant and to maintain the plant in a safe shutdown condition.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Blair, Managing Attorney, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

Acting NRC Branch Chief: Robert G. Schaaf.

Northern States Power Company—Minnesota (NSPM), Docket No. 50–263, Monticello Nuclear Generating Plant (MNGP), Wright County, Minnesota

Date of amendment request: June 17, 2014. A publicly-available version is in ADAMS under Accession No. ML14168A486.

Description of amendment request: The NSPM proposes to revise MNGP Technical Specification (TS) 3.5.1, ''ECCS [Emergency Core Cooling System]—Operating,'' to correct the requirements for the Alternate Nitrogen System pressure. TS Surveillance Requirement (SR) 3.5.1.3 requires verification of limits for automatic depressurization system (ADS) pneumatic pressure for both ADS pneumatic supplies. The proposed change would revise the TS SR 3.5.1.3.b pressure limit for determining operability of the Alternate Nitrogen System from greater than or equal to (≥) 410 pounds per square inch gauge (psig) to a corrected value of ≥ 700 psig.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is provided below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change revises the TS SR for the purpose of restoring a value to be consistent with the licensing basis. The proposed TS change does not introduce new

equipment or new equipment operating modes, nor does the proposed change alter existing system relationships. The proposed change does not affect plant operation, design function or any analysis that verifies the capability of a system, structure or component (SSC) to perform a design function. Further, the proposed change does not increase the likelihood of the malfunction of any SSC or impact any analyzed accident. Consequently, the probability of an accident previously evaluated is not affected and there is not significant increase in the consequences of any accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

There proposed change revises the TS SR for the purpose of restoring a value to be consistent with the licensing basis. The change does not involve a physical alteration to the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operations. The proposed change does not alter assumptions made in the safety analysis for the components supplied by the Alternate Nitrogen System. Further, the proposed change does not introduce new accident initiators.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change revises the TS SR for the purpose of restoring a value to be consistent with the licensing basis. The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis assumptions and acceptance criteria are not affected by this change.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: David L. Pelton.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of amendment request: July 28, 2014. A publicly-available version is in ADAMS under Accession No. ML14209B074.

Description of amendment request: The proposed amendments would modify the technical specifications (TS) to risk-inform requirements regarding selected Required Action End States. The proposed changes to the Required Action End States are described in Table 1 of the Enclosure to the licensee's letter dated July 28, 2014. The changes are consistent with Technical Specification Task Force (TSTF) Traveler TSTF–432, Revision 1, ''Change in Technical Specifications End States (WCAP–16294)'' (ADAMS Accession No. ML103430249).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change modifies the end state (e.g., mode or other specified condition) which the Required Actions specify must be entered if compliance with the Limiting Conditions for Operation (LCO) is not restored. The requested Technical Specifications (TS) permit an end state of Mode 4 rather than an end state of Mode 5 contained in the current TS. In some cases, other Conditions and Required Actions are revised to implement the proposed change. Required Actions are not an initiator of any accident previously evaluated. Therefore, the proposed change does not affect the probability of any accident previously evaluated. The affected systems continued to be required to be operable by the TS and the Completion Times specified in the TS to restore equipment to operable status or take other remedial Actions remain unchanged. WCAP–16294–NP–A, Revision 1, ''Risk-Informed Evaluation of Changes to [Technical Specification] Required Action Endstates for Westinghouse NSSS [Nuclear Steam Supply System] PWRs [Pressurized Water Reactors],'' demonstrates that the proposed change does not significantly increase the consequences of any accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different accident from any accident previously evaluated?

Response: No.

The proposed change modifies the end state (e.g., mode or other specified condition) which the Required Actions specify must be entered if compliance with the LCO is not restored. In some cases, other Conditions and Required Actions are revised to implement the proposed change. The change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the change does not impose any new requirements. The change does not alter assumptions made in the safety analysis.

Therefore, the proposed change does not create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change modifies the end state (e.g., mode or other specified condition) which the Required Actions specify must be entered if compliance with the LCO is not restored. In some cases, other Conditions and Required Actions are revised to implement the proposed change. Remaining within the Applicability of the LCO is acceptable because WCAP–16294–NP–A demonstrates that the plant risk in MODE 4 is similar to, or lower than, MODE 5. As a result, no margin of safety is significantly affected.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Jennifer Post, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

Acting NRC Branch Chief: Eric R. Oesterle.

South Carolina Electric and Gas Company Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station, Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: June 12, 2014. A publicly-available version is in ADAMS under Accession No. ML14164A098.

Description of amendment request: The proposed license amendment request (LAR) proposes to revise Plant Specific Tier 2* material within the Updated Final Safety Analysis Report (UFSAR) by making editorial and consistency corrections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the

issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed editorial and consistency update does not involve a technical change, i.e., there is no design parameter or requirement, calculation, analysis, function, or qualification change. No structure, system, component (SSC), design, or function would be adversely affected. No design or safety analysis would be adversely affected. The proposed changes do not adversely affect any accident initiating event or component failure, thus the probabilities of the accidents previously evaluated are not adversely affected. No function used to mitigate a radioactive material release and no radioactive material release source term is involved, thus the radiological releases in the accident analyses are not adversely affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed editorial and consistency update would not affect the design or function of any SSC, but will instead provide consistency between the SSC designs and functions and the discussions currently presented in the UFSAR via Tier 2* information. The proposed nontechnical changes would not introduce a new failure mode, fault, or sequence of events that could result in a radioactive material release.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed editorial and consistency update is nontechnical and thus would not affect any design parameter, function, or analysis. There would be no change to an existing design basis, design function, regulatory criterion, or analyses. No safety analysis or design basis acceptance limit/criterion is involved.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW, Washington, DC, 20004–2514.

NRC Branch Chief: Lawrence J. Burkhart.

South Carolina Electric and Gas Company Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station, Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: August 28, 2014. A publicly-available version is in ADAMS under Accession No. ML14245A601.

Description of amendment request: The proposed license amendment request (LAR) proposes to revise Tier 2* and Tier 2 information related to the design details of connections in several locations between the steel plate composite construction (SC) used for the shield building and the standard reinforced concrete (RC) walls, floors, and roofs of the auxiliary building and the lowers of the shield building.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design function of the nuclear island structures is to provide support, protection, and separation for the seismic Category I mechanical and electrical equipment located in the nuclear island. The nuclear island structures are structurally designed to meet seismic Category I requirements as defined in Regulatory Guide 1.29.

The changes to the detail design of connections between the RC and SC structures do not have an adverse impact on the response of the nuclear island structures to safe shutdown earthquake ground motions or loads due to anticipated transients or postulated accident conditions. The changes to the detail design do not impact the support, design, or operation of mechanical and fluid systems. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor do the changes described create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes are to the detail design of connections between the RC and SC structures. The changes to the detail design of connections do not change the criteria and requirements for the design and analysis of the nuclear island structures. The changes to the detail design of connections do not change the design function, support, design, or operation of mechanical and fluid systems. The changes to the detail design of connections do not change the methods used to connect the RC to SC. The changes of the detail design of connections do not result in a new failure mechanism for the nuclear island structures or new accident precursors. As a result, the design functions of the nuclear island structures are not adversely affected by the proposed changes.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes; and thus, no margin of safety is reduced.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW, Washington, DC, 20004–2514.

NRC Branch Chief: Lawrence J. Burkhart.

Southern Nuclear Operating Company Docket Nos.: 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: July 29, 2014. A publicly-available version is available in ADAMS under Accession No. ML14210A646.

Description of amendment request: The proposed license amendment request would revise the Combined Licenses (COLs) with regard to Tier 1 material and promote consistency with the Updated Final Safety Analysis Report Tier 2.

Nuclear Operating Company has also requested an exemption from the provisions of 10 CFR part 52, appendix D, section III.B, ''Design Certification Rule for the AP1000 Design, Scope and Contents,'' to allow a departure from the elements of the certification information in Tier 1 of the generic Design Control Document.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the

licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the requested amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed editorial and consistency COL Appendix C and corresponding plant-specific Tier 1 update does not involve a technical change, e.g., there is no design parameter or requirement, calculation, analysis, function or qualification change. No structure, system, or component (SSC) design or function would be affected. No design or safety analysis would be affected. The proposed changes do not affect any accident initiating event or component failure, thus the probabilities of the accidents previously evaluated are not affected. No function used to mitigate a radioactive material release and no radioactive material release source term is involved, thus the radiological releases in the accident analyses are not affected.

Therefore, the requested amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the requested amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No

The proposed editorial and consistency COL Appendix C and corresponding plant-specific Tier 1 update would not affect the design or function of any SSC, but will instead provide consistency between the SSC designs and functions currently presented in the UFSAR, COL Appendix C, and the Tier 1 information. The proposed changes would not introduce a new failure mode, fault or sequence of events that could result in a radioactive material release. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident.

Therefore, the requested amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No

The proposed editorial and consistency COL Appendix C and corresponding plant-specific Tier 1 update would not affect the design or function of any SSC, but will instead provide consistency between the SSC designs and functions currently presented in the UFSAR, COL Appendix C, and the Tier 1 information. The proposed changes would not introduce a new failure mode, fault or sequence of events that could result in a radioactive material release. Therefore, the requested amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Blach & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence Burkhart.

Southern Nuclear Operating Company Docket Nos.: 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: July 30, 2014. A publicly-available version is in ADAMS under Accession No. ML14211A666.

Description of amendment request: The proposed license amendment request would revise the combined licenses (COLs) with regard to Tier 2* material within the Updated Final Safety Analysis Report (UFSAR) to resolve inconsistencies with other Tier 2* information elsewhere in the UFSAR.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the requested amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed editorial and consistency update does not involve a technical change, i.e., there is no design parameter or requirement, calculation, analysis, function, or qualification change. No structure, system, or component, design, or function would be adversely affected. No design or safety analysis would be adversely affected. The proposed changes do not adversely affect any accident initiating event or component failure, thus the probabilities of the accidents previously evaluated are not adversely affected. No function used to mitigate a radioactive material release and no radioactive material release source term is involved, thus the radiological releases in the accident analyses are not adversely affected.

Therefore, the requested amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the requested amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed editorial and consistency update would not affect the design or function of any structure, system, or component, but will instead provide consistency between the structure, system, and component designs and functions and the discussions currently presented in the UFSAR via Tier 2* information. The proposed non-technical changes would not introduce a new failure mode, fault, or sequence of events that could result in a radioactive material release.

Therefore, the requested amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed editorial and consistency update is non-technical and thus would not affect any design parameter, function, or analysis. There would be no change to an existing design basis, design function, regulatory criterion, or analyses. No safety analysis or design basis acceptance limit/criterion is involved.

Therefore, the requested amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Blach & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence Burkhart.

Southern Nuclear Operating Company, Inc. Docket Nos.: 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: April 11, 2014. A publicly-available version is in ADAMS under Accession No. ML14101A459. The amendment request was supplemented by letter dated April 18, 2014. A publicly-available version is in ADAMS under Accession No. ML14108A093. The amendment request was further supplemented by two letters dated August 28, 2014. Publicly-available versions of the two letters are in ADAMS under Accession Nos. ML14241A250 and ML14241A264.

Description of amendment request: The license amendment request was originally noticed in the **Federal Register** on June 6, 2014 (79 FR 32771). This notice is being reissued in its entirety to include the revised analysis of the issue of no significant hazards consideration submitted by the licensee in its August 28, 2014, submission (ADAMS Accession No. ML14241A250). The proposed license amendment request would depart from the plant-specific Design Control Document Tier 1 and Tier 2 material to describe modifications to increase the efficiency of the return of condensate utilized by the passive core cooling system to the

in-containment refueling water storage tank to support the capability for long term cooling.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed containment condensate flow path changes provide sufficient condensate return flow to maintain In-containment Refueling Water Storage Tank (IRWST) level above the top of the Passive Residual Heat Removal Heat Exchanger (PRHR HX) tubes long enough to prevent PRHR HX performance degradation from that considered in the UFSAR [Updated Final Safety Analysis Report] Chapter 15 safety analyses. The added components are seismically qualified and constructed of only those materials appropriately suited for exposure to the reactor coolant environment as described in UFSAR Section 6.1. No aluminum is permitted to be used in the construction of these components so that they do not contribute to hydrogen production in containment.

The proposed changes clarify the design basis for the PRHR HX, which removes decay heat from the Reactor Coolant System (RCS) during a non-loss of coolant accident (non-LOCA). With operator action to avoid unnecessary Automatic Depressurization System (ADS) actuation based on RCS conditions, PRHR HX operation can be extended longer than would be maintained automatically by the protection system. Though analysis shows significantly greater capacity, the extent of the capability of the PRHR HX would be changed from operating indefinitely to operating for at least 72 hours. If PRHR HX capability were exhausted after 72 hours, the ADS would be actuated, which could result in significant containment floodup. However, probabilistic analysis shows the probability of design basis containment floodup after PRHR HX operation during a non-LOCA event is significantly lower than the probability of a small break LOCA, for which comparable containment floodup is anticipated.

Therefore, the probability of significant containment floodup is not increased.

The proposed changes do not affect any components whose failure could initiate a previously evaluated event, thus the probabilities of the accidents previously evaluated are not affected. The affected equipment does not adversely affect or interact with safety-related equipment or another radioactive material barrier. The proposed changes clarify the post-accident performance requirements for the PRHR HX. However, the proposed changes do not prevent the engineered safety features from performing their safety-related accident mitigating functions. The radioactive material source terms and release paths used in the safety analyses are unchanged, thus the radiological releases in the UFSAR accident analyses are not affected.

Therefore, the proposed amendment does not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The long-term safe shutdown analysis results show that the PRHR HX continues to meet its acceptance criterion, i.e., to cool the Reactor Coolant System (RCS) to below 420°F in 36 hours. The added equipment does not adversely interface with any component whose failure could initiate an accident, or any component that contains radioactive material. The modified components do not incorporate any active features relied upon to support normal operation. The downspout and gutter return components are seismically qualified to remain in place and functional during seismic and dynamic events. The containment condensate flow path changes do not create a new fault or sequence of events that could result in a radioactive material release.

The proposed change quantifies the duration that the PRHR HX is capable of maintaining adequate core cooling, and specifies that if PRHR HX cooling capability is exhausted, the ADS would be actuated. This involves the possibility of opening the ADS valves after the IRWST water level has decreased below the spargers, which promote steam condensation in the IRWST. During this condition, the loads on the IRWST, spargers and any internal structures or components in the IRWST would still be less than their limiting loads, and these SSCs would not be adversely affected or cause a different mode of operation. Therefore, no new type of accident could be created by this condition.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not reduce the redundancy or diversity of any safety-related function. The added components are classified as safety-related, seismically qualified, and are designed to comply with applicable design codes. The proposed containment condensate flow path changes provide sufficient condensate return flow to maintain adequate IRWST water level for those events using the PRHR HX cooling function. The long-term Shutdown Temperature Evaluation results in UFSAR Chapter 19E show the PRHR HX continues to meet its acceptance criterion. The UFSAR Chapters 6 and 15 analyses results are not affected, thus margins to their regulatory acceptance criteria are unchanged. The former design basis, which stated the PRHR HX could bring the plant to 420°F within 36 hours, is changed to state the heat exchanger can establish safe, stable conditions in the reactor coolant system after a design basis event. Such safe stable conditions may not coincide with an RCS temperature of 420°F. However, the PRHR HX is able to bring the RCS to a sufficiently low temperature such that RCS conditions would be comparable to those achieved at 420°F—peak cladding temperatures, departure from nucleate boiling, and pressurizer level would be maintained within acceptable limits of the evaluation criteria. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes, thus no margin of safety is significantly reduced.

Therefore, the proposed amendment does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

Southern Nuclear Operating Company, Inc. Docket Nos.: 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: July 14, 2014. A publicly-available version is in ADAMS under Accession No. ML14195A296.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91 and NPF–92 for the VEGP, Units 3 and 4 to modify the fire area fire barriers of the turbine building switchgear rooms on Elevations 141'-3'' and 158'-7'' of the turbine building to accommodate the revised layout of the low and medium voltage switchgear and associated equipment. The proposed changes also provide an editorial change to a fire area number. The requested amendment requires changes to Updated Final Safety Analysis Report (UFSAR) information, which include changes to plant-specific Tier 2* information and changes to Tier 2 information that involve changes to this plant-specific Tier 2* information.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed reconfiguration of the turbine building switchgear rooms, the control system cabinet room, the new electrical equipment room, and the associated heating, ventilation and air conditioning (HVAC) room and the proposed editorial change would not adversely affect any safety-related equipment or function. The modified configuration will maintain the fire protection function (i.e., barrier) as evaluated in Updated Final Safety Analysis Report (UFSAR) Appendix 9A, thus, the probability of a spread of a fire from these areas is not significantly increased. The safe shutdown fire analysis is not affected, and the fire protection analysis results are not adversely affected. The proposed changes affect nonsafety-related electrical switchgear and do not involve any accident, initiating event, or component failure; thus, the probabilities of the accidents previously evaluated are not affected. The proposed changes do not interface with or affect any system containing radioactivity or affect any radiological material release source terms; thus, the radiological releases in the accident analyses are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to the fire zones in the turbine building related to the turbine building switchgear rooms, the control system cabinet room, the new electrical equipment room, the associated HVAC room, and stairway will maintain the fire barrier fire protection function as evaluated in the UFSAR Appendix 9A. The changes to the fire areas and fire zones do not affect the function of any safety-related structure, system, or component, and thus, do not introduce a new failure mode. The affected turbine building areas and equipment do not interface with any safety-related equipment or any equipment associated with radioactive material and, thus, do not create a new fault or sequence of events that could result in a new or different kind of accident.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed reconfiguration of the fire zones associated with the turbine building switchgear rooms, the electrical equipment room, and the associated HVAC room and the proposed editorial change will maintain the fire barrier fire protection function as evaluated in the UFSAR Appendix 9A. The fire barriers and equipment in the turbine building do not interface with any safety-related equipment or affect any safety-related function. The changes to the area barriers associated with the turbine building switchgear and associated HVAC continue to comply with the existing design codes and regulatory criteria, and do not affect any safety analysis.

Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: July 24, 2014. A publicly-available version is in ADAMS under Accession No. ML14210A051.

Description of amendment request: The amendment would revise the reactor coolant pump (RCP) flywheel inspection surveillance requirements to extend the allowable inspection interval to 20 years, consistent with Technical Specification Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–421, ''Revision to RCP Flywheel Inspection Program (WCAP–15666).'' The Nuclear Regulatory Commission (NRC) staff believes that this amendment made use of both TSTF–421 and TSTF–237, Revision 1, ''Relaxation of Reactor Coolant Pump Flywheel Examinations.''

The NRC staff published a notice of opportunity for comment in the **Federal Register** on June 24, 2003 (68 FR 37590), on possible amendments adopting TSTF–421, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line-item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on October 22, 2003 (68 FR 60422). The licensee affirmed the applicability of the model NSHC determination in its application dated July 24, 2014.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration determination is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change to the RCP flywheel examination frequency does not change the response of the plant to any accidents. The RCP will remain highly reliable and the proposed change will not result in a significant increase in the risk of plant operation. Given the extremely low failure probabilities for the RCP motor flywheel during normal and accident conditions, the extremely low probability of a loss-of-coolant accident (LOCA) with loss of offsite power (LOOP), and assuming a conditional core damage probability (CCDP) of 1.0 (complete failure of safety systems), the core damage frequency (CDF) and change in risk would still not exceed the NRC's acceptance guidelines contained in Regulatory Guide (RG) 1.174 (<1.0E–6 per year). Moreover, considering the uncertainties involved in this evaluation, the risk associated with the postulated failure of an RCP motor flywheel is significantly low. Even if all four RCP motor flywheels are considered in the bounding plant configuration case, the risk is still acceptably low.

The proposed change does not adversely affect accident initiators or precursors, nor alter the design assumptions, conditions, or configuration of the facility, or the manner in which the plant is operated and maintained; alter or prevent the ability of structures, systems, components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits or affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed change does not increase the type or amount of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiations exposure. The proposed change is consistent with the safety analysis assumptions and resultant consequences.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from Any Accident Previously Evaluated

The proposed change in flywheel inspection frequency does not involve any change in the design or operation of the RCP. Nor does the change to examination frequency affect any existing accident scenarios, or create any new or different accident scenarios. Further, the change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or alter the methods governing normal plant operation. In addition, the change does not impose any new or different requirements or eliminate any existing requirements, and does not alter any assumptions made in the safety analysis. The proposed change is consistent with the

safety analysis assumptions and current plant operating practice.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in a Margin of Safety

The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by this change. The proposed change will not result in plant operation in a configuration outside of the design basis. The calculated impact on risk is insignificant and meets the acceptance criteria contained in RG 1.174. There are no significant mechanisms for inservice degradation of the RCP flywheel.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11A, Knoxville, Tennessee 37902.

NRC Branch Chief: Jessie F. Quichocho.

Virginia Electric and Power Company, Docket Nos.: 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of amendment request: June 3, 2014. A publicly-available version is in ADAMS under Accession No. ML14160A607.

Description of amendment request: The amendments would revise the Surry Power Station (Surry) Units 1 and 2, Technical Specifications (TS). Specifically, TS Figures 3.1–1 and 3.1–2, Surry, Units 1 and 2, Reactor Coolant System Heatup Limitations and Surry, Units 1 and 2, Reactor Coolant System Cooldown Limitations, respectively, are being revised for clarification and to be fully representative of the allowable operating conditions during Reactor Coolant System startup and cooldown evolutions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed clarification of TS Figures 3.1–1 and 3.1–2 does not involve a physical change to the plant and does not change the manner in which plant systems or components are operated or controlled. The proposed change does not alter or prevent the ability of structures, system, and components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The P/T limits curves on TS Figures 3.1–1 and 3.1–2 are not being modified and remain valid.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed clarification of TS Figures 3.1–1 and 3.1–2 does not involve any physical alteration of plant equipment; consequently, no new or different types of equipment will be installed. The proposed change does not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility. The P/T limits curves on TS Figures 3.1–1 and 3.1–2 are not being modified, and the basic operation of installed plant systems and components is unchanged.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The existing RCS P/T limits curves on TS Figures 3.1–1 and 3.1–2 are not being modified. The proposed clarification of TS Figures 3.1–1 and 3.1–2 does not alter any plant equipment, does not change the manner in which the plant is operated or controlled, and has no impact on any safety analysis assumptions. The proposed change does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The proposed change does not result in plant operation in a configuration outside the analyses or design basis and does not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.

NRC Branch Chief: Robert J. Pascarelli.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Arizona Public Service Company, et al., Docket Nos.: STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendment: September 27, 2013, as supplemented by letter dated December 12, 2013.

Brief description of amendment: The amendments revised Technical Specification (TS) 3.3.3, ''Control Element Assembly Calculators (CEACs),'' to reinstate an inadvertently omitted 4-hour completion time for

Required Action B.2.2. Additionally, the amendments revised a test frequency note in Surveillance Requirement (SR) 3.3.6.2 under TS 3.3.6, ''Engineered Safety Features Actuation System (ESFAS) Logic and Manual Trip,'' which should have been included in the license amendment request for Technical Specifications Task Force (TSTF) change traveler TSTF–425, Revision 3, ''Relocate Surveillance Frequencies to Licensee Control—RITSTF [Risk-Informed TSTF] Initiative 5b.''

Date of issuance: September 9, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: Unit 1—194; Unit 2—194; Unit 3—194. A publicly-available version is in ADAMS under Accession No. ML14202A378; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendment revised the Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register***: February 4, 2014 (79 FR 6640). The supplemental letter dated December 12, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 9, 2014.

No significant hazards consideration comments received: No.

Dairyland Power Cooperative, Docket Nos.: 50–409 and 72–046, La Crosse Boiling Water Reactor (LACBWR), La Crosse County, Wisconsin

Date of application for amendment: August 6, 2013, supplemented by letters dated January 16, 2014, and April 14, 2014.

Brief description of amendment: The amendment approves changes to the Emergency Plan, including removal of the various emergency actions related to the former spent fuel pool, the transfer of responsibility for implementing the Emergency Plan to the Security Shift Supervisors at the ISFSI, a revised emergency plan organization, removal of the fire brigade, and abandonment of the LACBWR Control Room consistent with the current state of decommissioning, in that all of the spent nuclear fuel has now been transferred from the spent fuel pool to an independent spent fuel storage installation.

Date of issuance: September 8, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 73.

Possession Only License No. DPR–45.

*Date of initial notice in **Federal Register***: October 29, 2013 (78 FR 64543). The supplements dated January 16, 2014, and April 14, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register** on October 29, 2013 (78 FR 64543).

The Commission's related evaluation of the amendment is contained in a safety evaluation dated September 8, 2014.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, Docket Nos.: 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: October 28, 2013, as supplemented by letter dated June 3, 2014.

Brief description of amendments: The amendments modify Technical Specification (TS) 3.8.4. Specifically, the change allows a one-time extension of the completion time for Required Action A.2.2 to support replacement of the existing shared 125 VDC vital batteries.

Date of issuance: September 10, 2014.

Effective date: This license amendment is effective as of its date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: 274 and 254. A publicly-available version is in ADAMS under Accession No. ML14231A634; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the licenses and technical specifications.

*Date of initial notice in **Federal Register***: January 21, 2014 (79 FR 3415). The supplemental letter dated June 3, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 10, 2014.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–247, Indian Point Nuclear Generating Unit 2, Westchester County, New York

Date of amendment request: January 16, 2014, as supplemented by letters dated April 2, and April 15, 2014.

Brief description of amendment: The amendment revises Indian Point Nuclear Generating Unit 2 Technical Specification (TS) 5.5.7, ''Steam Generator (SG) Program,'' to exclude portions of the SG tubes below the top of the SG tubesheet from periodic inspections and plugging by implementing the alternate repair criteria ''H*.'' In addition, TS 3.4.13, ''RCS [reactor coolant system] Operational Leakage,'' is being revised to reduce the allowable primary to secondary leakage through any one SG from 150 to 85 gallons per day and TS 5.6.7, ''Steam Generator Tube Inspection Program,'' is being revised to include additional reporting requirements.

Date of issuance: September 5, 2014.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 277. A publicly-available version is in ADAMS under Accession No. ML14198A161; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. DPR–26: The amendment revised the Facility Operating License and the TSs.

*Date of initial notice in **Federal Register***: March 18, 2014 (79 FR 15147). The supplemental letters provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 5, 2014.

No significant hazards consideration comments received: No.

Florida Power and Light Company, et al., Docket Nos.: 50–335 and 50–389, St. Lucie Plant, Units 1 and 2, St. Lucie County, Florida

Date of application for amendment: May 21, 2013, as supplemented by letter dated October 4, 2013.

Brief description of amendment: The amendments revised the Technical Specifications (TSs) moderator temperature coefficient surveillance requirements associated with the implementation of Topical Report WCAP–16011–P–A, ''Startup Test Activity Reduction (STAR) Program,'' which describes the methods to be used for the implementation of reduction in the startup testing requirements. The changes are consistent with the NRC-approved Technical Specification Task Force (TSTF) Standard Technical Specifications change TSTF–486, Revision 2 as included in NUREG–1432, Revision 4.0, Standard Technical Specifications—Combustion Engineering Plants.

The NRC staff published a notice of opportunity for comment in the **Federal Register** on July 27, 2007 (72 FR 41360), on possible amendments adopting TSTF–486 using the NRC's consolidated line-item improvement process for amending licensees' TSs, which included a model safety evaluation (SE) and model no significant hazards consideration (NSHC) determination. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 6, 2007 (72 FR 51259), which included the resolution of public comments on the model SE and model NSHC determination. The licensee affirmed in its application dated May 21, 2013, that the proposed changes to the TSs satisfy the intent of TSTF–486.

Date of issuance: September 16, 2014.

Effective date: As of the date of issuance and shall be implemented within 90 days.

Amendment Nos.: 219 and 168 (ADAMS Accession No. ML14218A180). Documents related to these amendments are provided in an SE enclosed with the amendments.

Facility Operating License Nos. DPR–67 and NPF–16: Amendments revised the License and TSs.

*Date of initial notice in **Federal Register***: July 23, 2013 (78 FR 44173). The supplement dated October 4, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in an SE dated September 16, 2014.

No significant hazards consideration comments received: No.

Luminant Generation Company LLC, Docket Nos.: 50–445 and 50–446, Comanche Peak Nuclear Power Plant (CPNPP), Units 1 and 2, Somervell County, Texas

Date of amendment request: November 21, 2013, as supplemented by letters dated February 4 and April 1, 2014.

Brief description of amendment: The amendments revised the date of cyber security plan (CSP) full implementation schedule (Milestone 8) and the existing license condition 2.H in the facility operating licenses NPF–87 and NPF–89 for CPNPP, Units 1 and 2, respectively. The CSP and the implementation schedule for CPNPP, Units 1 and 2, were previously approved by the NRC staff by letter dated July 26, 2011 (ADAMS Accession No. ML111780745).

Date of issuance: September 8, 2014.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: Unit 1—163; Unit 2—163. A publicly-available version is in ADAMS under Accession No. ML14183A342; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register***: April 8, 2014 (79 FR 19399). The supplements dated February 4 and April 1, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 8, 2014.

No significant hazards consideration comments received: No.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Date of amendment request: January 30, 2012, as supplemented by letters dated May 10, 2012, September 20, 2012, March 27, 2013, December 20, 2013, and January 29, 2014.

Description of amendment request: The original application proposed revisions to the technical specifications (TSs) for new and spent fuel storage as a result of the new criticality analyses for the new fuel vault (NFV) and spent fuel pool (SFP). By letter dated December 20, 2013 (ADAMS Accession No. ML13360A045), NextEra requested that the SFP and NFV be separated into two separate license amendment requests. This amendment revised the TSs related to spent fuel storage as a result of new criticality analyses for the SFP. The license amendment request for the NFV will be processed under TAC No. MF3283.

Date of issuance: September 3, 2014.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 142. A publicly-available version is in ADAMS under Accession No. ML14184A795; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–86: Amendment revised the Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register***: August 14, 2012 (77 FR 48559). The supplemental letters dated May 10, 2012, September 20, 2012, March 27, 2013, December 20, 2013, and January 29, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 3, 2014.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: April 4, 2014, as supplemented by the letter dated May 27, 2014.

Brief description of amendment: The amendment revises Tier 2* information, incorporated into the VEGP Units 3 and 4 Updated Final Safety Analysis Report (UFSAR). Specifically, the amendment revises the details regarding the structural floor of the Auxiliary Building and its constructability. Notes are added to drawings in subsection 3H.5 of the UFSAR in order to clarify variations in detail design such as size

and spacing or reinforcement and spans of the noncritical sections of floors.

Date of issuance: July 3, 2014.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 21. A publicly-available version is in ADAMS under Accession No. ML14150A133; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Combined Licenses No. NPF–91 and NPF–92: Amendment revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register***: April 29, 2014 (79 FR 24025).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 3, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 22nd day of September 2014.

For the Nuclear Regulatory Commission.

George A. Wilson,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–23015 Filed 9–29–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. MT2014–1; Order No. 2197]

Market Test of Experimental Product-Customized Delivery

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service proposal to conduct a market test of an experimental product called Customized Delivery. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 9, 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

On September 23, 2014, the Postal Service filed a notice, pursuant to 39 U.S.C. 3641, announcing its intent to conduct a market test of an experimental product called Customized Delivery.[1] Customized Delivery is a package delivery service offering that will provide customers with delivery of groceries and other prepackaged goods during a 3 a.m. to 7 a.m. delivery window. *Id.* at 1. The market test will begin on or shortly after October 24, 2014 and continue for two years. *Id.* at 6.

II. Background

On September 23, 2014, the Postal Service filed the Notice proposing the Customized Delivery market test.[2] It states that grocery delivery services are expanding across the nation. Notice at 2. It asserts that with its operational reach, the Postal Service can provide retailers a nationwide solution offering a trained workforce and the trust and reliability of the Postal Service brand. *Id.* The Postal Service contends that it can garner profitable revenue through new revenue streams by expanding its carrier services and offering customized delivery. *Id.*

Operational testing. The Postal Service recently began operational testing for early morning grocery delivery. *Id.* The testing involves a retailer packing groceries into retailer-branded totes, some of which are chilled or include freezer packs.[3] The retailer brings the totes directly into Postal Service destination delivery units (DDU) between 1:30 a.m. and 2:30 a.m. *Id.* The totes, which have a Quick Response (QR) code on the outside, are all the same size and color. *Id.* The retailer provides a manifest file to the Postal Service, which contains the address and QR code for each tote. *Id.* The Postal Service uses this file to dynamically route totes and create a line of travel for each route. *Id.*

City Carrier Assistants (CCAs) use iPhones to scan the totes, which are sorted by route and delivery order and back-loaded onto a truck for delivery. *Id.* at 3. Deliveries occur from 3 a.m. to 7 a.m. and are unattended; the carrier places the totes in a customer-designated location for delivery. *Id.* Totes are scanned to provide tracking and visibility through to delivery. *Id.* The public can easily recognize CCAs, who wear postal uniforms and lighted caps as safety measures. *Id.*

Nature and scope of market test. Pursuant to section 3641(c)(1)(B), the Postal Service provides a description of the nature and scope of the market test. During operational testing, the Postal Service delivered on average 1 to 4 totes per address, with an average of 160 totes per day for the 38 ZIP Codes included in the testing. Notice at 3. Through the market test, the Postal Service seeks to test and develop a long-term scalable solution to expand Customized Delivery to additional major metropolitan markets nationwide. *Id.*

The market test will begin on or shortly after October 24, 2014 and will run for two years unless the Postal Services requests an extension for an additional year, establishes Customized Delivery as a permanent product, or terminates the market test early. *Id.* at 6.

Statutory authority. The Postal Service asserts that its proposal satisfies the criteria of 39 U.S.C. 3641, which imposes certain conditions on market tests of experimental products. The Postal Service asserts that Customized Delivery is significantly different from all products offered within the past two years because it has not offered a customized delivery product during that time. *Id.* at 4; *see* 39 U.S.C. 3641(b)(1). It states that it does not expect Customized Delivery to create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer because prices offered by competitors for grocery delivery typically fall within the price range that the Postal Service intends to test. *Id.* at 5; *see* 39 U.S.C. 3641(b)(2). The Postal Service classifies Customized Delivery as a competitive product because it is part of the highly-competitive package services market that does not fall under the Private Express statutes. *Id.* at 6; *see* 39 U.S.C. 3641(b)(3).

Exemption from revenue limitation. The Postal Service expects that the total revenue received from the market test may exceed the $10 million revenue limitation for market tests in any fiscal year. *Id.* at 7; *see* 39 U.S.C. 3641(e)(1). It applies for an exemption of this

[1] Notice of the United States Postal Service of Market Test of Experimental Product—Customized Delivery, September 23, 2014 (Notice). The Notice includes an Application for Non-Public Treatment of Materials related to the Postal Service's pricing plans for the market test.

[2] On August 28, 2014, the Commission issued an order adopting final rules for market tests of experimental products under 39 U.S.C. 3641. Docket No. RM2013–5, Order No. 2173, Order Adopting Final Rules for Market Tests of Experimental Products, August 28, 2014. The rules were published in the **Federal Register** and will become effective on October 14, 2014. 79 FR 54552 (September 11, 2014).

[3] *Id.* The Postal Service does not explain what totes are. Totes appear to refer to tote bags, which are large and often unfastened bags with parallel handles that emerge from the sides of its pouch.

statutory requirement and states that it has taken steps to ensure that anticipated revenues will not exceed $50 million in any year. *Id.; see* 39 U.S.C. 3642(e)(2). It asserts that the market test is likely to benefit the public and meet an expected demand, as well as contribute to the financial stability of the Postal Service. *Id.*

Data collection. The Postal Service asserts that it will monitor market demand for Customized Delivery and will track the costs of providing delivery of grocery and other pre-packaged goods during customized delivery windows. *Id.* at 8. It has prepared a data collection plan to track volumes of packages delivered via Customized Delivery; total revenue generated; work hours, travel times, and other cost data; and administrative and start-up cost data. *Id.*

III. Notice of Filing

The Commission establishes Docket No. MT2014–1 to consider matters raised by the Notice, including the Postal Service's request for exemption from the $10 million revenue limitation. It encourages interested persons to review the Notice for more details. Interested persons may submit comments on whether the Postal Service's filing is consistent with the requirements of 39 U.S.C. 3641. Comments are due no later than October 9, 2014. The filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Anne J. Siarnacki to serve as Public Representative in this docket.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MT2014–1 to consider matters raised by the Notice.

2. Pursuant to 39 U.S.C. 505, Anne J. Siarnacki 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 no later than October 9, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2014–23241 Filed 9–29–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Market Test of Experimental Product—Customized Delivery

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of a market test of an experimental product in accordance with statutory requirements.

DATES: *Effective Date:* September 30, 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. 3641(c)(1), it will begin a market test of its Customized Delivery experimental product on or after October 24, 2014. The Postal Service has filed with the Postal Regulatory Commission a notice setting out the basis for the Postal Service's determination that the market test is covered by 39 U.S.C. 3641 and describing the nature and scope of the market test. Documents are available at *www.prc.gov,* Docket No. MT2014–1.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–23189 Filed 9–29–14; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form F–6; OMB Control No. 3235–0292, SEC File No. 270–270

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for approval.

Form F–6 (17 CFR 239.36) is a form used by foreign companies to register the offer and sale of American Depositary Receipts (ADRs) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). Form F–6 requires disclosure of information regarding the terms of the depository bank, fees charged, and a description of the ADRs. No special information regarding the foreign company is required to be prepared or disclosed, although the foreign company must be one which periodically furnishes information to the Commission. The information is needed to ensure that investors in ADRs have full disclosure of information concerning the deposit agreement and the foreign company. Form F–6 takes approximately 1 hour per response to prepare and is filed by 500 respondents annually. We estimate that 25% of the 1.35 hour per response (0.338 hours) is prepared by the filer for a total annual reporting burden of 169 hours (0.338 hours per response × 500 responses).

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: September 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23254 Filed 9–29–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31262; File No. 812–14252]

Great-West Funds, Inc., et al.; Notice of Application

September 24, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an

exemption from sections 17(a)(1) and (2) of the Act, and under section 6(c) of the Act for an exemption from rule 12d1–2(a) under the Act.

Summary of the Application: The requested order would (a) permit certain registered open-end management investment companies that operate as ''funds of funds'' to acquire shares of certain registered open-end management investment companies and unit investment trusts (''UITs'') that are within and outside the same group of investment companies as the acquiring investment companies, and (b) permit funds of funds relying on rule 12d1–2 under the Act to invest in certain financial instruments.

Applicants: Great-West Funds, Inc. (''Great-West Funds''), Great-West Capital Management, LLC (''Adviser''), and GWFS Equities, Inc. (the ''Distributor'').

Filing Dates: The application was filed on December 18, 2013 and amended on May 13, 2014, and on August 27, 2014.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 17, 2014 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: c/o Renee M. Hardt, Vedder Price P.C., 222 N. LaSalle Street, Suite 2600, Chicago, Illinois 60601.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Senior Counsel, at (202) 551–6868, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Applicants' Representations

1. Great-West Funds, a Maryland corporation, is registered under the Act as an open-end management investment company and currently offers shares of 63 series (''Funds''), each of which pursues different investment objectives and principal investment strategies.[1]

2. The Adviser, a Colorado limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940, as amended (''Advisers Act'') and serves as investment adviser to the Funds.

3. The Distributor, a Delaware corporation, is registered as a broker-dealer under the Securities Exchange Act of 1934 (the ''Exchange Act''). The Distributor will serve as principal underwriter and distributor for the shares of the Funds.

4. Applicants request an order to permit (a) a Fund that operates as a ''fund of funds'' (each a ''Fund of Funds'') to acquire shares of (i) registered open-end management investment companies that are not part of the same ''group of investment companies,'' within the meaning of section 12(d)(1)(G)(ii) of the Act, as the Fund of Funds (''Unaffiliated Investment Companies'') and unit investment trusts (''UITs'') that are not part of the same group of investment companies as the Fund of Funds (''Unaffiliated Trusts,'' together with the Unaffiliated Investment Companies, ''Unaffiliated Funds'')[2] or (ii) registered open-end management companies or UITs that are part of the same ''group of investment companies,'' within the meaning of section 12(d)(1)(G) (ii) of the Act, as the Fund of Funds (collectively, ''Affiliated Funds,'' together with the Unaffiliated Funds, ''Underlying Funds'') and (b) each Underlying Fund, the Distributor or any principal underwriter for the Underlying Fund, and any broker or dealer registered under the Exchange Act (''Broker'') to sell shares of the Underlying Fund to the Fund of Funds in amounts in excess of limits set forth in section 12(d)(1)(B). Applicants also request an order under sections 6(c) and 17(b) of the Act to exempt applicants from section 17(a) to the extent necessary to permit Underlying Funds to sell their shares to Funds of Funds and redeem their shares from Funds of Funds.

5. Applicants also request an exemption under section 6(c) from rule 12d1–2 under the Act to permit any existing or future Fund that relies on section 12(d)(1)(G) of the Act (''Same Group Fund of Funds'') and that otherwise complies with rule 12d1–2 to also invest, to the extent consistent with its investment objective, policies, strategies, and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').

Applicants' Legal Analysis

A. Investments in Underlying Funds—Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, and any Broker from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's total outstanding voting stock, or if the sale will cause more than 10% of the acquired company's total outstanding voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) of the Act to permit a Fund of Funds to acquire shares of the Underlying Funds in excess of the limits in section 12(d)(1)(A), and an

[1] Applicants request that the order apply to each existing and future series of Great-West Funds and to each existing and future registered open-end management investment company or series thereof that is advised by the Adviser or any entity controlling, controlled by or under common control with the Adviser and is part of the same ''group of investment companies'' (as defined in section 12(d)(1)(G)(ii) of the Act), as Great-West Funds (each, a ''Fund'' and collectively, ''Funds.''). All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[2] Certain of the Unaffiliated Funds may be registered under the Act as either UITs or open-end management investment companies and have received exemptive relief to permit their shares to be listed and traded on a national securities exchange at negotiated prices (''ETFs'').

Underlying Fund, any principal underwriter for an Underlying Fund, and any Broker to sell shares of an Underlying Fund to a Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.

3. Applicants state that the terms and conditions of the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants believe that the proposed arrangement will not result in the exercise of undue influence by the Fund of Funds or a Fund of Funds Affiliate over the Unaffiliated Funds.[3] To limit the control that the Fund of Funds may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Adviser, any person controlling, controlled by, or under common control with the Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Adviser or any person controlling, controlled by, or under common control with the Adviser (the ''Advisory Group'') from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any other investment adviser within the meaning of section 2(a)(20)(B) of the Act to a Fund of Funds (''Subadviser''), any person controlling, controlled by, or under common control with the Subadviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Subadviser or any person controlling, controlled by, or under common control with the Subadviser (the ''Subadvisory Group''). Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, trustee, advisory board member, investment adviser, Subadviser, or employee of the Fund of Funds, or a person of which any such officer, director, trustee, advisory board member, investment adviser, Subadviser, or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the Act.

5. To further ensure that an Unaffiliated Investment Company understands the implications of an investment by a Fund of Funds under the requested order, prior to a Fund of Funds' investment in the shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that their respective board of directors or trustees (for any entity, the ''Board'') and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (''Participation Agreement''). Applicants note that an Unaffiliated Investment Company (other than an ETF whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds.[4]

6. Applicants state that they do not believe that the proposed arrangement will involve excessive layering of fees. The Board of each Fund of Funds, including a majority of the directors who are not ''interested persons'' (within the meaning of section 2(a)(19) of the Act) (''Independent Directors''), will find that the advisory fees charged under investment advisory or management contract(s) are based on services provided that will be in addition to, rather than duplicative of, the services provided under such advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. In addition, the Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Adviser or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in Rule 2830 of the Conduct Rules of the NASD (''NASD Conduct Rule 2830'').[5]

7. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except in certain circumstances identified in condition 11 below.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that a Fund of Funds and the Affiliated Funds managed by the same Adviser might be deemed to be under common control of the Adviser and therefore affiliated persons of one another. Applicants also state that the Fund of Funds and the Unaffiliated Funds might be deemed to be affiliated persons of one another if the Fund of Funds acquires 5% or more of an Unaffiliated Fund's outstanding voting securities. In light of these and

[3] A ''Fund of Funds Affiliate'' is the Adviser, any Subadviser (as defined below), promoter, or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by, or under common control with any of those entities. An ''Unaffiliated Fund Affiliate'' is an investment adviser, sponsor, promoter, or principal underwriter of an Unaffiliated Fund, as well as any person controlling, controlled by, or under common control with any of those entities.

[4] An Unaffiliated Investment Company, including an ETF, would retain its right to reject any initial investment by a Fund of Funds in excess of the limit in section 12(d)(1)(A)(i) of the Act by declining to execute the Participation Agreement with the Fund of Funds.

[5] Any references to NASD Conduct Rule 2830 include any successor or replacement rule of FINRA to NASD Conduct Rule 2830.

other possible affiliations, section 17(a) could prevent an Underlying Fund from selling shares to and redeeming shares from a Fund of Funds.

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the Act.[6] Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Fund will sell its shares to or purchase its shares from a Fund of Funds will be based on the net asset value of the Underlying Fund.[7] Applicants state that the proposed transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act.

[6] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by a Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e)(1) of the Act. The Participation Agreement also will include this acknowledgement.

[7] To the extent purchases and sales of shares of an ETF occur in the secondary market (and not through principal transactions directly between a Fund of Funds and an ETF), relief from section 17(a) of the Act would not be necessary. The requested relief is intended to cover, however, transactions directly between ETFs and a Fund of Funds. Applicants are not seeking relief from section 17(a) of the Act for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because the investment adviser to the ETF, or an entity controlling, controlled by, or under common control with the investment adviser to the ETF, is an investment adviser to the Fund of Funds.

C. Other Investments by Same Group Fund of Funds

1. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and acquired company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

2. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered unit investment trust that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the Act.

3. Applicants state that the proposed arrangement would comply with the provisions of rule 12d1–2 under the Act, but for the fact that a Same Group Fund of Funds may invest a portion of its assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Same Group Fund of Funds to invest in Other Investments. Applicants assert that permitting Same Group Fund of Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

4. Consistent with its fiduciary obligations under the Act, the Board of each Same Group Fund of Funds will review the advisory fees charged by the Same Group Fund of Funds' investment adviser to ensure that they are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Same Group Fund of Funds may invest.

Applicants' Conditions

Investments by Funds of Funds in Underlying Funds

Applicants agree that the relief to permit Funds of Funds to invest in Underlying Funds shall be subject to the following conditions:

1. The members of an Advisory Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The members of a Subadvisory Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Unaffiliated Fund, the Advisory Group or a Subadvisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of the Unaffiliated Fund, then the Advisory Group or the Subadvisory Group will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. This condition will not apply to a Subadvisory Group with respect to an Unaffiliated Fund for which the Subadviser or a person controlling, controlled by, or under common control with the Subadviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated Trust).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in shares of an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Directors, will adopt procedures reasonably designed to ensure that its Adviser and any Subadviser(s) to the Fund of Funds are conducting the investment program of the Fund of Funds without taking into account any

consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Fund or an Unaffiliated Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Directors, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s) or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Directors, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Investment Company shall maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and shall maintain and preserve for a period not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth: (a) The party from whom the securities were acquired, (b) the identity of the underwriting syndicate's members, (c) the terms of the purchase, and (d) the information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the Act, the Board of each Fund of Funds, including a majority of the Independent Directors, shall find that the advisory fees charged under such advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding and the basis upon which the finding was made will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Adviser will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Adviser, or an affiliated person of the Adviser, other than any advisory fees paid to the Adviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Subadviser will waive fees otherwise payable to the Subadviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Subadviser, or an affiliated person of the Subadviser, from an Unaffiliated Fund, other than any advisory fees paid to the Subadviser or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Subadviser. In the event that the Subadviser waives fees, the benefit of the waiver will be passed through to the applicable Fund of Funds.

11. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Receives securities of another

investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (b) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to (i) acquire securities of one or more investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

12. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to fund of funds set forth in NASD Conduct Rule 2830.

Other Investments by Same Group Fund of Funds

Applicants agree that the relief to permit Same Group Fund of Funds to invest in Other Investments shall be subject to the following condition:

13. Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Same Group Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23227 Filed 9–29–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31261; File No. 812–14270]

JNL Series Trust, et al.; Notice of Application

September 24, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order pursuant to: (a) Section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d-1 under the Act to permit certain joint arrangements and transactions.

Summary of the Application: Applicants request an order that would permit certain registered open-end management investment companies to participate in a joint lending and borrowing facility.

Applicants: JNL Series Trust, JNL Investors Series Trust, Curian Series Trust, and Curian Variable Series Trust (each a ''Trust'' and collectively the ''Trusts''), JNL Variable Fund LLC and JNL Strategic Income Fund LLC (each a ''Limited Liability Company''), Jackson National Asset Management, LLC (''JNAM'') and Curian Capital, LLC (''Curian'') (each, an ''Adviser,'' and such entities together, the ''Advisers'').

DATES: *Filing Dates:* The application was filed on January 24, 2014, and amended on May 29, 2104, and September 22, 2014.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail.

Hearing requests should be received by the Commission by 5:30 p.m. on October 17, 2014 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC, 20549–1090; Applicants: c/o Eric S. Purple, Esq., K&L Gates LLP, 1601 K Street NW., Washington, DC 20006–1600.

For Further Information Contact: Emerson S. Davis, Senior Counsel, at (202) 551–6868 or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each Trust is organized as a Massachusetts business trust and is registered under the Act as an open-end, management investment company. Each Limited Liability Company is a Delaware limited liability company and is registered as an open-end management investment company. Each Trust has issued one or more series, each of which has shares having a different investment objective and different investment policies. Certain of the Funds [1] either are or may be money market funds that comply with rule 2a–7 under the Act (each a ''Money Market Fund'' and collectively, the ''Money Market Funds''). JNAM and Curian are each a Michigan limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). Both are indirect, wholly-owned subsidiaries of Prudential plc, a publically traded company incorporated in the United Kingdom and act as investment adviser to the Funds.[2]

2. The Funds may lend cash to banks or other entities by entering into repurchase agreements, purchasing short-term instruments. In order to meet an unexpected volume of redemptions or to cover unanticipated cash shortfalls, the Funds contracted for committed lines of credit with JP Morgan, N.A., and other lenders that are currently included or may be added in the future to the lending syndicate (''Bank Borrowing''). The amount of borrowing under each of these lines of credit is limited to the amount specified by fundamental investment restrictions, the terms specified in the agreements, and/or other policies of the applicable Fund and section 18 of the Act.

3. If Funds that experience a cash shortfall were to draw down on their Bank Borrowing, they would pay interest at a rate that is likely to be higher than the rate that could be earned by non-borrowing Funds on investments in repurchase agreements and other short-term money market instruments of the same maturity as the Bank

[1] Applicants request that the order apply to any registered open-end management investment company or series thereof for which JNAM, Curian or any successor thereto or an investment adviser controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with JNAM or Curian or any successor thereto serves as investment adviser (each a ''Fund'' and collectively the ''Funds'' or each such investment adviser as ''Adviser''). For purposes of the requested order, ''successor'' is limited to any entity that results from a reorganization into another jurisdiction or a change in the type of a business organization.

[2] All Funds that currently intend to rely on the requested order have been named as applicants. Any other Fund that relies on the requested order in the future will comply with the terms and conditions of the application.

Borrowing (''Short-Term Instruments''). Applicants assert the difference between the higher rate paid on Bank Borrowing and what the bank pays to borrow under repurchase agreements or other arrangements represents the bank's profit for serving as the middleperson between a borrower and lender and is not attributable to any material difference in the credit quality or risk of such transactions.

4. The Funds seek to enter into master interfund lending agreements with each other that would permit each Fund to lend money directly to and borrow money directly from other Funds for temporary purposes through the InterFund Program (an ''Interfund Loan''). The Money Market Funds will not participate as borrowers. Applicants state that the requested will relief enable the Funds to access an available source of money and reduce costs incurred by the Funds that need to obtain loans for temporary purposes and permit those Funds that have cash available: (i) To earn a return on the money that they might not otherwise be able to invest; or (ii) to earn a higher rate of interest on investment of their short-term balances. Although the proposed InterFund Program would reduce the Funds' need to borrow from banks or through custodian drafts, the Funds would be free to establish and/or continue committed lines of credit or other borrowing arrangements with banks.

5. Applicants anticipate that the proposed InterFund Program would provide a borrowing Fund with significant savings at times when the cash position of the Fund is insufficient to meet temporary cash requirements. This situation could arise when shareholder redemptions exceed anticipated cash volumes and certain Funds have insufficient cash on hand to satisfy such redemptions. When the Funds liquidate portfolio securities to meet redemption requests, they often do not receive payment in settlement for up to three days (or longer for certain foreign transactions). However, redemption requests normally are effected on the day following the trade date. The proposed InterFund Program would provide a source of immediate, short-term liquidity pending settlement of the sale of portfolio securities.

6. Applicants also anticipate that a Fund could use the InterFund Program when a sale of securities ''fails'' due to circumstances beyond the Fund's control, such as a delay in the delivery of cash to the Fund's custodian or improper delivery instructions by the broker effecting the transaction. ''Sales fails'' may present a cash shortfall if the Fund has undertaken to purchase a security using the proceeds from securities sold. Alternatively, the Fund could: (i) ''fail'' on its intended purchase due to lack of funds from the previous sale, resulting in additional cost to the Fund; or (ii) sell a security on a same-day settlement basis, earning a lower return on the investment. Use of the InterFund Program under these circumstances would enable the Fund to have access to immediate short-term liquidity.

7. While Bank Borrowing and/or custodian overdrafts generally could supply Funds with needed cash to cover unanticipated redemptions and sales fails, under the proposed InterFund Program, a borrowing Fund would pay lower interest rates than those that would be payable under short-term loans offered by banks or custodian overdrafts. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in Short-Term Instruments. Thus, applicants assert that the proposed InterFund Program would benefit both borrowing and lending Funds.

8. The interest rate to be charged to the Funds on any Interfund Loan (the ''Interfund Loan Rate'') would be the average of the ''Repo Rate'' and the ''Bank Loan Rate,'' both as defined below. The Repo Rate would be the highest current overnight repurchase agreement rate available to a lending Fund. The Bank Loan Rate for any day would be calculated by the InterFund Program, as defined below, on each day an Interfund Loan is made according to a formula established by each Fund's board of trustees (the ''Board'') intended to approximate the lowest interest rate at which a bank short-term loan would be available to the Fund. The formula would be based upon a publicly available rate (*e.g.,* Federal funds rate and/or LIBOR) plus an additional spread of basis points and would vary with this rate so as to reflect changing bank loan rates. The initial formula and any subsequent modifications to the formula would be subject to the approval of each Fund's Board. In addition, the Board of each Fund would periodically review the continuing appropriateness of reliance on the formula used to determine the Bank Loan Rate, as well as the relationship between the Bank Loan Rate and current bank loan rates that would be available to the Fund.

9. Certain members of the Adviser's fund administration personnel (other than investment advisory personnel) (the ''InterFund Program Team'') would administer the InterFund Program. No portfolio manager of any Fund will serve as a member of the InterFund Program. Under the proposed InterFund Program, the portfolio managers for each participating Fund could provide standing instructions to participate daily as a borrower or lender. The InterFund Program Team on each business day would collect data on the uninvested cash and borrowing requirements of all participating Funds. Once the InterFund Program Team has determined the aggregate amount of cash available for loans and borrowing demand, the InterFund Program Team would allocate loans among borrowing Funds without any further communication from the portfolio managers of the Funds. Applicants anticipate that there typically will be far more available uninvested cash each day than borrowing demand. Therefore, after the InterFund Program Team has allocated cash for Interfund Loans, the InterFund Program Team will invest any remaining cash in accordance with the standing instructions of the relevant portfolio manager or such remaining amounts will be invested directly by the portfolio managers of the Funds.

10. The InterFund Program Team would allocate borrowing demand and cash available for lending among the Funds on what the InterFund Program Team believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. To reduce transaction costs, each Interfund Loan normally would be allocated in a manner intended to minimize the number of participants necessary to complete the loan transaction. The method of allocation and related administrative procedures would be approved by the Boards of the Funds, including a majority of the Board members who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Board Members''), to ensure that both borrowing and lending Funds participate on an equitable basis.

11. The InterFund Program Team, on behalf of the Advisers. would: (a) Monitor the Interfund Loan Rate and the other terms and conditions of the Interfund Loans; (b) limit the borrowings and loans entered into by each Fund to ensure that they comply with the Fund's investment policies and limitations; (c) ensure equitable treatment of each Fund; and (d) make quarterly reports to the Board of each Fund concerning any transactions by

the applicable Fund under the InterFund Program and the Interfund Loan Rate.

12. The Advisers, through the InterFund Program Team, would administer the InterFund Program as a disinterested fiduciary as part of its duties under the investment management and administrative agreements with each Fund and would receive no additional fee as compensation for its services in connection with the administration of the InterFund Program.

13. No Fund may participate in the InterFund Program unless: (a) The Fund has obtained shareholder approval for its participation, if such approval is required by law; (b) the Fund has fully disclosed all material information concerning the InterFund Program in its registration statement on form N–1A; and (c) the Fund's participation in the InterFund Program is consistent with its investment objectives, limitations and organizational documents.

14. In connection with the InterFund Program, applicants request an order under section 6(c) of the Act exempting them from the provisions of sections 18(f) and 21(b) of the Act; under section 12(d)(1)(J) of the Act exempting them from section 12(d)(1) of the Act; under sections 6(c) and 17(b) of the Act exempting them from sections 17(a)(1), 17(a)(2), and 17(a)(3) of the Act; and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements and transactions.

Applicants' Legal Analysis

1. Section 17(a)(3) of the Act generally prohibits any affiliated person of a registered investment company, or affiliated person of an affiliated person, from borrowing money or other property from the registered investment company. Section 21(b) of the Act generally prohibits any registered management company from lending money or other property to any person, directly or indirectly, if that person controls or is under common control with that company. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, such other person. Section 2(a)(9) of the Act defines ''control'' as the ''power to exercise a controlling influence over the management or policies of a company,'' but excludes circumstances in which ''such power is solely the result of an official position with such company.'' Applicants state that the Funds may be under common control by virtue of having common investment advisers and/or by having common trustees, managers and/or officers.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants assert that sections 17(a)(3) and 21(b) of the Act were intended to prevent a party with strong potential adverse interests to, and some influence over the investment decisions of, a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of such party and that are detrimental to the best interests of the investment company and its shareholders. Applicants assert that the proposed transactions do not raise these concerns because: (a) The Advisers, through the InterFund Program Team members, would administer the InterFund Program as disinterested fiduciaries as part of their duties under the investment management and administrative agreements with each Fund; (b) all Interfund Loans would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term investments; (c) the Interfund Loans would not involve a greater risk than such other investments; (d) the lending Fund would receive interest at a rate higher than it could otherwise obtain through such other investments; and (e) the borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements or through custodian overdrafts and avoid the commitment fees associated with lines of credit. Moreover, applicants assert that the other terms and conditions that applicants propose also would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from selling securities or other property to the investment company. Section 17(a)(2) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from purchasing securities or other property from the investment company. Section 12(d)(1) of the Act generally prohibits a registered investment company from purchasing or otherwise acquiring any security issued by any other investment company except in accordance with the limitations set forth in that section.

5. Applicants state that the obligation of a borrowing Fund to repay an Interfund Loan could be deemed to constitute a security for the purposes of sections 17(a)(1) and 12(d)(1). Applicants also state that any pledge of securities to secure an Interfund Loan by the borrowing Fund to the lending Fund could constitute a purchase of securities for purposes of section 17(a)(2) of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent that such exemption is consistent with the public interest and the protection of investors. Applicants contend that the standards under sections 6(c), 17(b), and 12(d)(1)(J) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below. Applicants state that the requested relief from section 17(a)(2) of the Act meets the standards of section 6(c) and 17(b) because any collateral pledged to secure an Interfund Loan would be subject to the same conditions imposed by any other lender to a Fund that imposes conditions on the quality of or access to collateral for a borrowing (if the lender is another Fund) or the same or better conditions (in any other circumstance).

6. Applicants state that section 12(d)(1) was intended to prevent the pyramiding of investment companies in order to avoid imposing on investors additional and duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed InterFund Program does not involve these abuses. Applicants note that there will be no duplicative costs or fees to the Funds or their shareholders, and that each Adviser will receive no additional compensation for its services in administering the InterFund Program. Applicants also note that the purpose of

the proposed InterFund Program is to provide economic benefits for all the participating Funds and their shareholders. Section 18(f)(1) of the Act prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, provided, that immediately after the borrowing, there is asset coverage of at least 300 per centum for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' generally includes any bond, debenture, note or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief under section 6(c) from section 18(f)(1) to the limited extent necessary to implement the InterFund Program (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of a Fund, including combined Interfund Loans and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the proposed InterFund Program is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit an affiliated person of a registered investment company, or any affiliated person of such a person, when acting as principal, from effecting any joint transaction in which the investment company participates, unless, upon application, the transaction has been approved by the Commission. Rule 17d–1(b) under the Act provides that in passing upon an application filed under the rule, the Commission will consider whether the participation of the registered investment company in a joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of the other participants.

9. Applicants assert that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to insiders. Applicants assert that the InterFund Program is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants assert that each Fund's participation in the proposed InterFund Program would be on terms that are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. The Interfund Loan Rate will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, when an interfund loan is to be made, the InterFund Program Team will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is: (a) More favorable to the lending Fund than the Repo Rate; and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding Bank Borrowings, any Interfund Loan to the Fund will: (a) Be at an interest rate equal to or lower than the interest rate of any outstanding bank loan; (b) be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral; (c) have a maturity no longer than any outstanding bank loan (and in any event not over seven days); and (d) provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that the event of default by the Fund, will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the interfund lending agreement which both (i) entitles the lending Fund to call the Interfund Loan immediately and exercise all rights with respect to any collateral and (ii) causes the call to be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may borrow on an unsecured basis through the InterFund Program only if the relevant borrowing Fund's outstanding borrowings from all sources immediately after the interfund borrowing total 10% or less of its total assets, provided that if the borrowing Fund has a secured loan outstanding from any other lender, including but not limited to another, the lending Fund's Interfund Loan will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a borrowing Fund's total outstanding borrowings immediately after an Interfund Loan would be greater than 10% of its total assets, the Fund may borrow through the InterFund Program only on a secured basis. A Fund may not borrow through the InterFund Program or from any other source if its total outstanding borrowings immediately after the borrowing would be more than 33⅓% of its total assets or any lower threshold provided for by a Fund's fundamental restriction or non-fundamental policy.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, it must first secure each outstanding Interfund Loan to a Fund by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceed 10% of its total assets for any other reason (such as a decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter either: (a) Repay all its outstanding Interfund Loans to Funds; (b) reduce its outstanding indebtedness to Funds to 10% or less of its total assets; or (c) secure each outstanding Interfund Loan to other Funds by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition 5 shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceed 10% of its total assets is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan to Funds at least equal to 102% of the outstanding principal value of the Interfund Loans.

6. No Fund may lend to another Fund through the InterFund Program if the loan would cause the lending Fund's aggregate outstanding loans through the InterFund Program to exceed 15% of its current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. A Fund's borrowings through the InterFund Program, as measured on the day when the most recent loan was made, will not exceed the greater of 125% of the Fund's total net cash redemptions for the preceding seven calendar days or 102% of the Fund's sales fails for the preceding seven calendar days.

10. Each Interfund Loan may be called on one business day's notice by a lending Fund and may be repaid on any day by a borrowing Fund.

11. A Fund's participation in the InterFund Program must be consistent with its investment restrictions, policies, limitations and organizational documents.

12. The InterFund Program Team will calculate total Fund borrowing and lending demand through the InterFund Program, and allocate Interfund Loans on an equitable basis among the Funds, without the intervention of any portfolio manager. The InterFund Program Team will not solicit cash for the InterFund Program from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. The InterFund Program Team will invest all amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions of the relevant portfolio manager or such remaining amounts will be invested directly by the portfolio managers of the Funds.

13. The InterFund Program Team will monitor the Interfund Loan Rate and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Boards concerning the participation of the Funds in the InterFund Program and the terms and other conditions of any extensions of credit under the InterFund Program.

14. Each Board, including a majority of the Independent Board Members, will:

(a) Review, no less frequently than quarterly, the participation of each Fund's it oversees in the InterFund Program during the preceding quarter for compliance with the conditions of any order permitting such participation;

(b) establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans;

(c) review, no less frequently than annually, the continuing appropriateness of the Bank Loan Rate formula; and

(d) review, no less frequently than annually, the continuing appropriateness of the participation in the InterFund Program by each Fund it oversees.

15. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction by it under the InterFund Program occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity and the Interfund Loan Rate, the rate of interest available at the time each Interfund Loan is made on overnight repurchase agreements and Bank Borrowings, and such other information presented to the Boards of the Funds in connection with the review required by conditions 13 and 14.

16. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the time the lending Fund makes a demand for payment under the provisions of the interfund lending agreement, the Adviser to the lending Fund promptly will refer the loan for arbitration to an independent arbitrator selected by the Board of any Fund involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[3] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Board of each Fund setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

17. The Advisers will prepare and submit to the Board for review an initial report describing the operations of the InterFund Program and the procedures to be implemented to ensure that all Funds are treated fairly. After the commencement of the InterFund Program, the Advisers will report on the operations of the InterFund Program at the Board's quarterly meetings. Each Fund's chief compliance officer, as defined in rule 38a–1(a)(4) under the Act, shall prepare an annual report for its Board each year that the Fund participates in the InterFund Program, that evaluates the Fund's compliance with the terms and conditions of the application and the procedures established to achieve such compliance. Each Fund's chief compliance officer will also annually file a certification pursuant to Item 77Q3 of Form N–SAR as such Form may be revised, amended or superseded from time to time, for each year that the Fund participates in the InterFund Program, that certifies that the Fund and its Adviser have implemented procedures reasonably designed to achieve compliance with the terms and conditions of the order. In particular, such certification will address procedures designed to achieve the following objectives:

(a) That the Interfund Loan Rate will be higher than the Repo Rate but lower than the Bank Loan Rate;

(b) compliance with the collateral requirements as set forth in the application;

(c) compliance with the percentage limitations on interfund borrowing and lending;

(d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Board; and

(e) that the Interfund Loan Rate does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

Additionally, each Fund's independent public accountants, in connection with their audit examination of the Fund, will review the operation of the InterFund Program for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

18. No Fund will participate in the InterFund Program, upon receipt of requisite regulatory approval, unless it has fully disclosed in its registration statement on Form N–1A (or any successor form adopted by the Commission) all material facts about its intended participation.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23226 Filed 9–29–14; 8:45 am]

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[3] If the dispute involves Funds that do not have a common Board, the Board of each affected Fund will select an independent arbitrator that is satisfactory to each Fund.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73204; File No. SR–NYSEArca–2014–105]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Equities Rule 7.31 To Amend the Functionality Relating To Post No Preference Blind Orders To Display Such Orders One Minimum Price Variation Below the Best Protected Offer for Bids and Above the Best Protected Bid for Offers

September 24, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 11, 2014, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the functionality relating to Post No Preference Blind (''PNP Blind'') orders to display such orders one minimum price variation below the best protected offer for bids and above the best protected bid for offers. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 7.31(mm) to amend the functionality relating to PNP Blind orders to display such orders one minimum price variation (''MPV'') below the best protected offer (''PBO'') for bids and above the best protected bid (''PBB'') for offers. All other functionality of PNP Blind orders would remain the same.

Pursuant to Rule 7.31(mm), a PNP Blind order is a PNP order that is placed undisplayed in the NYSE Arca book at the price of the contra-quote of the PBBO if the order would lock or cross a protected quotation. The rule provides that where the PBBO moves away from the price of the PNP Blind, but the prices continue to overlap, the limit price of the PNP Blind remains un-displayed and its tradeable price is adjusted to the contra side of the best protected offer or best protected bid. Where the PBBO moves away from the price of the PNP Blind and the prices no longer overlap, the PNP Blind converts to a displayed PNP limit order. Where the PBBO moves into the price of the PNP Blind, the PNP Blind adjusts its tradeable price to the contra side of the best protected offer or best protected bid. PNP Blind orders are governed by the Exchange's Display Order Process set forth in Rule 7.36. Marketable contra orders execute first against PNP Blind orders, only at superior prices, then the rest of the book. Multiple PNP Blind orders, in un-displayed status, are treated in time priority, regardless of the price of the order. A PNP Blind order that is combined with an ALO order is not cancelled if it is marketable against the PBBO.

The Exchange is proposing to amend Rule 7.31(mm) to provide for PNP Blind orders to be displayed. The Exchange would continue to price and execute PNP Blind orders at the price of the contra-quote of the PBBO. As proposed, the Exchange would also display PNP Blind orders one MPV below the PBO (for bids) and one MPV above the PBB (for offers).[4] As with current functionality, PNP Blind orders would continue to be re-priced if the PBBO moves. As proposed, each time the PNP Blind order is repriced to reflect a change in the contra-quote PBBO, the PNP Blind order would also be re-displayed at one MPV below the updated PBO (for bids) and one MPV above the updated PBB (for offers).[5]

In order to reflect the new functionality for PNP Blind orders, the Exchange proposes to revise Rule 7.31(mm) to adopt rule text similar to rule text of other markets that offer similar functionality.[6] As proposed, amended Rule 7.31(mm) would provide that a PNP Blind order is a PNP order that, if, at the time of entry, would create a violation of Rule 610(d) of Regulation NMS by locking or crossing the protected quotation of an external market or would cause a violation of Rule 611 of Regulation NMS would be priced to the current PBO (for bids) or to the current PBB (for offers) and displayed by the Exchange at one MPV below the current PBO (for bids) or above the current PBB (for offers). Although the rule text is changing, as noted above, the only change to the functionality associated with PNP Blind orders is the new display function. The Exchange believes that the proposed new rule text provides transparency regarding the amended PNP Blind order functionality because it makes clear both how it would be priced for execution and at what price it would be displayed. The proposed rule text also makes clear that the re-pricing and re-displaying is to prevent both locking or crossing a protected quotation of an external market, in violation of Rule 610(d) of Regulation NMS, and trading through a protected quotation, in violation of Rule 611 of Regulation NMS.

The Exchange notes that including explicit cross-references to Regulation NMS is similar to the rule text governing Nasdaq's Price to Comply Order, which similarly provides that Nasdaq reprices orders that if, at the time of entry, the order would create a violation of Rule 610(d) of Regulation NMS by locking or crossing the protected quotation of an external market or would cause a violation of Rule 611 of Regulation NMS.[7] The rule text describing how the re-pricing and

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Pursuant to NYSE Arca Equities Rule 7.6, Commentary .03, the MPV for quoting and entry of orders on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the MPV for order entry is $0.0001.

[5] The Exchange notes that the proposed change would not alter how the Exchange would treat PNP Blind orders to sell short that are entered during a Short Sale Period pursuant to Rule 7.16(f)(v)(D)(ii). Pursuant to that rule, during a Short Sale Period, PNP Blind orders to sell short are both re-priced and displayed at a Permitted Price, which is one MPV above the NBB.

[6] *See* Nasdaq Stock Market LLC (''Nasdaq'') Rule 4751(d)(8) and (10) and BATS Exchange, Inc. (''Bats'') Rules 11.9(c)(6) and (g)(2)(E) [sic].

[7] *See* Nasdaq Rule 4751(d)(8) [sic].

re-display function would operate for PNP Blind orders is also similar to the rule text governing Nasdaq's Post-Only Orders, which provides that Nasdaq would price such non-routable orders that lock or cross an external market's protected quotations to the current PBO or the current PBB and display such orders one MPV below the current PBO (for bids) or above the current PBB (for offers).[8]

Proposed amended Rule 7.31(mm)(1) describes how a PNP Blind Order would be re-displayed and re-priced if the PBBO moves. As proposed, if the PBO (PBB) re-prices higher (lower), a PNP Blind order to buy (sell) would be re-priced to the updated PBO (PBB) and re-displayed one MPV below (above) the updated PBO (PBB) until it reaches its limit price. This proposed rule text is consistent with current Rule 7.31(mm)(1), which provides that PNP Blind orders will be re-priced when the PBBO moves ''away from the price''. The proposed new rule text differs from the current rule in order to incorporate the new display function for PNP Blind orders, described above.[9] The Exchange notes that because PNP Blind orders would now be displayed, there is no need to re-price the PNP Blind Order if the price of the PBBO moves ''into the price'' of the PNP Blind Order, *i.e.,* locks or crosses the displayed price, as set forth in current Rule 7.31(mm)(3). Rather, because the PNP Blind Order would be displayed, the Exchange proposes that if the PBO (PBB) re-prices to be equal to or lower (higher) than the last displayed price of a PNP Blind order, the PNP Blind order would remain priced and displayed at its last displayed price. As such, a PNP Blind Order would stand its ground at its displayed price, which would also become the price at which it would execute if the opposite side PBBO locks or crosses the displayed price of the PNP Blind order.[10] Finally, consistent with current Rule 7.31(mm)(2), but with revised rule text, if the PBBO changes such that a PNP Blind order would not lock or cross the PBBO of an external market, the order would be displayed as a PNP limit order.[11]

The remainder of the proposed rule text is not new rule text, but rather current Rule 7.31(mm)(4) language moved to amended Rule 7.31(mm)(2), with non-substantive revisions. The proposed revised rule text provides that PNP Blind orders are governed by the Exchange's Display Order Process set forth in Rule 7.36. Marketable contra orders will execute first against PNP Blind orders, only at superior prices, then the rest of the book. All PNP Blind orders that are re-priced and re-displayed will retain their priority as compared to other PNP Blind orders based upon the time such orders were initially received by the Exchange, regardless of the price of the order.

For an illustration of how the new functionality would operate, consider the following examples:

Example 1:

PBBO is $20.05 × $20.07
PNP Blind order to buy is entered with a price of $20.07.

Because the PNP Blind order to buy would lock the $20.07 PBO, the PNP Blind order is displayed at $20.06 and priced to execute at the PBO price of $20.07. As a result, the PBBO would update to $20.06 × $20.07. An incoming limit order to sell with a limit price of $20.05 would interact with the PNP Blind order at $20.07.

Example 2:

PBBO is $20.05 × $20.07
PNP Blind order to buy is entered with a price of $20.08

As in Example 1, the PNP Blind order is displayed at $20.06 and priced to execute at the PBO price of $20.07. As a result, the PBBO updates to $20.06 × $20.07. Assume the PBO of $20.07 is cleared on an away market and the PBO changes to $20.08. The price of the PNP Blind order shifts to be displayed at $20.07 and is re-priced to the new PBO of $20.08. Assume the away PBO changes again to $20.07. The PNP Blind order would stand its ground at $20.07 and would be eligible to execute at $20.07. If the PBO changes again to $20.09, the PNP Blind would be displayed and priced at $20.08, which is its limit price. Once displayed at its limit price, the PNP Blind order converts to a straight PNP limit order and would not re-price.

Example 3:

PBBO is $20.05 × $20.07 (100 × 200)
PNP Blind order T1 to buy 1000 shares is entered with a price of $20.08
PBBO moves to $20.06 × $20.07 (1000 × 200)
PBO clears on away market, PBBO updates to $20.07 × $20.08 (1000 × 800)
T2 limit to buy 1200 shares entered with a price of $20.08

When the Exchange receives T2, it routes and executes 800 shares with the $20.08 PBO, thereby clearing out the PBO, and the residual of 400 shares rests on the Exchange's book at $20.08. The PNP Blind T1 Order would no longer be locking a $20.08 PBO, so it would also post to the Arca Book at $20.08. If the Exchange were to receive a market order to sell 200 shares, it would execute against T2 only. The Exchange believes that this priority allocation is consistent with the Exchange's price-time priority model, set forth in Rule 7.36, because T2 was the first to be priced at $20.08 and therefore has time priority at that price over T1.

The Exchange will announce the implementation date of the systems functionality associated with the proposed rule change by Trader Update to be published no later than 30 days following the effective date. The implementation date will be no later than 30 days following the issuance of the Trader Update.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Section 6(b)(5),[13] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that adding a display function to PNP Blind orders will remove impediments to and perfect the mechanism of a free and open market because the proposed rule change encourages the display of liquidity consistent with Regulation NMS. The Exchange is not modifying the current price-sliding functionality associated with PNP Blind orders, which, to avoid locking or crossing the external PBBO in violation of Rule 610(d) of Regulation NMS or trading through in violation of Rule 611 of Regulation NMS, re-prices PNP Blind orders to the contra-quote of the PBBO without displaying the order at that price. The Exchange's proposal to add a display function is consistent with these goals by displaying buy (sell) PNP Blind orders one MPV below (above) the PBO (PBB). By displaying such interest at a price inferior to the contra PBBO, the Exchange will not lock or cross an away market, but will put market participants on notice of available liquidity at the

[8] *See* Nasdaq Rule 4751(d)(10) [sic]. The rule text is also similar the how display-price sliding functionality is described in Bats rules. *See, e.g.,* Bats Rule 11.9(g)(2)(A) [sic].

[9] The proposed rule is consistent with functionality on Nasdaq and Bats. *See* Nasdaq Rule 4751(d)(8) [sic] and Bats Rules 11.9(g)(1)(B) and (C).

[10] The Exchange notes that this proposed functionality is consistent with Bats price-sliding rules. *See* Bats Rule 11.9(g)(1)(B) and (C).

[11] *See, e.g.,* Bats Rule 11.9(g)(2)(B) [sic].

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

Exchange. If a market participant responds to such displayed liquidity, they would receive an execution at a better price than what was displayed because the PNP Blind orders are eligible to execute at more aggressive prices. The Exchange notes that the proposed display functionality is consistent with the rules of other markets.

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 the proposed changes to the PNP Blind orders will enhance order execution opportunities for investors. Further, the Exchange believes the changes will enhance competition between the Exchange and other exchanges that currently offer similar order types, *i.e.,* non-routable orders that are priced and execute at the contra-quote of the PBBO, but are displayed one MPV inferior to the contra-quote PBBO.[14]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–105 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–105. 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 NYSE's principal office and on its Internet Web site at *www.nyse.com.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–105 and should be submitted on or before October 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23225 Filed 9–29–14; 8:45 am]

BILLING CODE 8011–01–P

[14] *See supra* nn. 6, 8, 9, and 10.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73199; File No. SR–BATS–2014–018]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change To Adopt Rule 14.11(k) To Permit BATS Exchange, Inc. To List Managed Portfolio Shares and To List and Trade Shares of Certain Funds of the Spruce ETF Trust

September 24, 2014.

On August 4, 2014, BATS Exchange, Inc. (''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] a proposed rule change to adopt new BATS Rule 14.11(k), which would permit the Exchange to list Managed Portfolio Shares, which are shares of actively managed exchange-traded funds (''ETFs'') for which the portfolio is disclosed quarterly, and to list and trade shares of certain funds of the Spruce ETF Trust (''Trust'') under proposed BATS Rule 14.11(k). The proposed rule change was published for comment in the **Federal Register** on August 13, 2014.[3] The Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72787 (Aug. 7, 2014), 79 FR 47488.

received one comment letter on the proposal.[4]

Section 19(b)(2) of the Act[5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change, the comment received, and any response to the comments submitted by the Exchange. The proposed rule change would, among other things, permit the Exchange to adopt new BATS Rule 14.11(k), which would set forth the initial and continued listing standards applicable to Managed Portfolio Shares. In addition, the proposed rule change would permit the listing and trading of shares of certain funds of the Trust pursuant to proposed BATS Rule 14.11(k).

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates November 11, 2014, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BATS–2014–018).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23223 Filed 9–29–14; 8:45 am]

BILLING CODE 8011–01–P

[4] *See* Letter from Gary L. Gastineau, President, ETF Consultants.com, Inc., to Elizabeth M. Murphy, Secretary, Commission, dated Aug. 30, 2014.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73203; File No. SR–BATS–2014–040]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change to Rule 21.7 of BATS Exchange, Inc.

September 24, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 12, 2014, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 21.7, entitled ''Market Opening Procedures'' in order to modify the process by which the Exchange's equity options trading platform (''BATS Options'') opens trading at the beginning of the day and after trading halts.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.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 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 parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule changes is to amend BATS Rule 21.7 in order to amend the Opening Process[3] by executing orders in the Opening Process based on time priority instead of price-time priority, treating orders that are not executed during the Opening Process as if they had just been entered by a User[4] rather than cancelling certain orders, and adding certain clarifying language to the Rule in order to make the Opening Process more clear. The Exchange is also proposing to add titles to BATS Rule 21.7(a)(1), (2), (3), and (4) in order to make the rule text easier to follow. The Exchange is not proposing to amend the process by which orders are entered or the Opening Price[5] is determined or validated.

Currently, after establishing an Opening Price that is also a Valid Price,[6] orders and quotes in the System[7] that are priced equal to or more aggressively than the Opening Price will be matched based on price-time priority and in accordance with BATS Rule 21.8. All orders and quotes or portions thereof that are matched pursuant to the Opening Process will be executed at the Opening Price. Where orders that meet the following criteria are not executed during the Opening Process, they will be cancelled: (i) Limit orders that are priced equal to or more aggressively than the Opening Price; and (ii) market orders. Where the Exchange is going to open trading in a series pursuant to Rule 21.7(a)(1)(D) (where there is no NBBO Midpoint, no Print, and no Previous Close at a Valid Price) (a ''Contingent Open'') and there is at least one price level at which at least one contract of a limit order could be executed, the System will similarly cancel all orders that are priced equal to or more aggressively than the midpoint of the most aggressively priced bid and the most aggressively priced offer. Limit orders and quotes that are not executed during the Opening Process or cancelled as set forth above shall become eligible for trading on BATS Options immediately following the completion of the Opening Process. Finally, where there are no orders in a series that are

[3] Opening Process is defined in BATS Rule 21.7(a).

[4] User is defined in BATS Rule 16.1(a)(63).

[5] Opening Price is defined in BATS Rule 21.7(a)(1).

[6] Valid Price is defined in BATS Rule 21.7(a)(2).

[7] System is defined in BATS Rule 1.5(aa).

matched at the Opening Price, the System will open the series for trading.

The Exchange is proposing to amend its Rules in order to match orders for execution in the Opening Process based on time priority rather than price-time priority and in accordance with Rule 21.9. The Exchange believes that handling orders in time priority makes more sense than price-time priority for the Opening Process because the price of the order is not particularly important to the Opening Process, so long as the order is priced at or more aggressively than the Opening Price, which can only be one of three prices: the midpoint of the NBBO; the last regular way print disseminated to the OPRA Plan [8] after 9:30 a.m.; or the last regular way transaction from the previous trading day as disseminated pursuant to OPRA.[9] Because the Opening Price is always based on a price-taking process rather than a price-forming process, there is no reason to reward a more aggressive order with priority in the Opening Process. Thus, the Exchange is proposing that all orders and quotes that are priced equal to or more aggressively than the Opening Price be matched based only on time priority and will be matched until there is no remaining volume or there is an imbalance of orders that are not executed in whole or in part, at which point all matched orders and quotes will be executed at the Opening Price. Further, the Exchange is also proposing to handle all orders that are not executed in the Opening Process in time priority. Specifically, the Exchange is proposing to handle such orders in time sequence, beginning with the order with the oldest time stamp and may, in whole or in part, place such orders on the BATS Options Book,[10] cancel the orders, execute the orders, or route the orders in accordance with Rule 21.9. If an order is placed on the BATS Options Book, it will then be subject to the standard price-time priority and subject to Rule 21.8. This proposed functionality will apply to all orders, including both those orders that are not executed under proposed Rule 21.7(a)(3) and orders in a series that is opening subject to a Contingent Open. While the Exchange currently cancels any orders that are not executed in the Opening Process that are priced more aggressively than the Opening Price, the Exchange is proposing to simply enter these orders on to the BATS Options Book as described above in order to minimize the number of orders that are cancelled and must be reentered by Users. The Exchange notes that all order protections, including Trade-Through [11] protection and a BATS Market Order [12] collar, will apply to orders entered pursuant to proposed Rule 21.7(a)(3) and 21.7(a)(4).

The Exchange is also proposing to eliminate the current functionality of cancelling orders that are not executed during the Opening Process that fit the following criteria: (i) Limit orders that are priced equal to or more aggressively than the Opening Price; and (ii) market orders. Further, the Exchange is proposing to eliminate the current functionality for a series subject to a Contingent Open where, if there is at least one price level at which at least one contract of a limit order can be executed, the System will cancel all orders that are priced equal to or more aggressively than the midpoint of the most aggressively priced bid and the most aggressively priced offer. While not cancelling these orders might result in executions at a price that is not the same as the Opening Price that occur as the orders are handled in time sequence (either on BATS Options or upon routing to another options exchange), these executions would be part of regular way trading and are distinct from the opening execution that occurs as a result of the Opening Process. For many Users, cancelling orders that were entered for participation in the Opening Process negates the advantages of allowing orders to be entered prior to the beginning of regular way trading and the Opening Process. As such, the Exchange is proposing this functionality in order to provide Users with the certainty that orders that are entered prior to the Opening Process will not be cancelled based on market conditions outside of a User's control.

Finally, the Exchange is proposing to clarify its rules around the Opening Process. Specifically, the Exchange is proposing to add language to Rule 21.7(a)(3) stating that the Opening Process will be performed after the establishment of an Opening Price that is a Valid Price [13] and that matches will occur until there is no remaining volume or there is an imbalance of orders, both of which it believes are implicit, but will make the rule text more clear. The Exchange is also proposing to add titles to Rules 21.7(a)(1) through (4) in order to make the rule text easier to follow. The Exchange is also proposing to delete Rule 21.7(a)(5), which states that where no orders are matched at the Opening Price, the System will open the series for trading because such situation will be covered by proposed Rule 21.7(a)(3), as described above.

2. Statutory Basis

The rule change proposed in this submission is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[14] Specifically, the proposed change is consistent with Section 6(b)(5) of the Act,[15] because it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the Opening Process for options listed on the Exchange will help to ensure that BATS Options opens trading in options contracts in a fair and orderly manner. Specifically, the Exchange believes that handling orders in time priority will both create a more orderly opening and makes more sense than price-time priority for the Opening Process because the price of the order is not particularly important to the Opening Process, so long as the order is priced at or more aggressively than the Opening Price and, as such, there is no reason to reward a more aggressive order with priority in the Opening Process.

The Exchange also believes that entering orders in time sequence based on the time that they were received instead of cancelling certain orders will create a more orderly opening because Users will enter orders and quotes prior to the opening of trading that they know will either participate in the Opening Process or be handled as if they were entered immediately following the Opening Process and, more importantly, will not be cancelled, unless otherwise instructed by the User.

Modifying the Opening Process will also provide Market Makers and other Users with greater control and flexibility with respect to entering orders and quotes, allowing them to enter orders and quotes in advance of the Opening Process that they know will not be cancelled because of market conditions out of the control of the User that entered the order. This simplifies the

[8] OPRA Plan is defined in BATS Rule 27.1(15).

[9] OPRA is defined in BATS Rule 27.1(14).

[10] BATS Options Book is defined in BATS Rule 16.1(a)(9).

[11] Trade-Through is defined in BATS Rule 27.1(22).

[12] BATS Market Order is defined in BATS Rule 21.1(d)(5).

[13] Valid Price is defined in BATS Rule 21.7(a)(2).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

process for Market Makers and other Users by providing them certainty as to when orders and quotes can be submitted without having to resubmit orders in options series that have been cancelled, which removes impediments to a free and open market and benefits all Users of BATS Options.

As described above, the Exchange believes that the other proposed changes to its rulebook to clarify and add additional detail provides further clarification to Members, Users, and the investing public regarding the functionality of the Opening Process.

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 not necessary or appropriate in furtherance of the purposes of the act. To the contrary, the Exchange's current Opening Process in which certain orders and quotes may be cancelled based on market conditions beyond the entering User's control limits competition in that other exchanges are able to accept orders and quotes before trading in options opens that will not be cancelled. Thus, approval of the proposed rule change will promote competition because it will allow the Exchange to offer its Users the ability to enter orders and quotes prior to the opening of trading that will not be cancelled and thus compete with other exchanges for order flow that a User may not have directed to the Exchange if they were not able to enter orders and quotes prior to the open that were not eligible to be cancelled.

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

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 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–BATS–2014–040 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–BATS–2014–040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2014–040, and should be submitted on or before October 21, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–23224 Filed 9–29–14; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 3.13 (3⅛) percent for the October–December quarter of FY 2015.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Dianna L. Seaborn,

Acting Director, Office of Financial Assistance.

[FR Doc. 2014–23190 Filed 9–29–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–79]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and

must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0658 using any of the following methods:

• *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.

• *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nia Daniels, (202) 267–7626. 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 19, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA–2014–0658.

Petitioner: Salmon, Raymond A.

Section of 14 CFR Affected: 121.436(a)(3).

Description of Relief Sought: Raymond A. Salmon seeks an exemption from 14 CFR part 121 to allow experience gained as pilot in command under 14 CFR part 121 prior to July 31, 2013, to count towards the experience requirements of 14 CFR 121.436(a)(3), even though he was not serving as a pilot in command in part 121 operations on July 31, 2013.

[FR Doc. 2014–23200 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–75]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0642 using any of the following methods:

• Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• Fax: Fax comments to the Docket Management Facility at 202–493–2251.

• Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC, 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0642.

Petitioner: Aeryon Labs Inc.

Section of 14 CFR: parts 21 Subpart H, 45.23, 61.113(a) and (b), 61.133(a), 91.7(a), 91.9(b)(2) and (c), 91.103, 91.109(a), 91.119, 91.151(a), 91.203(a) and (b), 91.319(a)(1), 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a).

Description of Relief Sought: The petitioner is seeking an exemption to commercially operate their Aeryon SkyRanger which weighs 6 lbs. with imaging payload, to perform market research, aerial surveys, mapping, and inspections that consist of still photographs, video, and other data taken by onboard sensors.

[FR Doc. 2014–23151 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–84]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and

participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0692 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0692.

Petitioner: Phoenix Air UNMANNED, LLC.

Section of 14 CFR: parts 21 subpart H, 27, 45.23(b), 45.27(a), 91.7(a), 91.9(b)(2) and (c), 91.103, 91.109(a), 91.119, 91.121, 91.151(a), 91.203(a) and (b), 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a) and (b).

Description of Relief Sought: The petitioner, a member of the Phoenix Air Group family of companies, is seeking an exemption to commercially operate small unmanned aircraft systems (sUAS), weighing less than 55 pounds with payload, for on-demand service to a host of industries and applications including: Flare stack inspections, utility-power generation system inspections and patrolling, pipeline inspection and patrolling, filmmaking, cinematography, videography, precision agriculture, wildlife and forestry monitoring, aerial surveying, construction site inspection and monitoring, and public entity support operations.

[FR Doc. 2014–23156 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–82]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 30, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0680 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0680

Petitioner: Zeets, Steven

Section of 14 CFR: parts 21, 45.23(b), 61.113(a) and (b), 61.133(a), 91.7(a), 91.9(b)(2) and (c), 91.103, 91.109(a), 91.119, 91.121, 91.151(a), 91.203(a) and (b), 91.319(a)(1), 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a).

Description of Relief Sought: The petitioner, Steven Zeets, a professional land surveyor, is seeking an exemption to commercially operate rotorcraft and fixed wing small unmanned aircraft

systems (sUAS) 15 pounds or less including payload to perform various operations that include but are not limited to: aerial acquisition and research in support of government entities, agriculture industry, utility companies, local infrastructure, scientific studies, wildlife monitoring, mining, surveying, and forestry.

[FR Doc. 2014–23147 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–86]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0715 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0715

Petitioner: AeroVironment, Inc.

Section of 14 CFR: 45.23(b), 61.113(a) and (b), 61.133(a), 91.7(a) and (b), 91.109(a), 91.119, 91.151(a), 91.405(a), 91.407(a)(1), 91.409(a)(2) and 91.417(a).

Description of Relief Sought: The petitioner is seeking an exemption to commercially operate their small unmanned vehicle, 55 pounds or less, to conduct commercial agriculture, aerial survey, and patrol operations in remote areas of the continental United States.

[FR Doc. 2014–23153 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–87]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0719 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC, 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0719

Petitioner: San Diego Gas and Electric Company

Section of 14 CFR: 91.7(a), 91.109(a), 91.113, 91.119, 91.121, 91.151(b), and 91.207.

Description of Relief Sought: The petitioner, a regulated public utility company, is seeking an exemption to commercially operate its InstantEye Mk-2 Gen2 small UAS in order to provide benefits of its new technology to its customers and increase the safe operation of its electric grid to both San Diego and Orange Counties in California.

[FR Doc. 2014–23158 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–77]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0664 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0664

Petitioner: Industrial Aerobotics, LLC.

Section of 14 CFR: parts 21 Subpart H, 27, 45.23(b), 45.27(a), 61.113(a) and (b), 91.7(a), 91.9(b)(2) and (c), 91.103, 91.109(a), 91.119, 91.121, 91.151(a), 91.203(a) and (b), 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a) and (b).

Description of Relief Sought: The petitioner is seeking an exemption to commercially operate their SD02 small unmanned aircraft systems (sUAS), with a maximum weight of 26 lbs., to perform precision aerial surveys that consist of still photographs and moving images taken by onboard cameras for inspection data to be evaluated by clients working in industries that include agriculture, power utility, and professional surveying.

[FR Doc. 2014–23148 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–76]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0638 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to

http://www.regulations.gov at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0638

Petitioner: Oceaneering International Inc.

Section of 14 CFR: parts 21 Subpart H, 45.23(b), 61.133(a), 91.7(a), 91.9(b)(2), 91.109(a) and (c), 91.119, 91.121, 91.151(a), 91.203, 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a).

Description of Relief Sought: The petitioner is seeking an exemption to commercially operate their Wookong DJI S800 and Aeronavics X4 Titanium small unmanned aircraft systems (sUAS) for multiple commercial applications, including safety inspections and aerial surveying of remote or difficult-to-see facilities.

[FR Doc. 2014–23150 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–80]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0608 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC, 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0608

Petitioner: Hinkle, Colin

Section of 14 CFR: parts 21, 45.23(b), 61.3, 91.7(a), 91.9(b)(2), 91.103(b), 91.109, 91.119, 91.121, 91.151(a), 91.203(a) and (b), 91.205(b), 91.215, 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a) and (b).

Description of Relief Sought: The petitioner, Colin Hinkle, a professional photojournalist, is seeking an exemption to commercially operate a relatively inexpensive DJI Phantom 2 Vision small unmanned aircraft system (sUAS) equipped with a three-axis gimbal and GoPro camera for news gathering operations.

[FR Doc. 2014–23152 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–88]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0720 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the

comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0720

Petitioner: Northern Virginia OmniVersatile Solutions, LLC

Section of 14 CFR: Parts 21 Subpart H, 45.23, 45.29, 61.113, 61.133, 91.9, 91.109, 91.119, 91.121, 91.203(a) and (b), 91.151, 91.401, 91.403, 91.405, 91.407, 91.409, 91.411, 91.413, 91.415, and 91.417.

Description of Relief Sought: The petitioner is seeking an exemption to commercially operate their 5.5 pound N-Cognito unmanned aircraft system (UAS) over private property, with the permission of the land owner, to conduct precision photogrammetry and crop scouting at the resolutions necessary for precision agriculture.

[FR Doc. 2014–23159 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–81]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0678 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- Fax: Fax comments to the Docket Management Facility at 202–493–2251.
- Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0678

Petitioner: EnviroMINE, Inc.

Section of 14 CFR: parts 21, 45.23(b), 45.29, 61, 91.7(a), 91.9(b), 91.119, 91.121, 91.203(a) and (b), 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a) and (b).

Description of Relief Sought: The petitioner is seeking an exemption to commercially operate an eBee senseFly unmanned aircraft system (sUAS), weighing less than two pounds, in California and western Arizona for collection of aerial photographs to create surface maps and updated imagery in the support of, and use by, biologists, archaeologists, mine operators and the agencies that regulate these operations.

[FR Doc. 2014–23154 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–74]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0641 using any of the following methods:

- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground

Floor, Room W12–140, Washington, DC 20590.

• Fax: Fax comments to the Docket Management Facility at 202–493–2251.

• Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC, 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0641

Petitioner: Sky-Futures USA Inc.

Section of 14 CFR: parts 21 Subpart H, 43, 45, 49, 61, 67, 47.16, 91.9(b) and (c), 91.109, 91.111, 91.113, 91.115, 91.119, 91.151, 91.155, 91.203, 91.215, 91.319, and 91.413.

Description of Relief Sought: The petitioner is seeking an exemption to commercially operate their AscTec Falcon 8 electric small unmanned aircraft systems (sUAS) for operations related to oil and gas platform inspection services.

[FR Doc. 2014–23149 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–83]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0681 using any of the following methods:

• Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• Fax: Fax comments to the Docket Management Facility at 202–493–2251.

• Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0681

Petitioner: Walsh, Jeffrey

Section of 14 CFR: parts 21, 45.23(b), 61.113(a) and (b), 61.133(a), 91.7(a), 91.9(b)(2) and (c), 91.103, 91.109(a), 91.119, 91.121, 91.151(a), 91.203(a) and (b), 91.319(a)(1), 91.405(a), 91.407(a)(1), 91.409(a)(2), and 91.417(a).

Description of Relief Sought: The petitioner, Jeffrey Walsh, a certified photogrammetrist, is seeking an exemption to commercially operate rotorcraft and fixed wing small unmanned aircraft systems (sUAS) 15 pounds or less including payload to perform various operations that include but are not limited to: aerial acquisition and research in support of government entities, agriculture industry, utility companies, local infrastructure, scientific studies, wildlife monitoring, mining, surveying, and forestry.

[FR Doc. 2014–23155 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–85]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0704 using any of the following methods:

• Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• Fax: Fax comments to the Docket Management Facility at 202–493–2251.

• Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jake Troutman, (202) 267–9521, 800 Independence Avenue SW., Washington, DC, 20951.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0704

Petitioner: BNSF Railway Company

Section of 14 CFR: 61.113(a) and (b), 91.7(a), 91.9(b)(2), 91.109(a), 91.119, 91.151, 91.203(a) and (b), 91.405(a), 91.407(a)(1), and 91.409(a).

Description of Relief Sought: The petitioner, a Class I freight railroad, is seeking an exemption to commercially operate the AirRobot AR180, AR200, and 3DRobotics Spektre Industrial Multi-Rotor Aerial Vehicle small unmanned aerial systems (sUAS) for operations over BNSF owned or controlled land, solely during daylight hours, to assist in the evaluation and analysis of railroad infrastructure and operations.

[FR Doc. 2014–23157 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2014–69]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATE: Comments on this petition must identify the petition docket number involved and must be received on or before October 20, 2014.

ADDRESSES: You may send comments identified by Docket Number FAA–2014–0461 using any of the following methods:

• Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.

• Mail: Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• Fax: Fax comments to the Docket Management Facility at 202–493–2251.

• Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alphonso Pendergrass, ARM–207, Federal Aviation Administration, Office of Rulemaking, 800 Independence Ave. SW., Washington, DC 20591; email *alphonso.pendergrass@faa.gov;* (202) 267–4713.

This notice is published pursuant to 14 CFR § 11.85.

Issued in Washington, DC, on September 24, 2014.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2014–0461

Petitioner: Embry Riddle Aeronautical University

Section of 14 CFR Affected: 14 CFR 61.160(b)(1) and (d)

Description of Relief Sought:

Embry Riddle Aeronautical University (ERAU), located at Prescott, AZ, requests relief to allow certain students that complete non-aviation degrees and at least one aviation minor at ERAU to be eligible for an airline transport pilot (ATP) certificate with restricted privileges.

[FR Doc. 2014–23141 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 187–1H]

Schedule of Charges Outside the United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) is announcing the

availability of Advisory Circular (AC) 187–1H which transmits an updated schedule of charges for services of FAA Flight Standards Aviation Safety Inspectors outside the United States. The advisory circular has been updated in accordance with the procedures listed in 14 CFR Part 187, Appendix A.

DATES: This AC is effective on October 1, 2014.

ADDRESSES: *How to obtain copies:* A copy of this publication may be downloaded from: *http://www.faa.gov/documentLibrary/media/Advisory_Circular/.pdf*

FOR FURTHER INFORMATION CONTACT: Ms. Tish Thompkins-Imafidon, Flight Standards Service, AFS–50, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 385–8097.

Issued in Washington, DC on September 25, 2014.

John Duncan,

Director, Flight Standards Service.

[FR Doc. 2014–23252 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0296]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from 33 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before October 30, 2014. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0296 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, R.N., Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' FMCSA can renew exemptions at the end of each 2-year period. The 33 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Terry A. Adler

Mr. Adler, 38, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''His right eye is slightly amblyopic. He should have no problems operating and continuing to operate a CMV.'' Mr. Adler reported that he has driven straight trucks for 18 years, accumulating 180,000 miles, and tractor-trailer combinations for 18 years, accumulating 900,000 miles. He holds a Class A3 CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Richard J. Beck

Mr. Beck, 57, has had a macular scar and histoplasmosis in his left eye since 2004. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''It is my opinion that Mr. Richard J. Beck has completed the above test acurately [*sic*], and is able to safley [*sic*] perform the driving task required to operate a commercial vehicle.'' Mr. Beck reported that he has driven straight trucks for 28 years, accumulating 728,000 miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Avis C. Bell

Mr. Bell, 72, has had a retinal detachment and glaucoma in his right eye since 2003. The visual acuity in his right eye is no light perception, and in his left eye, 20/25. Following an

examination in 2014, his ophthalmologist stated, ''I feel the patients [*sic*] vision in his left eye is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Bell reported that he has driven buses for 3 years, accumulating 19,500 miles. He holds a chauffer's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jeffrey L. Bendix

Mr. Bendix, 44, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, ''In my medical opinion Jeff Bendix has significant vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Bendix reported that he has driven straight trucks for 25 years, accumulating 125,000 miles, and tractor-trailer combinations for 15 years, accumulating 15,000 miles. He holds a Class C3 CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Edward L. Bon

Mr. Bon, 42, has complete loss of vision in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''In my opinion, his vision is sufficient to perform his driving tasks required to operate a commercial vehicle.'' Mr. Bon reported that he has driven straight trucks for 6 years, accumulating 90,000 miles. He holds a chauffer's license from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William L. Brady

Mr. Brady, 57, has had refractive amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2014, his optometrist stated, ''In my opinion William has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Brady reported that he has driven straight trucks for 17 years, accumulating 42,500 miles. He holds a Class B CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Marty R. Brewster

Mr. Brewster, 31, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/10. Following an examination in 2014, his optometrist stated, ''Mr. Brewster was seen in my office on July 11, 2014 for an exam to evaluate his vision for renewal of his commercial driver's license . . . Mr. Brewster is capable of driving any motor vehicle in my professional opinion.'' Mr. Brewster reported that he has driven straight trucks for 9 years, accumulating 135,000 miles, and tractor-trailer combinations for 9 years, accumulating 67,500 miles. He holds an operator's license from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John M. Brown

Mr. Brown, 50, has had histoplasmosis in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''It is in my professional opinion that Mr. Brown has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Brown reported that he has driven straight trucks for 7 years, accumulating 72,800 miles. He holds an operator's license from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert M. Cassell, Jr.

Mr. Cassell, 46, has had central serous retinopathy in his left eye since 2007. The visual acuity in his right eye is 20/15, and in his left eye, 20/80. Following an examination in 2014, his optometrist stated, ''In my medical opinion, Robert Cassell has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Cassell reported that he has driven straight trucks for 28 years, accumulating 700,000 miles, and tractor-trailer combinations for 20 years, accumulating 600,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Henry L. Chrestensen, Sr.

Mr. Chrestensen, 58, has enucleation in his left eye due to a traumatic incident in 2012. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his ophthalmologist stated, ''In my medical opinion as a board certified ophthalmologist, I believe you have sufficient vision to perform the driving tasks required in operating a commercial vehicle.'' Mr. Chrestensen reported that he has driven straight trucks for 1 year, accumulating 45,000 miles, and tractor-trailer combinations for 35 years, accumulating 3.68 million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Charles D. Cohoon

Mr. Cohoon, 67, has a macular scar in his right eye due to a traumatic incident during birth. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Mr. Cohoon reported that he has driven buses for 4 years, accumulating 4,000 miles. He holds an operator's license from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jack M. Conklin

Mr. Conklin, 60, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/30 and in his left eye, counting fingers. Following an examination in 2013, his ophthalmologist stated, ''In my opinion, Mr. Conklin has sufficient vision to continue performing the driving of a commercial vehicle, which he has done for decades.'' Mr. Conklin reported that he has driven straight trucks for 40 years, accumulating 800,000 miles. He holds an operator's license from Nebraska. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael E. Cummins

Mr. Cummins, 66, has a macular scar in his left eye due to a traumatic incident at birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his optometrist stated, ''In my opinion, Michael Cummins has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Cummins reported that he has driven straight trucks for 50 years, accumulating 600,000 miles, and tractor-trailer combinations for 35 years, accumulating 1.75 million miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dave J. Eckert

Mr. Eckert, 44, has had amblyopia in his left eye since birth. The visual acuity

in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his optometrist stated, ''In my medical opinion Dave Eckert has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Eckert reported that he has driven straight trucks for 11 years, accumulating 22,000 miles, and tractor-trailer combinations for 11 years, accumulating 451,000 miles. He holds a Class AM1 CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Sanford L. Goodwin

Mr. Goodwin, 51, has had central suppression consistent with amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/300, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''Patient visual deficiency is stable and I feel that Mr. Goodwin has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Goodwin reported that he has driven tractor-trailer combinations for 6 years, accumulating 75,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Tonia L. Graves

Ms. Graves, 38, has had strabismic amblyopia in her left eye since birth. The visual acuity in her right eye is 20/20, and in her left eye, 20/60. Following an examination in 2014, her optometrist stated, ''It is my professional opinion that Ms. Graves is capable of performing all driving tasks and is safe to operate a commercial vehicle. Although I did recommend a pair of distance glasses for Ms. Graves, the prescription is not high enough to warrant it being a requirement for her driving.'' Ms. Graves reported that she has driven buses for 6.5 years, accumulating 71,500 miles. She holds an operator's license from Arizona. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gregory S. Hatten

Mr. Hatten, 57, has had a macular scar due to a bacterial infection in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I certify that Mr. Greg Hatten has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Hatten reported that he has driven straight trucks for 36 years, accumulating 720,000 miles. He holds an operator's license from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jason P. Jones

Mr. Jones, 44, has had vision loss due to end stage maculopathy from toxoplasmosis in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''I do certify that, in my medical opinion, Mr. Jones does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Jones reported that he has driven straight trucks for 20 years, accumulating 110,000 miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows one crash, for which he was not cited, and no convictions for moving violations in a CMV.

Jason R. King

Mr. King, 34, has had a retinal detachment in his left eye since 1998. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''In my medical opinion, based on his testing and 13 years without incident, I believe Mr. King has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. King reported that he has driven straight trucks for 12 years, accumulating 6,000 miles. He holds an operator's license from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Theodore J. Laycock

Mr. Laycock, 68, has complete loss of vision in his left eye due to a traumatic incident in 1972. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, ''In my medical opinion, patient has been monocular since 1972. Has excellent vision OD with normal field and is able to preform [*sic*] the driving tasks required to operate a commercial vehicle.'' Mr. Laycock reported that he has driven straight trucks for 51 years, accumulating 1.28 million miles, and tractor-trailer combinations for 11 years, accumulating 132,000 miles. He holds a Class A CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas J. Long III

Mr. Long, 45, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/15, and in his left eye, 20/150. Following an examination in 2014, his ophthalmologist stated, ''Lifelong deficiency of vision in the left eye. There is no evidence of progression . . . He seems to be able to operate a commercial vehicle in state for many years and has had the ability to do the same task interstate in the past, before he allowed his waiver to lapse. Thus in my opinion there is no change that would have reduced or eliminate [*sic*] that ability which he has shown evidence of having in the past.'' Mr. Long reported that he has driven straight trucks for 27 years, accumulating 1.62 million miles. He holds a Class B CDL from Maryland. His driving record for the last 3 years shows no crashes and two convictions for moving violations in a CMV; in one instance he exceeded the speed limit by 18 mph; in another instance, he was using a hand-held telephone while operating a moving vehicle.

Marcus E. Manson

Mr. Manson, 35, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/30, and in his left eye, 20/200. Following an examination in 2014, his ophthalmologist stated, ''In my opinion, patient's vision of 30/30 [*sic*] in the right eye and 20/200 in the left eye is stable and should be sufficient vision to operate a commercial vehicle.'' Mr. Manson reported that he has driven straight trucks for 6 years, accumulating 9,000 miles. He holds an operator's license from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas J. McClure

Mr. McClure, 61, has had central retinal artery occlusion in his right eye since 1998. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''In my opinion, Tom has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. McClure reported that he has driven straight trucks for 33 years, accumulating 412,500 miles. He holds an operator's license from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steven W. Miller

Mr. Miller, 61, has had amblyopia and exotropia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, ''I, Michael G. Bonner, OD certify that Steve Miller has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Miller reported that he has driven straight trucks for 12 years, accumulating 600,000 miles, and tractor-trailer combinations for 10 years, accumulating 10,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Aaron F. Naylor

Mr. Naylor, 31, has enucleation in his left eye due to a traumatic incident in 2010. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, ''Mr. Naylor may resume his commercial driving duties. He has no visual restriction.'' Mr. Naylor reported that he has driven straight trucks for 3 years, accumulating 45,000 miles, tractor-trailer combinations for 5 years, accumulating 625,000 miles, and buses for 1 year, accumulating 4,000 miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Billy R. O'Guynn

Mr. O'Guynn, 48, has complete loss of vision in his left eye due to a traumatic incident during birth. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, ''Based on my examination, I consider that Mr. O'Guynn has sufficient vision and visual function to perform the tasks required to operate a commercial vehicle without restriction.'' Mr. O'Guynn reported that he has driven straight trucks for 3 years, accumulating 210,000 miles, and tractor-trailer combinations for 25 years, accumulating 2.06 million miles. He holds a Class AMV CDL from Alabama. His driving record for the last 3 years shows one crash, for which he was not cited, and no convictions for moving violations in a CMV.

Walter B. Peltier

Mr. Peltier, 67, has had strabismic amblyopia in his left eye since birth. The visual acuity in his right eye is 20/30, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, ''In my medical opinion Walter Peltier has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Peltier reported that he has driven tractor-trailer combinations for 38 years, accumulating 2.01 million miles. He holds an operator's license from Arizona. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gregory S. Rasnic

Mr. Rasnic, 43, has had a prosthetic right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, ''In my medical opinion, he does have sufficient vision in his left eye according to current guidelines to perform the driving tasks required to operate a commercial vehicle for Interstate Commerce [*sic*].'' Mr. Rasnic reported that he has driven straight trucks for 3 years, accumulating 57,600 miles. He holds an operator's license from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jimmy D. Renfroe

Mr. Renfroe, 27, has a cataract in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''. . . in my medical opinion, Mr. Renfroe has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Renfroe reported that he has driven straight trucks for 3 years, accumulating 121,800 miles, and tractor-trailer combinations for 3 years, accumulating 90,000 miles. He holds a Class A CDL from Arkansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Sabahudin Sabic

Mr. Sabic, 46, has a prosthetic left eye due to a traumatic incident in 1993. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, ''I believe Mr. Sabic knows his own limitations of both field of vision and depth perception, therefore yes he should be granted a license to drive a semi.'' Mr. Sabic reported that he has driven tractor-trailer combinations for 7 years, accumulating 140,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Klifford N. Siemens

Mr. Siemens, 53, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, ''I see no reason why Mr. Siemens wouldn't be able to operate a commercial vehicle on the roadways as far as his eyes are concerned.'' Mr. Siemens reported that he has driven straight trucks for 20 years, accumulating 20,000 miles, and tractor-trailer combinations for 11 years, accumulating 440,000 miles. He holds a Class A CDL from Kansas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Aaron H. Walser

Mr. Walser, 45, has a retinal detachment in his right eye due to a traumatic incident in 1990. The visual acuity in his right eye is 20/350, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''Mr. Walser has had this visual defect for so long that he has adapted very well to it and I do not believe that it will impair his ability to operate a commercial vehicle, as he has been operating one for 30 years or so.'' Mr. Walser reported that he has driven straight trucks for 25 years, accumulating 1.25 million miles, and tractor-trailer combinations for 25 years, accumulating 1.25 million miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John A. Workman

Mr. Workman, 44, has had strabismic amblyopia in his right eye since birth. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, ''It is my impression that John Workman has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Workman reported that he has driven straight trucks for 2.5 years, accumulating 120,000 miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and put the docket number FMCSA–2014–0296 in the ''Keyword'' box, and click ''Search. When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. . If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and insert the docket number FMCSA–2014–0296 in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: September 18, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–23238 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0082]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated, August 11, 2014, Mr. Brian Wise, General Manager of the Mount Rainier Scenic Railroad (MRSR), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 215, Railroad Freight Car Safety Standards. FRA assigned the petition Docket Number FRA–2014–0082.

Specifically, MRSR requests a waiver from the stenciling requirements of 49 CFR 215.303, *Stenciling of restricted cars,* and the reflectorization requirements of 49 CFR 224.3, *Applicability,* for three skeleton log cars (Car Numbers CW 238, CW 187, and CW 208), and two flatcars with log bunks (Car Numbers CW 251 and MRSR 449).

MRSR states that it is a tourist railroad operation that operates between Elbe, and Mineral, WA. The subject equipment is operated by MRSR on a portion of the Tacoma Rail-leased track from Milepost (MP) 45.3M in Elbe to MP 51.9M in Mineral. This track is FRA Class 1. MRSR is operated by paid employees and volunteer members of the Western Forest Industries Museum (WFIM)—a non-profit organization under the laws of the State of Washington—and is entirely for historical and educational purposes. WFIM was incorporated in the State of Washington in 1965, and has operated as a historic tourist railroad since 1981.

MRSR does not interchange the equipment subject to this petition with the general system of railroad, although it does have a connection to facilitate the movement of rail equipment onto MRSR trackage for preservation purposes.

MRSR seeks relief for operation of this freight equipment for use in tourist railroad operations and for ''photo freights,'' which are freight trains of historical equipment operated for the purposes of providing an opportunity for the public to view freight trains of a bygone era. MRSR also operates passenger cars in conjunction with its tourist operations. Photo freight trains provide an additional source of income for MRSR to enable MRSR to maintain and preserve the museum collection. As an operating railroad museum, MRSR maintains freight equipment restored with original markings and reporting marks in an effort to interpret the history of West Coast logging railroads in the early 20th Century. Freight cars are maintained and operated exclusively on the MRSR for interpretation and occasional photo freight events. These cars are typically operated while empty in photo freight service. Photo freight events are only held periodically on MRSR with the cars typically operating in this service no more than two to four times per year. The cars listed in this petition may also double as maintenance-of-way cars (e.g., flatcar, when not in photo freight service).

MRSR has a good compliance history. The museum continues to endeavor to maintain all equipment, operation and track to FRA compliance standards. Throughout the operation of MRSR, FRA has not found it necessary to issue any violations for failure to comply with FRA mechanical safety regulations. MRSR has not experienced any derailments or accidents with the equipment referenced in this petition since the railroad began operations in 1981. MRSR also states that the subject cars are operated at a maximum speed of 10 mph and typically travel no more than 30 miles per day.

MRSR believes granting of the waiver sought in the petition will benefit MRSR by allowing continued use of historic freight equipment for tourist, interpretive, and educational purposes. MRSR generates revenue from its operations which help fund the ongoing preservation activities of the museum. In addition, the local economy also benefited as a result of MRSR tourist trains and museum activities.

MRSR indicates that all equipment operated on MRSR is maintained by the museum using knowledgeable employees, museum members, and outside contractors as needed to perform freight car safety inspections. MRSR will conduct a detailed inspection of each restricted freight car once every 10 years, which will include raising each car off its trucks for inspection of the car's center plate and truck center bowl. Each car will be serviced and repaired prior to being returned to service. Records of such inspection will be maintained by MRSR.

Regarding the stenciling waiver, MRSR stated that it does not interchange these restricted freight cars with any railroad and as such, the cars

are in captive service. In addition, the stenciling requirements would destroy the historical appearance of the freight cars that have been preserved for historical, education, and interpretive purposes.

Regarding reflectorization relief, MRSR states that these requirements would destroy the historical appearance of the freight cars which have been preserved for historical, educational, and interpretive purposes. Application of the reflectorized tape or decals on wood-bodied equipment is difficult. Further, there is no practical safety purpose served by applying reflectorization because of the captive service and the extreme care under which MRSR operates such equipment, as well as the fact that the equipment is rarely operated in times other than daylight hours. During the Christmas season, the last train on each operating day operates during hours of darkness on the return trip. On those occasions, crossings not equipped with automatic crossing protection will be protected by flagmen equipped with lights and fuses to warn approaching motorists and to illuminate the cars. Current MRSR management is not aware of any train or vehicle accidents at grade crossings involving MRSR trains.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by November 14, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on September 23, 2014.

Ron Hynes,

Director, Office of Safety Compliance and Assurance.

[FR Doc. 2014–23202 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement for West Lake Corridor Project in Lake County, Indiana and Cook County, Illinois

AGENCY: Federal Transit Administration, U.S. Department of Transportation.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), as the Federal Lead Agency, and the Northern Indiana Commuter Transportation District (NICTD), as the Local Project Sponsor, intend to prepare an Environmental Impact Statement (EIS) for the West Lake Corridor Project (Project) in Lake County, Indiana and Cook County, Illinois. The Project is an approximately 9-mile proposed southern branch extension of NICTD's existing South Shore Line (SSL) between Dyer and Hammond, Indiana. Additionally, the Project would operate on about 15 miles of existing SSL and Metra Electric District's (MED) line to the Millennium Station in downtown Chicago. Alternatives to be considered include a No Build, Commuter Rail, and several design options for the latter in terms of route alignment, station locations, maintenance facility sites, and vehicle mode. More information can be found on the Project's Web site at: *http://www.nictdwestlake.com.*

The EIS will be prepared in accordance with regulations implementing the National Environmental Policy Act (NEPA), as well as provisions of Moving Ahead for Progress in the 21st Century Act (MAP–21). The purpose of this notice is to alert interested parties regarding FTA's plan to prepare the EIS; provide information on the nature of the proposed Project; solicit public and agency input regarding the scope of the EIS including the project's purpose and need, alternatives to be considered, and the impacts to be evaluated; and announce that public and agency scoping meetings will be conducted. This input will be used to assist decision makers in determining a locally preferred alternative (LPA) and preparing a Draft Environmental Impact Statement (DEIS). If the No Build alternative is eliminated, an LPA will be selected and the project sponsors will request permission from FTA to enter into Project Development per requirements of 49 U.S.C. 5309. The Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) would be issued after the project has entered Project Development. FTA intends to issue a single FEIS and ROD document pursuant to MAP–21 Section 1319 requirements, unless FTA determines statutory criteria or practicability considerations preclude issuance of the combined document pursuant to Section 1319.

Dates, Times and Locations: A public scoping meeting to present information and accept comments on the study will be held on Tuesday, October 28, 2014 from 6:30 p.m. to 8:30 p.m. in The Center for Visual and Performing Arts, 1040 Ridge Road, Munster, IN 46321.

Comparably, an interagency scoping meeting for federal, state, regional and local resource and regulatory agencies will be held on Tuesday, October 28, 2014 from 2:00 p.m. to 4:00 p.m. in The Center for Visual and Performing Arts, 1040 Ridge Road, Munster, IN 46321. Appropriate agencies that may have an interest in this project, or have a potential interest in becoming a participating agency, will be notified of the meeting through separate direct correspondence.

The building used for the meetings is accessible to persons with disabilities. Any person who requires special assistance, such as a language interpreter, should contact the NICTD West Lake Corridor Project at 219–250–2920 at least 48 hours before the meeting.

Comment Due Date: Written comments on the purpose and need for the proposed improvements, and the scope of alternatives and impacts to be considered should be sent to NICTD West Lake Corridor Project via any of the methods outlined in the Addresses section below, on or before Tuesday, November 11, 2014.

ADDRESSES: Written comments on the scope of the EIS should be sent to: NICTD West Lake Corridor Project, 33 East U.S. Highway 12, Chesterton, IN 46304; via email at *project.email@nictdwestlake.com;* or on the project's Web site at *http://www.nictdwestlake.com/comment-online.html*.

Additional Information: Contact Mark Assam, Environmental Protection Specialist, Federal Transit Administration, Region 5, 200 W. Adams Street, Suite 320, Chicago, IL 60606, 312–353–4070, *mark.assam@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Project Background

The concept of providing more direct access to transit in central, southern, and western Lake County has been considered for more than 25 years in regional transportation studies. As early as 1989, the Northwestern Indiana Regional Planning Commission (NIRPC) released a study that identified a South Shore extension as a potentially viable means to expand mass transit in the region. Since that time, multiple evaluations have occurred. In 2011, NICTD's West Lake Corridor Study concluded that a rail-based service between the Munster/Dyer area and Metra's Millennium Station in Downtown Chicago would best meet intraregional public transportation needs of the study area. In June 2014, NICTD released its *20-Year Strategic Business Plan,* which highlighted the importance of the West Lake Corridor Project.

II. Scoping

The FTA and NICTD will undertake a scoping process for the Project that will allow the public and interested agencies to comment on the scope of the environmental review process. NEPA scoping has specific objectives to identify the significant environmental issues associated with alternatives to be examined in detail, while also limiting consideration of issues that are not truly significant. As such, the FTA and NICTD invite all interested individuals and organizations, public agencies, and Native American tribes to comment on the scope of the EIS, including the project's purpose and need, alternatives to be studied, impacts to be evaluated, and evaluation methods to be used.

III. Purpose and Need for Project

NICTD's existing SSL provides a vital transportation link that connects Northwest Indiana to Chicago and Cook County, Illinois. NICTD is proposing the Project as a branch extension of the SSL route to reach high-growth areas in Lake County, Indiana. The Project would expand NICTD's service coverage between Northwest Indiana and the Chicago region, improve mobility and accessibility, and stimulate local job creation and economic development opportunities for Lake County. Specifically, the Project is intended to:

- Serve high-growth areas in central, southern, and western Lake County, Indiana
- Conveniently connect more Northwest Indiana residents to downtown Chicago jobs and major activity centers
- Establish a solid modal alternative between the two metropolitan sub-regions other than driving
- Lower commuting travel times and costs
- Increase NICTD system ridership
- Promote economic development opportunities
- Create local jobs in Northwest Indiana
- Attract and retain families and younger residents
- Provide a valued transportation asset for use by all Northwest Indiana residents

IV. Alternatives

The EIS for the Project will evaluate a No Build Alternative and a Commuter Rail Alternative. The two alternatives are described as follows:

No Build Alternative: The No Build Alternative is defined as the existing transportation system, plus any committed transportation improvements included in NIRPC's *2040 Comprehensive Regional Plan.* It would not include a major transit investment in the West Lake Corridor. As such, the No Build Alternative serves as the NEPA baseline against which the environmental effects of the proposed project are measured.

Commuter Rail Alternative: The Commuter Rail Alternative would include an approximately 9-mile southern extension of NICTD's existing SSL between Dyer and Hammond, Indiana. The project would involve new track improvements along the existing CSX Transportation and former Monon railroad corridors, with a flyover to the existing SSL in Hammond. Four potential stations would be included at Munster/Dyer Main Street, Munster Fisher/45th Streets, South Hammond, and Downtown Hammond. A maintenance facility would also be needed to store and maintain the vehicles. Trains on the new Project branch line would connect with the existing SSL and ultimately the MED line to the north, providing new transit service between Dyer and Metra's Millennium Station in Downtown Chicago, and as such, core capacity improvements to the existing MED line and Millennium Station may be required to accommodate the Project.

Two alignment design options are also being considered for the Project, including a possible extension to St. John, Indiana on the southern end, and another along the Indiana Harbor Belt Kensington Branch through Calumet City, Burnham, and Chicago, Illinois on the northern end. Design options for four other possible station locations and three potential maintenance facility sites are also being studied. Vehicle mode options include Electric Heavy Rail, Diesel Heavy Rail, and Combined Electric/Diesel Rail. The Project route alignment, station locations, maintenance facility sites, and vehicle mode will be further refined during the environmental review process, working in close consultation with the public, agencies, and key stakeholders.

V. Probable Effects/Potential Impacts for Analysis

The FTA and NICTD will evaluate each alternative for significant social, economic, and environmental impacts. Anticipated primary resource topics include: Transportation, land use, socioeconomics and economic development, parklands and trails, neighborhoods and community facilities, environmental justice, noise and vibration, hazardous materials, ecosystems, water resources, and short-term construction impacts. The EIS will also address displacements and relocations, historic and archaeological resources, visual quality, vegetation, farmlands, air quality, and energy. The potential impacts to these resources will be evaluated both for the short-term construction period and long-term operation of each alternative. In addition, indirect and cumulative effects of the proposed project will be identified. Measures to avoid or minimize and mitigate project impacts will be developed, as needed.

VI. FTA Procedures

The FTA and NICTD will comply with applicable federal environmental laws, regulations, and executive orders

during the environmental review process. These requirements include, but are not limited to, the regulations of the Council on Environmental Quality implementing NEPA (40 CFR Parts 1500–1508) and FTA's Regulations on Environmental Impact and Related Procedures (23 CFR Part 771). The FTA and NICTD will also comply with the requirements of the U.S. Environmental Protection Agency's air quality conformity regulations (40 CFR part 93), Clean Air Act Amendments of 1990, Section 404 of the Clean Water Act, Section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act, Section 4(f) of the U.S. Department of Transportation Act, Executive Order 11988 on Floodplain Management, Executive Order 11990 on Wetlands, Executive Order 12898 on Environmental Justice, and DOT Order 5610.2(a) on Environmental Justice.

Under a Commuter Rail scenario, NICTD intends to seek federal funding for the Project under FTA's New Starts program. The New Starts program involves a multi-year, multi-step process, including completion of the environmental review procedures, which project sponsors must traverse before funding is approved. The steps in the New Starts process and basic requirements of the funding program can be found on FTA's Web site at *www.fta.dot.gov*.

VII. Paperwork Reduction

The Paperwork Reduction Act seeks, in part, to minimize the cost to the taxpayer of the creation, collection, maintenance, use, dissemination, and disposition of information. Consistent with this goal and with principles of economy and efficiency in government, it is FTA policy to limit insofar as possible distribution of complete printed sets of NEPA documents. Accordingly, unless a specific request for a complete hardcopy of the NEPA document is received before it is printed, FTA and its grant applicants will distribute only electronic versions of the NEPA document. A complete copy of the environmental document will be available for review at the grant applicant's offices; an electronic copy of the complete environmental document will be available on the grant applicant's Project Web site at *www.nictdwestlake.com*.

Marisol R. Simón,

Regional Administrator.

[FR Doc. 2014–23248 Filed 9–29–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0092]

Pipeline Safety: Request for Revision of a Previously Approved Information Collection: National Pipeline Mapping System Program

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments; extension of comment period.

SUMMARY: On July 30, 2014, (79 FR 44246) PHMSA published a notice and request for comments in the **Federal Register** titled: ''Pipeline Safety: Request for Revision of a Previously Approved Information Collection: National Pipeline Mapping System (NPMS) Program (OMB Control No. 2137–0596)'' seeking comments on proposed changes to the NPMS data collection. PHMSA has received a request to extend the comment period in order to provide more time to evaluate the proposed revisions. PHMSA is extending the comment period from September 29, 2014, to December 1, 2014.

DATES: The closing date for filing comments is extended from September 29, 2014, until December 1, 2014.

ADDRESSES: You may submit comments identified by Docket No. PHMSA–2014–0092 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on Federal holidays.
- *Instructions:* Identify the docket number, PHMSA–2014–0092, at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or visit *http://www.regulations.gov* before submitting any such comments.
- *Docket:* For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT's 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. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on: PHMSA–2014–0092.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

FOR FURTHER INFORMATION CONTACT: Amy Nelson, GIS Manager, Program Development Division, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, by phone at 202–493–0591 or email at *amy.nelson@dot.gov.*

SUPPLEMENTARY INFORMATION: On July 30, 2014, (79 FR 44246) PHMSA published a notice and request for comments on the proposed changes to the NPMS data collection. The NPMS is a geospatial dataset that contains information about PHMSA-regulated gas transmission pipelines, hazardous liquid pipelines, and hazardous liquid low-stress gathering lines. The NPMS also contains data layers for all liquefied natural gas plants and a partial dataset of PHMSA-regulated breakout tanks. PHMSA is proposing to expand the collection of this data to include more detailed information on several data elements.

On September 4, 2014, the American Gas Association (AGA) requested PHMSA extend the comment period by 30 days. AGA supported their request stating that, within the notice, PHMSA outlines thirty-one different pipeline attributes that are requested in a geospatial format specified by PHMSA and that a 60-day comment period does not allow AGA, or its operators, time to fully evaluate the burden associated with meeting PHMSA's proposal. AGA also stated that the additional time

would allow them to conduct a survey of its membership to better determine industry capabilities for submitting the data requested by PHMSA in the format specified.

Based on the reasons given by AGA in their request to extend the comment period, PHMSA believes that extension of the comment period is warranted. Therefore, PHMSA is extending the comment period to allow stakeholders additional time to evaluate the proposed changes.

PHMSA is working with the Transportation Security Administration to appropriately identify the sensitivity of all new data elements. If PHMSA were to receive a Freedom of Information Act (FOIA) request for this information, all applicable FOIA exemptions would be reviewed to determine whether the information would be releasable to the public.

PHMSA understands that time will be needed for operators to acquire, organize or geospatially enable the data elements in the Information Collection Notice. A phased approach is being considered. PHMSA invites comments about a realistic timeline for pipeline operators to comply with the new NPMS submission requirements.

Summary of Impacted Collections:

The following information is provided for this information collection: (1) Title of the information collection, (2) OMB control number, (3) Current expiration date, (4) Type of request, (5) Abstract of the information collection activity, (6) Description of affected public, (7) Estimate of total annual reporting and recordkeeping burden, and (8) Frequency of collection. PHMSA requests comments on the following information collection:

OMB Control Number: 2137–0596

Title: National Pipeline Mapping System Program

Form Numbers: N/A

Type of Review: Revision of a Previously Approved Information Collection

Abstract: Each operator of a pipeline facility (except distribution lines and gathering lines) must provide PHMSA geospatial data for their pipeline system and contact information. The provided information is incorporated into the NPMS to support various regulatory programs, pipeline inspections, and authorized external customers. Following the initial submission of the requested data, the operator must make a new submission to the NPMS if any changes occur so PHMSA can maintain and improve the accuracy of the NPMS's information.

Respondents: Operators of natural gas, hazardous liquid, and liquefied natural gas pipelines.

Number of Respondents: 1,211.

Frequency: Annual.

Number of Responses: 1,211.

Total Annual Burden: 420,516 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection including: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility, and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC on September 24, 2014, under authority delegated in 49 CFR 1.97.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2014–23174 Filed 9–29–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Special Permit Applications

AGENCY: Pipeline And Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on Special Permit Applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on special permits applications in (August to August 2014). The mode of transportation involved are identified by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft Application numbers prefixed by the letters EE represent applications for Emergency Special Permits. It should be noted that some of the sections cited were those in effect at the time certain special permits were issued.

Issued in Washington, DC, on September 5, 2014.

Donald Burger,

Chief, Special Permits and Approvals Branch.

S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
MODIFICATION SPECIAL PERMIT GRANTED			
15854–M	Colmac Coil Manufacturing, Inc., Colville, WA.	49 CFR 173.222, IMDG Code, Special Provision 301.	To modify the special permit originally issued on an emergency basis to routine with a two year renewal as well as to increase the size of authorized units.
11826–M	Linde Gas North America, LLC., Murray Hill, NJ.	49 CFR 173.302(a)(5)	To modify the special permit to authorize the requalification of cylinders manufactured in accordance with DOT–SP 12399 and 14546, and the use of ultrasonic requalification.
11536–M	Boeing Company, The, Los Angeles, CA.	49 CFR 173.102 Spec. Prov. 101, 173.24(g), 173.62, 173.185, 173.202; 173.211, and 173.304.	To modify the special permit to authorize new shipping and storage containers.
11650–M	Autoliv ASP, Inc., Ogden, UT	49 CFR 173.301(a)(1), and 173.302a(a).	To modify the special permit to authorize an increase to the maximum service pressure.
15860–M	Apple Inc., Cupertino, CA	49 CFR 173.185(a)	To modify the special permit to authorize cargo aircraft as a mode of transportation.

S.P No.	Applicant	Regulation(s)	Nature of special permit thereof
NEW SPECIAL PERMIT GRANTED			
16115–N	Advanced Cooling Technologies, Inc., Lancaster, PA.	49 CFR 173.301(f), 137.302(a)(1), 173.304(a)(2).	To authorize the transportation of anhydrous ammonia in alternative packaging (heat pipes). (modes 1, 3, 4)
16102–N	Brenntag Mid-South, Inc., Henderson, KY.	49 CFR 173.3(e)(2)	To authorize the transportation in commerce of a DOT 106A500 multi-unit tank car tank containing chlorine or sulfur dioxide that has developed a leak in the valve or fusible plug that has been temporarily repaired using a Chlorine Institute ''B'' Kit, Edition 11. (mode 1)
16122–N	ATK LAUNCH SYSTEMS INC., Corinne, UT.	49 CFR 172.320, 173.54(a), 173.56(b), 175.57, 173.58 and 173.60.	To authorize the transportation in commerce of not more than 25 grams of Division 1.4 materials and pyrotechnic materials in a special shipping container. (modes 1, 3, 4)
16166–N	Sparkle International, Inc., Bedford, OH.	49 CFR 173.6(a)(1)(ii)	To authorize the transportation in commerce of a Class 8, PG II material in a custom designed packaging as a material of trade when the mass or capacity limits are exceeded. (mode 1)
EMERGENCY SPECIAL PERMIT GRANTED			
16209–M	Atlas Air, Inc., Purchase, NY	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27, and 175.30(a)(1).	To modify the special permit to increase the net explosive weight to 1778 pounds. (modes 1, 4)
16067–N	E.I. duPont de Nemours and Company, Wilmington, DE.	49 CFR 171.25(c)	To authorize the transportation in commerce of a Division 2.2 compressed gas in non-DOT specification bulk packaging. (modes 1, 3)
16171–N	Ozark Automotive Distributors, Springfield, MO.	49 CFR 173.159	To authorize the transportation in commerce of batteries in alternative packaging by motor vehicle. (mode 1)
16209–N	Atlas Air, Inc., Washington, DC.	49 CFR 172.101 Column (9B), 172.204(c)(3), 173.27, and 175.30(a)(1).	To authorize the transportation in commerce of forbidden explosives by cargo aircraft. (modes 1, 4)
NEW SPECIAL PERMIT WITHDRAWN			
16206–N	Demex International Inc., Picayune, MS.	49 CFR 176.116(e)	To authorize the transportation in commerce of certain Class 1 materials by vessel in an alternative stowage configuration. (mode 3)

[FR Doc. 2014–23071 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Notice of Applications for Modification of Special Permit

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Modification of Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modification of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before October 15, 2014.

ADDRESS COMMENTS TO: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT:

Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue Southeast, Washington DC or at *http://regulations.gov.*

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 5, 2014.

Donald Burger,

Chief, General Approvals and Permits.

Application No.	Docket	Applicant	Regulation(s) affected	Nature of special permit thereof
MODIFICATION SPECIAL PERMITS				
13961–M	3AL Testing Corp. Centennial, CO.	49 CFR 172.203(a), 172.301(c), 180.205(f) and (g), and 180.209(a).	To modify the special permit to authorize ultrasonic equipment with a five sensor head with sensors positioned to perform all required straight and angle beam examinations in a single pass.	
14700–M	Pentair Residential Filtration, LLC Chardon, OH.	49 CFR 173.302a and 173.306(g)	To modify the special permit to authorize an increase to the tanks maximum operating pressure from 100 psig to 125 psig.	

[FR Doc. 2014–23069 Filed 9–29–14; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for the 2015 United States Marshals 225th Anniversary Commemorative Coin Program

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing for the 2015 United States Marshals 225th Anniversary Commemorative Coin Program as follows:

Coin	Introductory price	Regular price
Silver Proof	$46.95	$51.95
Silver Uncirculated	43.95	48.95
Clad Proof	14.95	18.95
Clad Uncirculated	13.95	17.95

Products containing gold coins will be priced according to the Pricing of Numismatic and Commemorative Gold and Platinum Products Grid posted at *www.usmint.gov*.

FOR FURTHER INFORMATION CONTACT: 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 & 9701; Public Law 112–104, sec. 6(a).

Dated: September 17, 2014.

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2014–23278 Filed 9–29–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

United States Mint

Senior Executive Service; Combined Performance Review Board (PRB)

AGENCY: Treasury Department, United States Mint (USM).

ACTION: Notice of Members of Treasury Combined Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the Combined Performance Review Board (PRB) for the United States Mint, the Fiscal Service (FS), the Financial Crimes Enforcement Network (FinCEN), the Bureau of Engraving and Printing (BEP), and the Alcohol and Tobacco Tax and Trade Bureau (TTB). The Combined PRB reviews the performance appraisals of career senior executives below the level of the bureau head who are not assigned to the immediate Office of the Director of each bureau represented by the Combined PRB. The Combined PRB makes recommendations regarding proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions. Membership is effective on September 30, 2014.

Composition of the United States Treasury CPRB, including names and titles, is as follows:

Primary Members

Beverly Ortega Babers, Chief Administrative Officer, USM

Kimberly A. McCoy, Deputy Commissioner, Finance and Administration, FS

Peter S. Alvarado, Associate Director, FinCEN

Leonard R. Olijar, Deputy Director, BEP

Mary G. Ryan, Deputy Administrator, TTB

Alternate Members

Richard A. Peterson, Deputy Director, USM

Patricia (Marty) Greiner, Assistant Commissioner, Management/CFO, FS

Amy Taylor, Associate Director, Technology Solutions and Services Division, FinCEN

Will P. Levy III, Associate Director, Management, BEP

Theresa McCarthy, Assistant Administrator, Headquarters Operations, TTB

FOR FURTHER INFORMATION CONTACT: Annie Brown, Associate Director, Workforce Solutions Department; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7343.

Authority: 5 U.S.C. 4314(c)(4).

Dated: September 24, 2014.

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2014–23273 Filed 9–29–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0779]

Agency Information Collection (Disability Benefits Questionnaires—Group 1) Activity Under OMB Review

AGENCY: Veterans Benefits 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 Benefits Administration (VBA), 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; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 30, 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. 2900–0779'' in any correspondence.

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. 2900–0779.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Hematologic and Lymphatic Conditions, Including Leukemia Disability Benefits Questionnaire, VA Form 21–0960B–2.

b. Amyotrophic Lateral Sclerosis (Lou Gehrig's Disease) Disability Benefits Questionnaire, VA Form 21–0960C–2.

c. Peripheral Nerve Conditions (Not Including Diabetic Sensory-Motor Peripheral Neuropathy) Disability Benefits Questionnaire, VA Form 21–0960C–10.

d. Persian Gulf and Afghanistan Infectious Diseases Disability Benefits Questionnaire, VA Form 21–0960I–1.

e. Tuberculosis Disability Benefits Questionnaire, VA Form 21–0960I–6.

f. Kidney Conditions (Nephrology) Disability Benefits Questionnaire, VA Form 21–0960J–1.

g. Male Reproductive Organ Conditions Disability Benefits Questionnaire, VA Form 21–0960J–2.

h. Prostate Cancer Disability Benefits Questionnaire, VA Form 21–0960J–3.

l. Eating Disorders Disability Benefits Questionnaire, VA Form 21–0960P–1.

m. Mental Disorders (other than PTSD and Eating Disorders) Disability Benefits Questionnaire, VA Form 21–0960P–2.

n. Review Post Traumatic Stress Disorder (PTSD) Disability Benefits Questionnaire, VA Form 21–0960P–3.

OMB Control Number: 2900–0779.

Type of Review: Revision.

Abstract: Data collected on VA Form 21–0960 series will be used obtain information from claimants treating physician that is necessary to adjudicate a claim for disability benefits.

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 OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 17, 2014, at pages 41743–41744.

Affected Public: Individuals or households.

Estimated Annual Burden: 127, 917.

Estimated Average Burden per Respondent:

a. VA Form 21–0960B–2—15 minutes.

(a) b. VA Form 21–0960C–2—30 minutes.

(b) c. VA Form 21–0960C–10—45 minutes.

(c) d. VA Form 21–0960I–1—15 minutes.

(d) e. VA Form 21–0960I–6—30 minutes.

(e) f. VA Form 21–0960J–1—30 minutes.

(f) g. VA Form 21–0960J–2—15 minutes.

(g) h. VA Form 21–0960J–3—15 minutes.

(h) l. VA Form 21–0960P–1—15 minutes.

(i) m. VA Form 21–0960P–2—30 minutes.

(j) n. VA Form 21–0960P–3—30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: TOTAL: 307,000.

a. VA Form 21–0960B–2—10,000.

b. VA Form 21–0960C–2—2,000.

c. VA Form 21–0960C–10—55,000.

d. VA Form 21–0960I–1—50,000.

e. VA Form 21–0960I–6—5,000.

f. VA Form 21–0960J–1—25,000.

g. VA Form 21–0960J–2—25,000.

h. VA Form 21–0960J–3—25,000.

i. VA Form 21–0960M–13—50,000.

j. VA Form 21–0960M–14—50,000.

k. VA Form 21–0960O–1—25,000.

l. VA Form 21–0960P–1—5,000.

m. VA Form 21–0960P–2—50,000.

n. VA Form 21–0960P–3—55,000.

Dated: September 25, 2014.

By direction of the Secretary:

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–23272 Filed 9–29–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0067]

Agency Information Collection (Application for Automobile or other Conveyance and Adaptive Equipment): Activity Under OMB Review

AGENCY: Veterans Benefits 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 Benefits Administration (VBA), 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; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 30, 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. 2900–0067'' in any correspondence.

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. 2900–0067.''

SUPPLEMENTAL INFORMATION:

Title: Application for Automobile or other Conveyance and Adaptive Equipment (under 38 U.S.C. 3901–3904), VA Form 21–4502.

OMB Control Number: 2900–0067.

Type of Review: Revision of a currently approved collection.

Abstract: Veterans, servicepersons and their survivors complete VA Form 21–4502 to apply for automobile or other conveyance allowance, and reimbursement for the cost and installation of adaptive equipment. VA uses the information to determine the claimant's eligibility for such benefits.

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 OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 12, 2014, at pages 33805 and 33806.

Affected Public: Individuals or households.

Estimated Annual Burden: 388.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One–time.

Estimated Number of Respondents: 1,552.

Dated: September 25, 2014.

By direction of the Secretary:

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–23259 Filed 9–29–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0075]

Agency Information Collection (Statement in Support of Claim) Activity Under OMB Review

AGENCY: Veterans Benefits 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 Benefits Administration (VBA), 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; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 30, 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. 2900–0075'' in any correspondence.

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. 2900–0075.''

SUPPLEMENTARY INFORMATION:

Title: Statement in Support of Claim, VA Form 21–4138.

OMB Control Number: 2900–0075.

Type of Review: Revision of a currently approved collection.

Abstract: Statements submitted by or on behalf of a claimant must contain a certification by the respondent that the information provided to VA is true and correct in support of various types of benefit claims processed by VA. VA Form 21–4138 is to used collect the statement in support of such claims.

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 OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 17, 2014, at page 41744.

Affected Public: Individuals or households.

Estimated Annual Burden: 188,000 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 752,000.

Dated: September 25, 2014.

By direction of the Secretary:

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–23260 Filed 9–29–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0107]

Agency Information Collection (Certificate as to Assets) Activities Under OMB Review

AGENCY: Veterans Benefits 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 Benefits Administration (VBA), 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; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 30, 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. 2900–0107'' in any correspondence.

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. 2900–0107.''

SUPPLEMENTARY INFORMATION:

Title: Certificate as to Assets, VA Form 21P–4709.

OMB Control Number: 2900–0107.

Type of Review: Revision of a currently approved collection.

Abstract: Fiduciaries are required to complete VA Form 21P4709 to report investment in savings, bonds and other securities that he or she received on behalf of beneficiaries who are incompetent or under legal disability. Estate analysts employed by VA use the data collected to verify the fiduciaries accounting of a beneficiary's estate.

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 OMB control number. The **Federal Register** Notice with a 60-day comment period

soliciting comments on this collection of information was published on June 12, 2014, at pages 33804–33805.

Affected Public: Individuals or households.

Estimated Annual Burden: 863 hours.

Estimated Average Burden per Respondent: 12 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 4,316.

Dated: September 25, 2014.

By direction of the Secretary:

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–23261 Filed 9–29–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0635]

Agency Information Collection (Suspension of Monthly Check) Activity Under OMB Review

AGENCY: Veterans Benefits 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 Benefits Administration (VBA), 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; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 30, 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. 2900–0635'' in any correspondence.

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. 2900–0635.''

SUPPLEMENTARY INFORMATION:

Title: Suspension of Monthly Check, VA Form 29–0759.

OMB Control Number: 2900–0635.

Type of Review: Revision of a currently approved collection.

Abstract: When a beneficiary's monthly insurance check is not cash within one year from the issued date, the Department of Treasury returns the funds to VA. VA Form 29–0759 is used to advise the beneficiary that his or her monthly insurance checks have been suspended and to request the beneficiary to provide a current address or if desired a banking institution for direct deposit for monthly checks.

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 OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 16, 2014, at page 41630.

Affected Public: Individuals or households.

Estimated Annual Burden: 200 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: September 25, 2014.

By direction of the Secretary:

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–23265 Filed 9–29–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0618]

Agency Information Collection (Application by Insured Terminally Ill Person for Accelerated Benefit (38 CFR 9.14(e)) Activity Under OMB Review

AGENCY: Veterans Benefits 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 Benefits Administration (VBA), 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; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 30, 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. 2900–0618'' in any correspondence.

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. 2900–0618.''

SUPPLEMENTARY INFORMATION:

Title: Application by Insured Terminally Ill Person for Accelerated Benefit (38 CFR 9.14(e).

OMB Control Number: 2900–0618.

Type of Review: Revision of a currently approved collection.

Abstract: An insured person who is terminally ill may request a portion of the face value of his or her Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI) prior to death. If the insured would like to receive a portion of the SGLI or VGLI he or she must submit a Servicemembers' and Veterans' Group Life Insurance Accelerated Benefits Option application. The application must include a medical prognosis by a physician stating the life expectancy of the insured person and a statement by the insured on the amount of accelerated benefit he or she choose to receive. The application is obtainable by writing to the Office of Servicemembers' Group Life Insurance ABO Claim Processing, 290 West Mt. Pleasant Avenue, Livingston, NJ 07039, or calling 1800–419–1473 or downloading the application via the internet at *www.insurance.va.gov.*

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 OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 12, 2014, at pages 33811–33812.

Affected Public: Individuals or households.

Estimated Annual Burden: 40 hours.

Estimated Average Burden per Respondent: 12 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 200.

Dated: September 25, 2014.

By direction of the Secretary:

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–23264 Filed 9–29–14; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463; Title 5 U.S.C. App. 2 (Federal Advisory Committee Act) that the subcommittees of the Joint Biomedical Laboratory Research and Development and Clinical Science Research and Development Services Scientific Merit Review Board (JBL/CS SMRB) will meet from 8 a.m. to 5 p.m. on the dates indicated below (unless otherwise listed):

Subcommittee	Date(s)	Location
Surgery	November 19, 2014	Hampton Inn.
Mental Health and Behavioral Sciences-A	November 20, 2014	Hampton Inn.
Hematology	November 21, 2014	Westin Crystal City.
Infectious Diseases-B	November 21, 2014	American Association of Airport Executives.
Cellular and Molecular Medicine	November 24, 2014	Hampton Inn.
Infectious Diseases-A	November 24, 2014	Westin Crystal City.
Endocrinology-A	December 1, 2014	Crowne Plaza Old Town.
Clinical Trials-A	December 2, 2014	Hampton Inn.
Epidemiology	December 2, 2014	*VA Central Office.
Immunology-A	December 3, 2014	Hampton Inn.
Neurobiology-C	December 3, 2014	Crowne Plaza Old Town.
Endocrinology-B	December 4, 2014	Crowne Plaza Old Town.
Nephrology	December 4, 2014	Hampton Inn.
Oncology-E	December 4, 2014	*VA Central Office (8:30 a.m. ET).
Oncology-A	December 4, 2014	*VA Central Office (12:00 p.m. ET).
Special Emphasis on Genomics	December 4, 2014	*VA Central Office.
Clinical Trials-B	December 5, 2014	*VA Central Office.
Neurobiology-A	December 5, 2014	Crowne Plaza Old Town.
Neurobiology-D	December 5, 2014	Hampton Inn.
Oncology-D	December 5, 2014	*VA Central Office (8:30 a.m. ET).
Oncology-C	December 5, 2014	*VA Central Office (12:00 p.m. ET).
Pulmonary Medicine	December 5, 2014	Crowne Plaza Old Town.
Aging and Clinical Geriatrics	December 8, 2014	*VA Central Office.
Neurobiology-R	December 8, 2014	*VA Central Office (12:00 p.m. ET).
Neurobiology-F	December 9, 2014	*VA Central Office.
Oncology-B	December 9, 2014	*VA Central Office (9:00 a.m. ET).
Cardiovascular Studies-A	December 11, 2014	Westin Crystal City.
Gastroenterology	December 11, 2014	Westin Crystal City.
Cardiovascular Studies-B	December 12, 2014	Westin Crystal City.
Gulf War Research	December 12, 2014	*VA Central Office.
Neurobiology-B	December 12, 2014	US Access Board.
Neurobiology-E	December 12, 2014	Hampton Inn.
JBL/CS SMRB	December 16, 2014	*VA Central Office (3:00 p.m. ET).
Eligibility	January 16, 2015	Hampton Inn.

The addresses of the meeting sites are:

American Association of Airport Executives, 601 Madison Street, 3rd Floor, Alexandria, VA

Crowne Plaza Old Town, 901 N. Fairfax Street, Alexandria, VA

Hampton Inn, 1729 H Street NW., Washington, DC

US Access Board, 1331 F Street NW., Suite 800, Washington, DC

Westin Crystal City, 1800 Jefferson Davis Highway, Arlington, VA

VA Central Office, 131 M Street NE., Washington, DC

*Teleconference.

The purpose of the subcommittees is to provide advice on the scientific quality, budget, safety and mission relevance of investigator-initiated research proposals submitted for VA merit review consideration. Proposals submitted for review involve a wide range of medical specialties within the general areas of biomedical, behavioral and clinical science research.

The subcommittee meetings will be closed to the public for the review, discussion, and evaluation of initial and renewal research proposals. However, the JBL/CS SMRG teleconference meeting will be open to the public. Members of the public who wish to attend the open JBL/CS SMRB teleconference may dial 1–800–767–1750, participant code 95562. Members of the public who wish to make a statement at the JBL/CS SMRB meeting must notify Dr. Alex Chiu via email at *alex.chiu@va.gov* by December 10, 2014.

The closed subcommittee meetings involve discussion, examination, and reference to staff and consultant critiques of research proposals. Discussions will deal with scientific merit of each proposal and qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of research information could significantly frustrate implementation of proposed agency action regarding the research proposals. As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the subcommittee meetings is in accordance with Title 5 U.S.C. 552b(c) (6) and (9)(B).

Those who would like to obtain a copy of the minutes from the closed subcommittee meetings and rosters of the subcommittee members should

contact Alex Chiu, Ph.D., Manager, Merit Review Program (10P9B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 443–5672 or email at *alex.chiu@va.gov.*

Dated: September 24, 2014.

Rebecca Schiller,

Advisory Committee Management Officer.

[FR Doc. 2014–23143 Filed 9–29–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 189 September 30, 2014

Part II

Railroad Retirement Board

New and Revised Systems of Records; Notice

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; New and Revised Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice: Publication of New and Revised Systems of Records and Standard Disclosures.

SUMMARY: The purpose of this document is to republish and update all existing systems of records in their entirety, to change the name of one system of records and to publish one new system of records.

DATES: These changes become effective as proposed without further notice on December 1, 2014. We will file a report of these Systems of Records Notices with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB).

ADDRESSES: Send comments to Ms. Martha P. Rico, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy Grant, Chief Privacy Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092; telephone 312–751–4869, or email at *tim.grant@rrb.gov.*

SUPPLEMENTARY INFORMATION: One new system of records is included in this notice: RRB–59, Electronic Information Systems Activity and Access Logs.

We are retiring one system of records: RRB–3, Medicare, Part B, as those records are part of Medicare Multi-Carrier Claims System (MCS), Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

All other existing systems of records have been reviewed and any major changes are marked, such as a new routine use. The RRB follows Federal Law and Regulations, the National Institute of Science and Technology (NIST) guidelines and best practices, as appropriate to ensure proper safeguarding and disposal of our records.

By Authority of the Board.

Martha P. Rico,

Secretary to the Board.

RAILROAD RETIREMENT BOARD (RRB) SYSTEMS OF RECORDS

RRB–1—Social Security Benefit Vouchering System
RRB–2—[Reserved]
RRB–3—[Reserved]
RRB–4—Estimated Annuity, Total Compensation and Residual Amount File
RRB–5—Master File of Railroad Employees' Creditable Compensation
RRB–6—Unemployment Insurance Record File
RRB–7—Applications for Unemployment Benefits and Placement Service Under the Railroad Unemployment Insurance Act
RRB–8—Railroad Retirement Tax Reconciliation System (Employee Representatives)
RRB–9—[Reserved]
RRB–10—Legal Opinion and Correspondence Files
RRB–11—Files on Concluded Litigation
RRB–12—Railroad Employees' Registration File
RRB–13–15—[Reserved]
RRB–16—Social Security Administration Master Earnings File
RRB–17—Appeal Decisions from Reconsideration Denials for Benefits Under the Provisions of the Railroad Retirement Act or the Railroad Unemployment Insurance Act
RRB–18—Miscellaneous Payments paid/posted to the General Ledger by FFS the Financial Management Integrated System (FMIS)
RRB–19—Transit Benefit Program Records System
RRB–20—Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (Medicare)
RRB–21—Railroad Unemployment and Sickness Insurance Benefit System
RRB–22—Railroad Retirement, Survivor, and Pensioner Benefit System
RRB–23–25—[Reserved]
RRB–26—Payment, Rate and Entitlement History File
RRB–27—Railroad Retirement Board-Social Security Administration Financial Interchange
RRB–28—[Reserved]
RRB–29—Railroad Employees' Annual Gross Earnings Master File
RRB–30–32—[Reserved]
RRB–33—Federal Employee Incentive Awards System
RRB–34—Employee Personnel Management Files
RRB–35—[Reserved]
RRB–36—Complaint, Grievance, Disciplinary and Adverse Action Files
RRB–37–41—[Reserved]
RRB–42—Overpayment Accounts
RRB–43—Investigation Files
RRB–44–45—[Reserved]
RRB–46—Personnel Security Files
RRB–47—[Reserved]
RRB–48—Physical Access Management System
RRB–49—Telephone Call Detail Records
RRB–50—Child Care Tuition Assistance Program
RRB–51—Railroad Retirement Board's Customer PIN/Password (PPW) Master File System
RRB–52—Board Orders
RRB–53—Employee Medical and Eye Examination Reimbursement Program
RRB–54—Virtual Private Network (VPN) Access Management
RRB–55—Contact Log
RRB–56—Employee Service and Railroad Employer Coverage Determination Files
RRB–57—Employee Emergency Notification System
RRB–58—Employee Tuition Assistance Program (TAP)
RRB–59—*New*—Electronic Information Systems Activity and Access Logs

PREFATORY STATEMENT CONCERNING RRB STANDARD DISCLOSURES:

Beside those disclosures provided under 5 U.S.C. 552a(b) of The Privacy Act which pertain generally to all of the RRB systems of records, the RRB implemented in their 2007 **Federal Register** notice, certain standard disclosures which apply to all systems of records, *unless specifically excluded* in a system notice. These standard disclosures are in addition to the particular routine uses listed under each system of records, as follows:

Standard Disclosure 1.—Congressional. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual if that individual would not be denied access to the information.

Standard Disclosure 2.—Presidential. Disclosure of relevant information from the record of an individual may be made to the Office of the President in response to an inquiry from that office made at the request of that individual or a third party on the individual's behalf if that individual would not be denied access to the information.

Standard Disclosure 3.—Contractors working for Federal Government. Disclosure may be made to contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal government, to the extent necessary to accomplish an RRB

function related to that system of records.

Standard Disclosure 4.—Law Enforcement. Disclosure may be made to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating, enforcing, or prosecuting a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, if the disclosure would be to an agency engaged in functions related to the Railroad Retirement Act or the Railroad Unemployment Insurance Act, or if disclosure would be clearly in the furtherance of the interest of the subject individual.

Standard Disclosure 5.—Breach Notification. Disclosure may be made, to appropriate agencies, entities, and persons when (1) the Railroad Retirement Board suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Railroad Retirement Board has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Railroad Retirement Board or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Railroad Retirement Board's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

Standard Disclosure 6.— National Archives. Disclosure may be made to the National Archives and Records Administration or other Federal government agencies for records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

Standard Disclosure 7.—Attorney Representative. Disclosure of non-medical information in this system of records may be made to the attorney representing such individual upon receipt of a written letter or declaration stating the fact of representation, if that individual would not be denied access to the information. Medical information may be released to an attorney when such records are requested for the purpose of contesting a determination either administratively or judicially.

* * * * *

RRB–1

SYSTEM NAME:

Social Security Benefit Vouchering System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants after December 31, 1974, for benefits under Title II of the Social Security Act who have completed ten years or at least five years after 1995 of creditable service in the railroad industry, the spouse and/or divorced spouse or survivor of such an individual.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number, RRB claim number, type and amount of benefit, suspension and termination information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(2)).

PURPOSE(S):

Records in the Social Security Vouchering System are maintained to administer Title II of the Social Security Act with respect to payment of benefits to individuals with 10 or more years or at least five years after 1995 of railroad service and their families.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Benefit rate information may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Benefit rates, names and addresses may be released to the Department of Treasury to control for reclamation and return of outstanding benefit payments, to issue benefit payments, act on reports of non-receipt, to insure delivery of payments to the correct address of the beneficiary or representative payee or to proper financial organization, and to investigate alleged forgery, theft or unlawful negotiation of railroad retirement for social security benefit checks or improper diversion of payments directed to a financial organization.

d. Beneficiary's name, address, check rate and date plus supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

e. Beneficiary identifying information, effective date, benefit rates, and months paid may be furnished to the Veterans Administration for the purpose of assisting that agency in determining eligibility for benefits or verifying continued entitlement to and the correct amount of benefits payable under programs which it administers.

f. Benefit rates and effective dates may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

g. Last addresses information may be disclosed to the Department of Health and Human Services in conjunction with the Parent Locator Service.

h. Benefit rates, entitlement and other necessary information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

i. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act or from an organization under contract to an employer or employers, information regarding the Board's payment of benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer or the organization under contract to the employer or employers for the purposes of determining entitlement to and the rates of private supplemental pension benefits and to calculate estimated benefits due.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit

may be disclosed to the labor organization official.

k. Records may be disclosed to the Government Accountability Office for auditing purposes and for collection of debts arising from overpayments under Title II of the Social Security Act, as amended.

l. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

m. For payments made after December 31, 1983, beneficiary identifying information, address, amounts of benefits paid and repaid, beneficiary withholding instructions, and amounts withheld by the RRB for tax purposes may be furnished to the Internal Revenue Service for tax administration.

n. Beneficiary identifying information, entitlement data, and benefit rates may be released to the Department of State and embassy and consular officials, to the American Institute on Taiwan, and to the Veterans Administration Regional Office, Philippines, to aid in insuring the continued payment of beneficiaries living abroad.

o. Entitlement data and benefit rates may be released to any court, state, agency, or interested party, or to the representative of such court, state agency, or interested party, in connection with contemplated or actual legal or administrative proceeding concerning domestic relations and support matters.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microforms, magnetic tape and magnetic disk.

RETRIEVABILITY:

Social security account number, full name.

SAFEGUARDS:

Paper and Microforms: Maintained in areas not accessible to the public in metal filing cabinets. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper: Individual claim folders with records of all actions pertaining to the payment of claims are transferred to the Federal Records Center, Chicago, Illinois 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding.

The claim folder is destroyed 25 years after the date it is received in the center. Accounts receivable listings and checkwriting operations daily activity listings are transferred to the Federal Records Center 1 year after date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after the date of issue. Changes of address source documents are destroyed after 1 year.

Microforms: Originals are kept for 3 years, transferred to the Federal Records Center and destroyed when 8 years old. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed in accordance with NIST guidelines.

Magnetic tape: Tapes are updated at least monthly. For disaster recovery purposes, certain tapes are stored for 12–18 month periods.

Magnetic disk: Continually updated and permanently retained. When magnetic disk or other electronic media is no longer servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing, including full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Individual applicant or his or her authorized representative, the Social Security Administration, other record systems maintained by the Railroad Retirement Board.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–2 [Reserved]

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RRB–3 [Retired]—Covered by Medicare Multi-Carrier Claims System (MCS), Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS), System Number 09–70–0501, see their **Federal Register** notice at 71 FR 64968, November 6, 2006.

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RRB–4

SYSTEM NAME:

Estimated Annuity, Total Compensation and Residual Amount File.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad employees who never filed an application for an annuity, have not been reported to be deceased and who either worked in the current reporting year or have at least 120 months of creditable railroad service or have at least 60 months of creditable railroad service after 1995.

CATEGORIES OF RECORDS IN THE SYSTEM:

For employees with less than 120 months of creditable railroad service, or less than 60 months of creditable railroad service after 1995: Social Security Number (SSN), name, date of

birth, sex, cumulative service, cumulative tier 1 compensation, daily pay rate, employer number, gross residual, year last worked, number and pattern of months worked in year last worked, tier 1 compensation for year last worked, tier 2 compensation for year last worked. For railroad employees with 120 or more months of creditable railroad service and for employees with at least 60 months of creditable railroad service after 1995; all of the above information plus estimated annuity data and SSA data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)).

PURPOSE(S):

The primary purpose of the system is to provide field offices with the capability of furnishing annuity estimates to prospective beneficiaries. The system is also used by field offices to provide temporary annuity rates that the Division of Operations may issue to applicants for employee and spouse benefits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Entitlement information may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

b. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's estimated payment of unemployment, sickness or retirement benefits, the methods by which such benefits are calculated and entitlement data may be released to the requesting employer for the purposes of determining entitlement to and the rates of private supplemental pensions, sickness or unemployment benefits and to calculate estimated benefits due.

c. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

d. Annuity estimates may be released to any court, state agency, or interested party, or the representative of such court, state agency, or interested party, in connection with contemplated or actual legal or administrative proceeding concerning domestic relations and support matters.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On-line mainframe system.

RETRIEVABILITY:

Social security number.

SAFEGUARDS:

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

A maximum of three sets of records (the current and prior two sets) are maintained on-line with the oldest set purged when a new set is produced. When magnetic disk or other electronic media is no longer required or servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Request for information regarding an individual's record should be in writing, including the full name, social security number and railroad retirement claim number (if any) of the individual. Before information about any record will be released, the individual may be required to provide proof of identity, authorization from the individual to permit release of information. Such requests should be sent to: Office of Programs—Director of Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Information which is secured from the original master records is made available to all authorized headquarters and field service users.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–5

SYSTEM NAME:

Master File of Creditable Service and Compensation of Railroad Employees.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals with creditable service under the Railroad Retirement and Railroad Unemployment Insurance Acts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number, RRB claim number, annuity beginning date, date of birth, sex, last employer identification number, amount of daily payrate, separation allowance or severance payment, creditable service and compensation after 1937, home address, and date of death.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

PURPOSE(S):

The purpose of this system is to store railroad earnings of railroad employees which are used to determine entitlement to and amount of benefits payable under the Railroad Retirement Act, the Railroad Unemployment Insurance Act and the Social Security Act, if applicable. The records are updated daily based on earnings reports received from railroad employers and the Social Security Administration and are stored in the Employment Data Maintenance Application database and the Separation Allowance Lump Sum Award (SALSA) Master File.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records may be transferred to the Social Security Administration to correlate disability freeze actions and in the cases where the railroad employees do not acquire 120 creditable service months before retirement or death or have no current connection with the railroad industry, to enable SSA to credit the employee with the compensation and to pay or deny benefits.

b. Yearly service months, cumulative service months, yearly creditable compensation, and cumulative creditable compensation may be released to the employees directly or through their respective employer.

c. Service months and earnings may be released to employers or former employers for correcting or reconstructing earnings records for railroad employees.

d. Employee identification and potential entitlement may be furnished to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State, and local welfare or public aid agencies to assist them in processing application for benefits under their respective programs.

e. Employee identification and other pertinent information may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

f. The last employer information may be disclosed to the Department of Health and Human Services in conjunction with the Parent Locator Service.

g. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information, regarding the employee's potential eligibility for unemployment, sickness or retirement benefits may be released to the requesting employer for the purpose of determining entitlement to and the rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due from the employer.

h. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his anticipated benefit may be disclosed to the labor organization official.

i. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act or the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

j. All records may be disclosed to the Social Security Administration for purposes of administration of the Social Security Act.

k. Service and compensation and last employer information may be furnished, upon request, to state agencies operating unemployment or sickness insurance programs for the purposes of their administering such programs.

l. The name, address and gender of a railroad worker may be released to a Member of Congress when the Member requests it in order that he or she may communicate with the worker about legislation which affects the railroad retirement or railroad unemployment and sickness insurance program.

m. The service history of an employee (such as whether the employee had service before a certain date and whether the employee had at least a given number of years of service) may be disclosed to AMTRAK when such information would be needed by AMTRAK to make a determination whether to award a travel pass to either the employee or the employee's widow.

n. Records may be released to the Internal Revenue Service for the sole purpose of computing the additional Medicare tax shortfall amount. Records released will include the Social Security Number (SSN), employer name and Employer Identification Number (EIN). Records provided shall not be used for IRS audits or any other unauthorized purposes.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic tape and Magnetic disk.

RETRIEVABILITY:

Social security number, claim number and name.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper: Retained five years and destroyed in accordance with NIST guidelines. Previous years ledger put in storage when current year ledger is complete.

Magnetic tape: Magnetic tape records are retained for 90 days and then written over following NIST guidelines. For disaster recovery purposes certain tapes are stored 12–18 months.

Magnetic disk: Continually updated and permanently retained. When magnetic disk or other electronic media is no longer servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including the full name, social security number and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of information. Requests should be sent to the Office of Programs—Policy & Systems, Chief of Employer Service and Training Center, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Railroad employer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–6

SYSTEM NAME:

Unemployment Insurance Record File.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimants for unemployment benefits under the Railroad Unemployment Insurance Act and their respective employers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Development file containing letters from claimants, report of Railroad Unemployment Insurance Act fraud investigations and supporting evidence, erroneous payment investigations, protest and appeal requests and responses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

PURPOSE(S):

This system of records is used for filing general information about applicants for RUIA benefits. If an applicant files for UI benefits, some of the information in this file will be also placed in the claimants UI file.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Beneficiary identifying information may be released to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. Benefit rate, name and address may be referred to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, reconcile reports of non-delivery, and to insure delivery of payments to the correct address or account of the beneficiary or representative payee.

c. Beneficiary's name, address, payment rate, date and number, plus supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment or sickness benefit payments.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

e. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

f. Benefit rates and effective dates may be released to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

g. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

h. Records may be disclosed to the General Accountability Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act, as amended.

i. The last addresses and employer information may be disclosed to the Department of Health and Human Services in conjunction with the Parent Locator Service.

j. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning this benefit or anticipated benefit may be disclosed to the labor organization official.

k. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

l. Beneficiary identifying and claim period information may be furnished to states for the purpose of their notifying the RRB whether claimants were paid state unemployment or sickness benefits and also whether wages were reported for them. For claimants that a state identifies as having received state unemployment benefits, RRB benefit information may be furnished the state for the purpose of recovery of the amount of the duplicate payments which is made.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: (UPDATED)

Paper, Magnetic Disk.

RETRIEVABILITY:

Name, social security number.

SAFEGUARDS: (UPDATED)

Paper: Maintained in areas not accessible to the public in steel filing cabinents and are available only to authorized district office and regional office personnel. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For computerized records electronically transmitted between headquarters and field office locations, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL: (UPDATED)

Paper: Destroy 90 days after the date scanned into the imaging system or after completion of the quality assurance process, whichever is later.

Magnetic Disk: These records will be maintained permanently until their official retention period is established by the National Archives and Records Administration (NARA).

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2052.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing, including full name, social security number, and railroad retirement claim number (if any) of the individual. Before any information about any record will be released, the individual may be required to provide proof of identity or authorization from the individual to permit release of information. Such requests should be sent to: Office of Programs—Director of Unemployment & Program Support Division, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Individual claimant or his authorized representative, employers, State employment and unemployment claims records, Federal, and Social Security Administration employer compensation reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–7

SYSTEM NAME:

Applications for Unemployment Benefits and Placement Service under the Railroad Unemployment Insurance Act.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. District Offices: See Appendix I for addresses.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for unemployment benefits and employment service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, account number, age, sex, education, employer, occupation, rate of pay, reason not working and last date worked, personal interview record, results of investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

PURPOSE(S):

The purpose of this system of records is to be used as an individual's UI file. The records contained in the file are pertinent to the individual's claim for unemployment benefits under the RUIA.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Selected information may be disclosed to prospective employers for potential job placement.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Beneficiary identification and entitlement information may be released to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

d. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter, provided that disclosure would be clearly in the furtherance of the interest of the subject individual.

e. Beneficiary identification, entitlement, and benefit rate information may be released to the Treasury Department to control for reclamation and return of outstanding benefit payments, to issue benefit payments, reconcile reports of non-delivery and to insure delivery of payments to the correct address or account of the beneficiary or representative payee.

f. Information may be referred to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment or sickness benefit checks.

g. Beneficiary identification, entitlement, and benefit rate information may be released to the Social Security Administration, Bureau of Supplemental Security Income, to Federal, State, and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

h. The last addresses and employer information may be disclosed to Department of Health and Human Services in conjunction with the Parent Locator Service.

i. Records may be disclosed to the General Accountability Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act, as amended.

j. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

k. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are calculated, entitlement data and present address will be released to the requesting employer for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

l. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

m. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic Tape and Magnetic Disk.

RETRIEVABILITY:

Social security number.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

In routine cases, held for three years after end of benefit year in which originated. In those with adverse activities (claims denied), held for five years after end of benefit year in which originated. At end of both periods, files are destroyed in accordance with NIST guidance.

Magnetic tape: Magnetic tape records are retained for 90 days and then written over following NIST guidelines. For disaster recovery purposes certain tapes are stored 12–18 months.

Magnetic disk: Retained for at least seven, but no later than ten years after the close of the benefit year. When magnetic disk or other electronic media is no longer required or servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including the full name, social security number and railroad retirement claim number (if any) of the individual. Before information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of information. such requests should be sent to: Office of Programs—Director of Unemployment & Program Support Division, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Individual applicant or his authorized representative, present and former employers, State and Federal departments of employment security, Social Security Administration and labor organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–8

SYSTEM NAME:

Railroad Retirement Tax Reconciliation System (Employee Representatives).

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad employee representatives covered under the Railroad Retirement Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form CT–2 Employee Representative's Quarterly Railroad Tax Return.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 15 of the Railroad Retirement Act of 1974 (45 U.S.C. 231n).

PURPOSE(S):

The purpose of this system is to ensure that the earnings of employee representatives reported to the Internal Revenue Service for tax purposes agree with earnings reported to the RRB for benefit payment purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Earnings information may be released to the Internal Revenue Service and the Treasury Department to refund excess taxes.

b. Records may be disclosed to the Government Accountability Office for auditing purposes.

c. Earnings information may be released to employers or former employers for correcting or reconstructing earnings records for railroad retirement, supplemental or unemployment/sickness employment tax purposes only, not to be construed as an extension of the statutory time limitation to amend such records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

RETENTION AND DISPOSAL:

Employee's representatives' quarterly tax returns and tax reporting reconciliation file are retained for 6 years and 3 months after the period covered by the records and then are destroyed by shredding in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Financial Officer, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number. Before information about any record is released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Railroad tax reports, creditable and taxable compensation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–9 [Reserved]

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RRB–10

SYSTEM NAME:

Legal Opinion and Correspondence Files.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for benefits under the Railroad Retirement Act or the Railroad Unemployment Insurance Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The files include a copy of the question submitted to the legal department for an opinion and a copy of the response released. Responses may be a formal legal opinion, a letter, or a memorandum. There may be copies of any correspondence between the agency and the individual or his/her employer concerning the question presented.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

PURPOSE(S):

The RRB needs to collect and maintain information contained in this system of records in order to make decisions regarding the claims for benefits of individuals under various Acts administered by the RRB.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Maintained in areas not accessible to the public in metal filing cabinents. Offices are locked during non-business hours. Access to files is restricted to RRB attorneys and other authorized Board employees. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

RETENTION AND DISPOSAL:

Opinions of precedential interest or otherwise of lasting significance, and correspondence related to these opinions are retained permanently. Opinions of limited significance beyond the particular case, and correspondence related to these opinions, are retained in the individual's claim folder, if any, established under the Railroad Retirement Act. When no folder exists, these opinions, are destroyed by shredding 2 years after the date of the last action taken by the Bureau of Law on the matter. Decision documents are scanned and stored in the RRB Imaging System. Imaged documents are destroyed/purges for individual claimant's 7 years after the close of the fiscal year that they are determined to be inactive. Imaged documents and digest cards are stored in the retention and archival Legal Opinion Digitization System. Destruction is performed in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name, social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

The subject person's authorized representative, other record systems maintained by the Railroad Retirement Board, employers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–11

SYSTEM NAME:

Files on Concluded Litigation.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad employees, retired railroad employees, and individuals with some creditable railroad service who are involved in litigation in which the Railroad Retirement Board has some interest as a party or otherwise.

CATEGORIES OF RECORDS IN THE SYSTEM:

Legal briefs, reports on legal or factual issues involving copies of subpoenas which may have been issued, copies of any motions filed, transcripts of any depositions taken, garnishment process, correspondence received and copies of any correspondence released by the Board pertaining to the case, copies of any court rulings, and copies of the final decision in the case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

PURPOSE(S):

The RRB needs to collect and maintain records of concluded litigation to which the RRB was a party.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Maintained in areas not accessible to the public in metal filing cabinents. Offices are locked during non-business hours. Access to files is restricted to RRB attorneys and other authorized Board employees. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

RETENTION AND DISPOSAL:

Files relating to cases of precedential interest are retained permanently. Files of cases involving routine matters, other than garnishments, are retained for 5 years after the case is closed, then shredded. Files relating to garnishment of benefits are retained until 2 years after the date garnishment terminates, then destroyed. Destruction is performed in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

The individual himself or his authorized representative, other record systems maintained by the Railroad Retirement Board, employers, the Social Security Administration.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–12

SYSTEM NAME:

Railroad Employees' Registration File.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who had any employment for a railroad employer after 1936 who were assigned Social Security Numbers beginning with 700 through 728. (Use of the registration form was discontinued January 1, 1981.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Railroad employee's name, address, social security number, date of birth, place of birth, mother's and father's names, sex, occupation and employer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)).

PURPOSE(S):

The purpose of the system is to provide information on railroad employees who completed Carrier Employee Registration forms (CER–1) to apply for a Social Security number (SSN). The information on these CER–1 forms was available only at the Railroad Retirement Board.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records which consist of name, date and place of birth, social security number, and parents' names may be disclosed to the Social Security Administration to verify social security number and date of birth.

b. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, or Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Microfiche.

RETRIEVABILITY:

Social security number.

SAFEGUARDS:

Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

RETENTION AND DISPOSAL:

Permanent retention.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Railroad employee and employer.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–13–15 [Reserved]

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RRB–16

SYSTEM NAME:

Social Security Administration Master Earnings File.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have at least 48 creditable service months under the Railroad Retirement Act (RRA) or who attain eligibility for RRA benefits when military service is included as creditable railroad service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Social security account number, name, date of birth, gender, social security claim status, details of earnings

and periods of employment that are creditable under the Social Security Act for years after 1936.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(b)(6)).

PURPOSE(S):

The purpose of this system of records is to have Social Security Act earnings information available to RRB benefit programs for determinations related to RRA benefit entitlement and amount. The records are stored in the Employment Data Maintenance database.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

Internal RRB Use.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Mainframe computer database.

RETRIEVABILITY:

Social security account number and name.

SAFEGUARDS:

Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Updates are made to database weekly using files transmitted to RRB from SSA over encrypted, exclusively leased telephone lines.

Magnetic tape: Magnetic tape records are retained for 90 days and then written over following NIST guidelines. For disaster recovery purposes certain tapes are stored 12–18 months.

Magnetic disk: Continually updated and permanently retained. When magnetic disk or other electronic media is no longer required or serviceable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including the full name, social security number and railroad retirement claim number(if any) of the individual. Before information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of information. Such requests should be sent to: Office of Programs—Policy & Systems, Chief of Compensation & Employer Services, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Social Security Administration.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–17

SYSTEM NAME:

Appeal Decisions from Reconsideration Denials for Benefits Under the Provisions of the Railroad Retirement Act or the Railroad Unemployment Insurance Act.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Appellants under the provisions of the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

CATEGORIES OF RECORDS IN THE SYSTEM: (UPDATED)

Name, address, social security number, date of birth of appellant, decision of the hearings officer.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6); sec. 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

PURPOSE(S): (UPDATED)

Records are maintained to record appeals decisions issued by the Bureau of Hearings and Appeals regarding entitlement to benefits, waiver of overpayments, and issues of law under the Railroad Retirement Act and Railroad Unemployment Insurance Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES: (UPDATED)

a. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

b. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and Railroad Unemployment Insurance Act.

c. Records may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal, such as the attorney or representative of the appellant, a vocational expert, or medical professionals.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: (UPDATED)

Paper, magnetic tape and disk.

RETRIEVABILITY:

Claim number or social security number, Bureau of Hearings and Appeals appeal number, or Bureau of Hearings and Appeal decision number.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms

are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

The decisions maintained in the Bureau of Hearings and Appeals are retained for a period of 2 years and then destroyed by shredding in accordance with NIST guidelines. Decision documents are scanned and stored in the RRB Imaging System. Imaged documents are destroyed/purged for individual claimant's 7 years after the close of the fiscal year that they are determined to be inactive.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant General Counsel/Director of Hearings and Appeals, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Information furnished by the appellant or his/her authorized representative, information developed by the hearings officer relevant to the appeal, and information contained in other record systems maintained by the Railroad Retirement Board.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–18

SYSTEM NAME:

Miscellaneous Payments paid/posted to the General Ledger by the Financial Management Integrated System (FMIS).

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad Retirement Board employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel vouchers, miscellaneous reimbursement vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

PURPOSE(S):

The system is used to pay the operating expenses of the agency and reimbursements as needed to employees. Payment is made to vendors for goods and services. Employees are reimbursed for expenses related to the performance of their jobs. Payments are made within Federal limits and applicable guidelines.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Identifying information and check amount may be released to the Treasury Department to issue checks.

b. Records may be disclosed to the General Accountability Office for auditing purposes.

c. Identifying information, check number, date and amount may be released to the U.S. Postal Service for investigation of alleged forgery or theft of reimbursement checks.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic tape and Magnetic disk.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper. Retain at headquarters for two years then transferred to National Archives and Records Administration (NARA), Great Lakes Federal Records Center. The General Services Administration will destroy the records when authorized by the Government Accountability Office.

Magnetic tape: Magnetic tape records are retained for 90 days and then written over following NIST guidelines. For disaster recovery purposes certain tapes are stored 12–18 months.

Magnetic disk: Continually updated and permanently retained. When magnetic disk or other electronic media is no longer required or servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Financial Officer, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Employees travel records, memoranda from bureau directors and office heads. Form G–409 Request for Reimbursement of Commuiting Expenses and Form G–753 Application for Reimbursement of Medical and/or Eye Examination Fees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–19

SYSTEM NAME:

Transit Benefit Program Records System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad Retirement Board employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Supporting documentation relating to participation in the agency's transit benefit program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 1302; 26 U.S.C. 132(f); and Executive Order 9397.

PURPOSE(S):

The purpose of this system is to maintain employee data related to eligibility and participation in the agency's transit benefit program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

Transit benefit program documentation may be furnished to the Internal Revenue Service for tax administration purposes.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Paper.

RETRIEVABILITY:

Name.

SAFEGUARDS:

Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Information released only at employee's request or to approved federal authorities. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

RETENTION AND DISPOSAL:

Retained for three years and then destroyed by shredding in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Financial Officer, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois. 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Form G–409 Railroad Retirement Board Request for Reimbursement of Commuting Expenses and Form G–410, Railroad Retirement Board Transportation Benefit Program Application.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–20

SYSTEM NAME:

Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (MEDICARE).

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

District and Regional Offices: See Appendix I for addresses.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Qualified Railroad Retirement beneficiaries who are eligible for Medicare coverage.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim number, social security number, name, address, type of beneficiary under the Railroad Retirement Act, date of birth, method of Supplementary Medical Insurance premium payment, enrollment status, amount of premium, paid-thru date, third party premium payment information, coverage jurisdiction determination, direct premium billing and premium refund accounting, correspondence from beneficiaries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(d) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(d)).

PURPOSE(S):

Records in this system are maintained to administer Title XVIII of the Social Security Act for qualified railroad retirement beneficiaries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Beneficiary identification, enrollment status and premium deductions information may be released to the Social Security Administration and the Centers for Medicare & Medicaid Services to correlate actions with the administration of Title II and Title XVIII (MEDICARE) of the Social Security Act.

b. Beneficiary identification may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

c. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made from the record of the individual to the representative payee.

d. Data may be disclosed to Department of Health and Human Services for reimbursement for work done under reimbursement provisions of Title XVIII of the Social Security Act, as amended.

e. Jurisdictional clearance, premium rates, coverage election, paid-through date, and amounts of payments in arrears may be released to the Social Security Administration and the Centers for Medicare & Medicaid Services to assist those agencies in administering Title XVIII of the Social Security Act, as amended.

f. Beneficiary identifying information, date of birth, sex, premium rate paid

thru date, and Medicare Part A and Part B entitlement date/end date may be disclosed to effect state buy-in and third party premium payments.

g. Payment data may be disclosed to consultants to determine reasonable charges for hospital insurance payments in Canada.

h. Entitlement data may be disclosed to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects entitlement.

i. Beneficiary last address information may be disclosed to Department of Health and Human Services in conjunction with the Parent Locator Service.

j. Beneficiary identification, entitlement data and rate information may be released to the Department of State and embassy officials, to the American Institute on Taiwan, and to the Veterans Administration Regional Office, Philippines, to aid in the development of applications, supporting evidence and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

k. Records may be released to the General Accountability Office for auditing purposes and for collection of debts arising from overpayments under Title XVIII of the Social Security Act, as amended.

l. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, or from an insurance company acting as an agent of an employer, information regarding the RRB's determination of Medicare entitlement, entitlement data, and present address may be released to the requesting employer or insurance company acting as its agent for the purposes of either determining entitlement to and rates of supplemental benefits under private employer welfare benefit plans or complying with requirements of law covering the Medicare program.

m. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his or her entitlement to Medicare may be disclosed to the labor organization official.

n. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, or Social Security Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

o. Information may be disclosed to the Department of the Treasury for the purpose of investigating alleged forgery or theft of Medicare reimbursement checks.

p. Information may be disclosed to the U.S. Postal Service for investigating alleged forgery or theft of Medicare checks.

q. Identifying information about Medicare-entitled beneficiaries who may be working may be disclosed to the Centers for Medicare & Medicaid Services for the purposes of determining whether Medicare should be the secondary payer of benefits for such individuals.

r. Whether a qualified railroad retirement beneficiary is enrolled in Medicare Part A or Part B, and if so, the effective date(s) of such enrollment may be disclosed to a legitimate health care provider, in response to its request, when such information is needed to verify Medicare enrollment.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Microfilm, Optical, Magnetic tape and Magnetic disk.

RETRIEVABILITY:

Claim number, social security number, full name.

SAFEGUARDS:

Paper, Microforms and Optical: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and disks: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper: Computer printouts, including daily and monthly statistics, premium payment listings, state-buy-in listings and voucher listings are kept for 2 years, transferred to the Federal Records Center, and destroyed when 5 years old. Other copies of computer printouts are maintained for 1 year, then shredded. Applications material in individual claim folders with records of all actions pertaining to the payment or denial or claims are transferred to the Federal Record Center, Chicago, Illinois 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Destruction is in accordance with NIST guidelines.

Microfilm and Optical Media: Originals are kept for 3 years, transferred to the Federal Records Center and destroyed 3 years and 3 months after receipt at the center. One copy is kept 3 years then destroyed when 6 months old or no longer needed for administrative use, whichever is sooner. Destruction is in accordance with NIST guidelines.

Magnetic tape: Records are retained for 90 days and then written over following NIST guidelines. For disaster recovery purposes certain tapes are stored 12–18 months.

Magnetic disk: Continually updated and retained for at least 7 but not more than 10 years after the close of the benefit year. When magnetic disk or other electronic media is no longer required or servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing, including the full name, social security number and railroad retirement claim number (if any) of the individual. Before information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of information. Such requests should be sent to: Director of Unemployment & Programs Support

Division, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Applicant (the qualified railroad beneficiary), his/her representative, Social Security Administration, Centers for Medicare & Medicaid Services, Federal, State or local agencies, third party premium payers, all other Railroad Retirement Board files, physicians.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–21

SYSTEM NAME:

Railroad Unemployment and Sickness Insurance Benefit System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. Regional and District Offices: See Appendix I for addresses.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants and claimants for unemployment and sickness (including maternity) benefits under the Railroad Unemployment Insurance Act: Some railroad employees injured at work who did not apply for Railroad Unemployment Insurance Act benefits; all railroad employees paid separation allowances.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to payment or denial of an individual's claim for benefits under the Railroad Unemployment Insurance Act: Name, address, sex, social security number, date of birth, total months of railroad service (including creditable military service), total creditable compensation for base year, last employer and date last worked before applying for benefits, last rate of pay in base year, reason not working, applications and claims filed, benefit information for each claim filed, disqualification periods and reasons for disqualification, entitlement to benefits under other laws, benefit recovery information about personal injury claims and pay for time not worked, medical reports, placement data, correspondence and telephone inquiries to and about the claimant, record of protest or appeal by claimant of adverse determinations made on his claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 351, et seq.).

PURPOSE(S):

The purpose of this system of records is to carry out the function of collecting and storing information in order to administer the benefit program under the Railroad Unemployment Insurance Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Beneficiary identifying information, address, check rate, date and number may be released to the Treasury Department to control for reclamation and return outstanding benefit payments, to issue benefit payments, respond to reports of non-delivery and to insure delivery of check to the correct address or account of the beneficiary or representative payee.

d. Beneficiary identifying information, address, payment rate, date and number, plus other necessary supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad unemployment/sickness benefit payments.

e. A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter, provided that disclosure would be clearly in the furtherance of the interest of the subject individual.

f. Under Section 2(f), the Railroad Retirement Board has the right to recover benefits paid to an employee who later receives remuneration for the same period, therefore, the Railroad Retirement Board may notify the person or company paying the remuneration of the Board's right to recovery and the amount of benefits to be refunded.

g. Under Section 12(o), the Railroad Retirement Board is entitled to reimbursement of sickness benefits paid on account of the infirmity for which damages are paid, consequently, the Railroad Retirement Board may send a notice of lien to the liable party, and, upon request by the liable party, advise the amount of benefits subject to reimbursement.

h. Beneficiary identifying information, rate and entitlement data may be released to the Social Security Administration to correlate actions with the administration of the Social Security Act.

i. The last addresses and employer information may be released to Department of Health and Human Services in conjunction with the Parent Locator Service.

j. Benefit rate, entitlement and periods paid may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

k. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

l. Records may be referred to the General Accountability Office for auditing purposes and for collection of debts arising from overpayments under the Railroad Unemployment Insurance Act.

m. If a request for information pertaining to an individual is made by an official of a labor organization, of which the individual is a member, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

n. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, or from an organization under contract to an employer or employers, information regarding the Board's payment of unemployment or sickness benefits, the methods by which such benefits are

calculated, entitlement data and present address may be released to the requesting employer or the organization under contract to an employer or employers for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

o. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Unemployment Insurance Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

p. Beneficiary identifying information, entitlement data, benefit rates and periods paid may be released to the Veterans Administration to verify continued entitlement to benefits.

q. Identifying information such as full name, social security number, employee identification number, date last worked, occupation, and location last worked may be released to any last employer to verify entitlement for benefits under the Railroad Unemployment Insurance Act.

r. The amount of unemployment benefits paid, if 10 dollars or more in a calendar year, and claimant identifying information, may be furnished to the Internal Revenue Service for tax administration purposes.

s. The name and address of a claimant may be released to a Member of Congress when the Member requests it in order that he or she may communicate with the claimant about legislation which affects the railroad unemployment insurance system.

t. Beneficiary identifying and claim period information may be furnished to states for the purposes of their notifying the RRB whether claimants were paid state unemployment or sickness benefits and also whether wages were reported for them. For claimants that a state identifies as having received state unemployment or sickness benefits, RRB benefit information may be furnished the state for the purpose of recovery of the amount of the duplicate payments which is made.

u. The amount of each sickness benefit that is subject to a tier 1 railroad retirement tax and the amount of the tier 1 tax withheld may be disclosed to the claimant's last railroad employer to enable that employer to compute its tax liability under the Railroad Retirement Tax Act.

v. The amount of sickness benefits paid and claimant identifying information, except for sickness benefits paid for an on-the-job injury, may be furnished to the Internal Revenue Service for tax administration purposes.

w. Entitlement data and benefit rates may be released to any court, state agency, or interested party, or to the representative of such court, state agency, or interested party in connection with contemplated or actual legal or administrative proceedings concerning domestic relations and support matters.

x. Identifying information and information about a claim for benefits filed may be disclosed to an employee's base-year railroad employer and the employee's most recent railroad employer, if different, in order to afford that employer or those employers the opportunity to submit information concerning the claim. In addition, after the claim has been paid, if the base-year railroad employer appeals the decision awarding benefits, all information regarding the claim may be disclosed to such base-year railroad employer that is necessary and appropriate for it to fully exercise its rights of appeal.

y. Non-medical information relating to the determination of sickness benefits may be disclosed to an insurance company administering a medical insurance program for railroad workers for purposes of determining entitlement to benefits under that program.

z. Scrambled Social Security Number and complete home address information of unemployment claimants may be furnished to the Bureau of Labor Statistics for use in its Local Area Unemployment Statistics (LAUS) program.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microforms, magnetic tape, magnetic disk.

RETRIEVABILITY:

Social Security number (claim number) and name.

SAFEGUARDS:

Paper and Microforms: Maintained in areas not accessible to the public in metal filing cabinets. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and disks: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper and microform: Destroyed by shredding in accordance with NIST standards, no sooner than 7 years and no later than 10 years after the close of the benefit year.

Magnetic tape: Records are retained for 90 days and then written over following NIST guidelines. For disaster recovery purposes certain tapes are stored 12–18 months.

Magnetic disk: Continually updated and retained for at least 7 but not more than 10 years after the close of the benefit year. When magnetic disk or other electronic media is no longer required or servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing, including the full name, social security number and railroad retirement claim number (if any) of the individual. Before information about any record will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of information. Such requests should be sent to: Office of Programs—Director of Unemployment & Program Support Division, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Applicant, claimant or his or her representative, physicians, employers, labor organizations, federal, state, and local government agencies, all Railroad Retirement Board files, insurance

companies, attorneys, Congressmen, liable parties (in personal injury cases), funeral homes and survivors (for payment of death benefits).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–22

SYSTEM NAME:

Railroad Retirement, Survivor, and Pensioner Benefit System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 Regional and District Offices: See Appendix I for addresses.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: (UPDATED)

Applicants for retirement and survivor benefits, (spouses, divorced spouses, widows, surviving divorced spouses, children, students, parents, grandchildren), and individuals who filed for lump-sum death benefits and/or residual payments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information pertaining to the payment or denial of an individual's claim for benefits under the Railroad Retirement Act: Name, address, social security number, claim number, proofs of age, marriage, relationship, death, military service, creditable earnings and service months (including military service), entitlement to benefits under the Social Security Act, programs administered by the Veterans Administration, or other benefit systems, rates, effective dates, medical reports, correspondence and telephone inquiries to and about the beneficiary, suspension and termination dates, health insurance effective date, option, premium rate and deduction, direct deposit data, employer pension information, citizenship status and legal residency status (for annuitants living outside the United States), and tax withholding information (instructions of annuitants regarding number of exemptions claimed and additional amounts to be withheld, as well as actual amounts withheld for tax purposes).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (U.S.C. 231f(b)(6)).

PURPOSE(S):

Records in this system of records are maintained to administer the benefit provisions of the Railroad Retirement Act, sections of the Internal Revenue Code related to the taxation of railroad retirement benefits, and Title XVIII of the Social Security Act as it pertains to Medicare coverage for railroad retirement beneficiaries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Entitlement and benefit rates may be released to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Retirement Act.

e. Beneficiary identifying information, address, check rates, number and date may be released to the Department of the Treasury to control for reclamation and return of outstanding benefit payments, to issue benefit payments, act on report of non-receipt, to insure delivery of payments to the correct address of the beneficiary or representative payee or to the proper financial organization, and to investigate alleged forgery, theft or unlawful negotiation of railroad retirement benefit checks or improper diversion of payments directed to a financial organization.

f. Beneficiary identifying information, address, check rate, date, number and other supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

g. Beneficiary identifying information, entitlement data, medical evidence and related evaluatory data and benefit rate may be released to the Social Security Administration and the Centers for Medicare & Medicaid Services to correlate actions with the administration of Title II and Title XVIII of the Social Security Act, as amended.

h. (Updated) Beneficiary identifying information, including social security account number, and supplemental annuity amounts may be released to the Internal Revenue Service.

i. Beneficiary identifying information, entitlement, benefit rates, medical evidence and related evaluatory data, and months paid may be furnished to the Veterans Administration for the purpose of assisting that agency in determining eligibility for benefits or verifying continued entitlement to and the correct amount of benefits payable under programs which it administers.

j. Beneficiary identifying information, entitlement data and benefit rates may be released to the Department of State and embassy and consular officials, the American Institute on Taiwan, and to the Veterans Administration Regional Office, Philippines, to aid in the development of applications, supporting evidence, and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

k. Beneficiary identifying information, entitlement, benefit rates and months paid may be released to the Social Security Administration (Bureau of Supplemental Security Income) the Centers for Medicare & Medicaid Services, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. The last addresses and employer information may be released to the Department of Health and Human Services in conjunction with the Parent Locator Service.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. Medical evidence may be released to Board-appointed medical examiners to carry out their functions.

o. Information obtained in the administration of Title XVIII (Medicare) which may indicate unethical or unprofessional conduct of a physician or practitioner providing services to beneficiaries may be released to Professional Standards Review Organizations and State Licensing Boards.

p. Information necessary to study the relationship between benefits paid by the Railroad Retirement Board and civil service annuities may be released to the Office of Personnel Management.

q. Records may be disclosed to the General Accountability Office for auditing purposes and for collection of debts arising from overpayments under Title II and Title XVIII of the Social Security Act, as amended, or the Railroad Retirement Act.

r. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, or from an organization under contract to an employer or employers, information regarding the Board's payment of retirement benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer or the organization under contract to an employer or employers for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

s. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

t. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

u. The amount of a residual lump-sum payment and the identity of the payee may be released to the Internal Revenue Service for tax audit purposes.

v. The amount of any death benefit or annuities accrued but unpaid at death and the identity of such payee may be released to the appropriate state taxing authorities for tax assessment and auditing purposes.

w. Beneficiary identifying information, including but not limited to name, address, social security account number, payroll number and occupation, the fact of entitlement and benefit rate may be released to the Pension Benefit Guaranty Corporation to enable that agency to determine and pay supplemental pensions to qualified railroad retirees.

x. Medical records may be disclosed to vocational consultants in administrative proceedings.

y. Date employee filed application for annuity to the last employer under the Railroad Retirement Act for use in determining entitlement to continued major medical benefits under insurance programs negotiated with labor organizations.

z. Information regarding the determination and recovery of an overpayment made to an individual may be released to any other individual from whom any portion of the overpayment is being recovered.

aa. The name and address of an annuitant may be released to a Member of Congress when the Member requests it in order that he or she may communicate with the annuitant about legislation which affects the railroad retirement system.

bb. Certain identifying information about annuitants, such as name, social security number, RRB claim number, and date of birth, as well as address, year and month last worked for a railroad, last railroad occupation, application filing date, annuity beginning date, identity of last railroad employer, total months of railroad service, sex, disability onset date, disability freeze onset date, and cause and effective date of annuity termination may be furnished to insurance companies for administering group life and medical insurance plans negotiated between certain participating railroad employers and railway labor organizations.

cc. For payments made after December 31, 1983, beneficiary identifying information, address, amounts of benefits paid and repaid, beneficiary withholding instructions, and amounts withheld by the RRB for tax purposes may be furnished to the Internal Revenue Service for tax administration purposes.

dd. Last address and beneficiary identifying information may be furnished to railroad employers for the purpose of mailing railroad passes to retired employees and their families.

ee. Entitlement data and benefits rates may be released to any court, state agency, or interested party, or to the representative of such court, state agency, or interested party, in connection with contemplated or actual legal or administrative proceedings concerning domestic relations and support matters.

ff. Identifying information about annuitants and applicants may be furnished to agencies and/or companies from which such annuitants and applicants are receiving or may receive worker's compensation, public pension, or public disability benefits in order to verify the amount by which Railroad Retirement Act benefits must be reduced, where applicable.

gg. Disability annuitant identifying information may be furnished to state employment agencies for the purpose of determining whether such annuitants were employed during times they receive disability benefits.

hh. Identifying information about Medicare-entitled beneficiaries who may be working may be disclosed to the Centers for Medicare & Medicaid Services for the purposes of determining whether Medicare should be the secondary payer of benefits for such individuals.

ii. Disclosure of information in claim folders is authorized for bonafide researchers doing epidemiological/mortality studies approved by the RRB who agree to record only information pertaining to deceased beneficiaries.

jj. Identifying information for beneficiaries, such as name, SSN, and date of birth, may be furnished to the Social Security Administration and to any State for the purpose of enabling the Social Security Administration or State through a computer or manual matching program to assist the RRB in identifying female beneficiaries who remarried but who may not have notified the RRB of their remarriage.

kk. An employee's date last worked, annuity filing date, annuity beginning date, and the month and year of death may be furnished to AMTRAK when such information is needed by AMTRAK to make a determination whether to award a travel pass to either the employee or the employee's widow.

ll. The employee's social security number may be disclosed to an individual eligible for railroad retirement benefits on the employee's earnings record when the employee's social security number would be contained in the railroad retirement claim number.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microforms, magnetic tape and magnetic disk.

RETRIEVABILITY:

Claim number, social security number and full name.

SAFEGUARDS:

Paper and Microforms: Maintained in areas not accessible to the public in metal filing cabinets. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and disks: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper: Identify and transfer inactive folders to FRC periodically, transfer to National Archives 7 years after the close of the fiscal year folders were determined to be inactive.

Electronically imaged documents: Destroy 90 days after the date scanned into the system or after completion of the quality assurance process, whichever is later.

Magnetic tape: Magnetic tape records are used to daily update the disk file, are retained for 90 days and then written over. For disaster recovery purposes certain tapes are stored 12–18 months.

Magnetic disk: Continually updated and permanently retained.

Electronically imaged documents: Destroy/delete individual claimant data 7 years after the close of the fiscal year determined to be inactive.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing, including the full name, social security number and railroad retirement claim number (if any) of the individual. Before information about any records will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of information. Such requests should be sent to: Director of Unemployment & Programs Support Division, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Individual applicants or their representatives, railroad employers, other employers, physicians, labor organizations, federal, state and local government agencies, attorneys, funeral homes, congressmen, schools, foreign government.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–23–25 [Reserved]

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RRB–26

SYSTEM NAME:

Payment, Rate and Entitlement History File.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have received or are receiving benefits under the Railroad Retirement Act or the Social Security Act, including retired and disabled railroad employees, their qualified spouses, dependents, and survivors, and recipients of other, non-recurring benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data supporting the benefits and historical data recording the benefits paid to the above categories of individuals under the Railroad Retirement and Social Security Acts. Includes name, address, social security number, claim number, date of birth, dates of military service, creditable service months, amounts of benefits received under the Social Security Act, components of and final rates payable under the Railroad Retirement Act, health insurance premium deduction, direct deposit data, employer pension information and tax withholding information (actual amounts withheld for tax purposes).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)).

PURPOSE(S):

The purpose of this system is to record in one file all data concerning payment, rate, and entitlement history for recipients of Railroad Retirement benefits.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records may be released to the Internal Revenue Service for the purpose of their checking amounts shown on individual tax returns as pensions and annuities received under the Railroad Retirement Act.

b. Benefit data regarding persons who, it is determined, are both RRB and VA beneficiaries may be furnished to the Veterans Administration for the purpose of assisting the VA in the administration of its income dependent benefit programs.

c. Disability annuitant identifying information may be furnished to state employment agencies for the purpose of determining whether such annuitants were employed during times they receive disability benefits.

d. Identifying information about Medicare-entitled beneficiaries who may be working may be disclosed to the Centers for Medicare & Medicaid Services for the purposes of determining whether Medicare should be the secondary payer of benefits for such individuals.

e. Benefit information may be furnished to state agencies for the purposes of determining entitlement or continued entitlement to state income-dependent benefits and, if entitled, to adjusting such benefits to the amount to which the individual is entitled under state law, provided the state agency furnishes identifying information for the individuals for whom it wants the RRB benefit information.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and magnetic disk.

RETRIEVABILITY:

By claim number or beneficiary's Social Security number.

SAFEGUARDS:

Computer and computer storage rooms are restricted to authorized

personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Magnetic tape: Magnetic tape records are retained for six months. Activity record tapes are maintained for 15 months. For disaster recovery purposes certain tapes are stored for three years. When no longer needed, they are over-written following NIST guidelines.

Magnetic disk: Non-Generational (unique) datasets are updated and permanently retained. Generational datasets are maintained in a rolling archive as they are created with the oldest dataset being replaced by the newest one. Normal lifespan for a generational dataset is 6–8 months, at which point it is over-written. When magnetic disk or other electronic media is no longer required or servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS: (UPDATED)

Office of Programs—Director of Policy and Systems, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Transmissions from the following computerized systems: Railroad Retirement Act benefit payment; Social Security benefit payment; disability rating decisions; and primary insurance amount calculations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–27

SYSTEM NAME:

Railroad Retirement Board—Social Security Administration Financial Interchange System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

One-percent sample of former railroad employees and members of their families who would have been eligible for social security benefits if railroad employment had been covered by the social security system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Claim number, social security number, date of birth, and administrative cost and payment data on imputed and actual social security benefits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(c)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(2)).

PURPOSE(S):

The purpose of this system is to calculate benefit amounts required to determine the financial interchange transfer amounts each year.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Findings, including individual records, may be released to the Social Security Administration, determining amounts which, if added to or subtracted from the OASDI Trust Funds, would place the Social Security Administration in the position it would have been if employment covered by the Railroad Retirement Act had been covered by the Social Security and Federal Insurance Contributions Acts.

b. Information may be released to the Government Accountability Office for auditing purposes.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic tape and Magnetic disk.

RETRIEVABILITY:

Claim and social security account numbers.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Retained indefinitely, except that periodically, inactive materials are sent to the Federal Records Center to be retained for ten years, then destroyed by the General Services Administration in accordance with NIST guidance.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Interchange Division, Bureau of the Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security account number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

The Social Security Administration and other Railroad Retirement Board files.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–28 [Reserved]

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RRB–29

SYSTEM NAME:

Railroad Employees' Annual Gross Earnings Master File.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad workers whose social security account number ends in ''30.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Gross earnings by individual by month, quarter or year.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(c)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(c)(2)).

PURPOSE(S):

The purpose of this system is to maintain gross earnings reports for Financial Interchange sample employees for use in the calculation of payroll tax amounts used in the financial interchange determinations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records may be released to the Internal Revenue Service for the sole purpose of computing the additional Medicare tax shortfall amount. Records released will include the Social Security Number (SSN), employer name, Employer Identification Number (EIN) and gross earnings for a 1-percent sample of active railroad employees in the reference year (per 20 CFR 209.13). Records provided shall not be used for IRS audits or any other unauthorized purposes.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic tape and Magnetic disk.

RETRIEVABILITY:

Social security account number.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper: Original reports are retained for 2½ years and work files are retained for three years. Financial interchange tabulations are retained indefinitely, and all other tabulations are retained for two years. After the appropriate retention periods, items are destroyed in accordance with NIST guidelines.

Magnetic tape: Original reports on magnetic tape are retained for 2½ years and work files are retained for one year. The final summarized file is retained for two years. After the appropriate retention periods, original reports are returned to employers and all other magnetic tapes are written over following NIST guidelines.

Magnetic disk and electronic media: Original reports are retained for 2½ years, and work files are retained for three years. The final summarized file is retained for five years. Financial interchange tabulations are retained indefinitely. When magnetic disk or other electronic media is no longer required or serviceable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Benefit and Employment Analysis, Bureau of the Actuary, U.S. Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security account number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Railroad employers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–30–32 [Reserved]

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RRB–33

SYSTEM NAME:

Federal Employee Incentive Awards System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad Retirement Board employees who have submitted suggestions or have been nominated for awards.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee suggestions, special achievement awards, quality increase awards, public service awards, government-sponsored awards, performance awards, and time off awards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter 45, Title 5, U.S. Code.

PURPOSE(S):

Past suggestion and award nominations and awards presented are maintained to provide historical and statistical records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Information may be released to the public media for public relations purposes.

b. Records may be disclosed to the General Accountability Office for auditing purposes.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

System indexed by number assigned when suggestion or nomination is received. Suggestions are cross-referenced by name of suggester and subject of suggestion.

SAFEGUARDS:

Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

RETENTION AND DISPOSAL:

Denied suggestions are purged and destroyed five years after denial date in accordance with NIST guidelines. Adopted suggestions are retained permanently as are all special achievement awards, quality increase and public service awards, RRB Award for Excellence, and government-sponsored awards.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Human Resources, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Suggestion or award submitted by suggester or nominator. Suggestions submitted by employees; recommendations for award submitted by supervisory personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–34

SYSTEM NAME:

Employee Personnel Management Files.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees of the U.S. Railroad Retirement Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address and phone number of the person to notify in case of emergency and personal physician; copies of SF–52, Request for Personnel Action, SF–50, Personnel Action, service computation date form, performance ratings, other awards and nominations for recognition, supervisory informal and formal written notes, memorandums, etc., relative to admonishment, caution, warnings, reprimand or similar notices, within-grade increase materials, SF–171, Employment Application, official position descriptions, task lists and performance plans, information concerning training received and seminars attended, and miscellaneous correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(9) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(9)) and the Federal Personnel Manual 293–31—Subchapter S–8.

PURPOSE(S):

The system is maintained to provide information to managers and supervisors to assist in their work, and meet OPM regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records may be disclosed in a court proceeding and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

b. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letter of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

c. Information in this system of records may be released to the attorney representing such individual, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and General Services Administration (GSA) Comprehensive Human Resources Integrated System (CHRIS) information system.

RETRIEVABILITY:

Name of employee.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

GSA CHRIS: The General Services Administration (GSA) is responsible for and provides safeguards in accordance with Federal guidelines for this information system.

RETENTION AND DISPOSAL:

The paper folder is maintained for the period of the employee's service in the agency and is then transferred to the National Personnel Records Center for storage or, to the next employing Federal agency. Other records are either retained at the agency for various lengths of time in accordance with the National Archives and Records Administration records schedules or destroyed, in accordance with NIST guidelines, when they have served their purpose or when the employee leaves the agency.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Human Resources, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be addressed to the System Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Employee, agency officials and management personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–35 [Reserved]

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RRB–36

SYSTEM NAME:

Complaint, Grievance, Disciplinary and Adverse Action Files.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad Retirement Board employees who are the subjects of disciplinary or adverse actions or who have filed a complaint or grievance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to proposals and decisions in cases of discipline and adverse actions; including supporting documents; information relating to grievances filed under the agency and negotiated grievance procedures, including the grievance, final decision and any evidence submitted by the employee and/or the agency in support of or contesting the grievance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C. sections 7503(c), 7513(e), 7543(e).

PURPOSE(S):

The purpose of this system of records is to maintain information related to grievances, disciplinary actions, and adverse actions in order to furnish information to arbitrators, EEO investigators, the Merit Systems protection Board, the Federal Labor Relations Authority, and the Courts, as necessary. The information is also used for statistical purposes, as needed.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Information in this system of records may be released to the attorney representing such individual, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

b. Records may be disclosed to the Merit Systems Protection Board or an arbitrator to adjudicate an appeal, complaint, or grievance.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Name of employee.

SAFEGUARDS:

Maintained in areas not accessible to the public in metal filing cabinets. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

RETENTION AND DISPOSAL:

Maintained for four years, then destroyed in accordance with NIST guidance.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Human Resources, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be addressed to the System Manager identified above and should include the name of the individual involved. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

The Railroad Retirement Board employee, the employee's supervisor, bureau or network director, the executive director, or the employee's representative.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–37–41 [Reserved]

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RRB–42

SYSTEM NAME:

Overpayment Accounts.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or businesses who were overpaid in the salaries or benefits they received from the Railroad Retirement Board. Benefits overpaid are further delineated in the following two categories.

—Individuals or businesses overpaid the following types of annuities or benefits payable under the Railroad Retirement Act: Railroad retirement, disability, supplemental, and survivor.

—Individuals overpaid unemployment or sickness insurance benefits payable under the Railroad Unemployment Insurance Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number, Railroad Retirement claim number, whether salary or benefit and if benefit type of benefit previously paid, amount of overpayment, debt identification number, cause of overpayment, source of overpayment, original debt amount, current balance of debt, installment repayment history, recurring accounts receivable administrative offset history, waiver, reconsideration and debt appeal status, general billing, dunning, referral, collection, and payment history, amount of interest and penalties assessed and collected, name of Federal agency to which account is referred for collection,

date of such referral and amount collected.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)); sec. 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)); Public Law 97–92, Joint Resolution; Public Law 97–365 (Debt Collection Act of 1982); Federal Claims Collection Act (31 U.S.C. 3701 et. seq.); Public Law 104–134 (Debt Collection Improvement Act of 1996), 5 U.S.C. section 5514 and 20 CFR part 361.

PURPOSE(S):

The records in this system are created, monitored and maintained to enable the Railroad Retirement Board to fulfill regulatory and statutory fiduciary responsibilities to its trust funds, the individuals to whom it pays salaries or benefits and the Federal Government as directed under the Railroad Retirement Act, Railroad Unemployment Insurance Act, Debt Collection Act of 1982, and the Debt Collection Improvement Act of 1996. These responsibilities include: Accurate and timely determination of debt; sending timely, accurate notice of the debt with correct repayment and rights options; taking correct and timely action when rights/appeals have been requested; assessing appropriate charges; using all appropriate collection tools, releasing required, accurate reminder notices; and correctly and timely entering all recovery, write-off and waiver offsets to debts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Benefit overpayment amounts, history of collection actions and efforts, and personally identifiable information (name, address, social security number, railroad retirement claim number, etc.) may be disclosed to agencies of the Federal government for the purpose of recovering delinquent debts.

b. Federal salary overpayment amounts, history of collection actions and efforts, and personally identifiable information (name, address, social security number, etc.) may be disclosed to agencies of the Federal government for the purpose of recovering delinquent debts.

c. Personally identifiable information pertaining to delinquent benefit and Federal salary overpayments may be disclosed to the Department of the Treasury, Financial Management Service (FMS), for the purpose of collection through cross-servicing and offset of Federal payments. FMS may disclose this personally identifiable information to other agencies to conduct computer matching programs to identify and locate delinquent debtors who are receiving Federal salaries or benefit payments. FMS may refer these delinquent accounts and disclose pertinent information to other Federal agencies and private collection agencies for the purpose of collection.

d. Personally identifiable information may be released to any Federal agency for the purpose of enabling such agency to collect debts on the RRB's behalf.

e. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is authorized by the individual, information from the record of the individual concerning his overpayment may be disclosed to the labor organization official.

f. Records may be disclosed to the Government Accountability Office for auditing purposes.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic tape, and Magnetic disk.

RETRIEVABILITY:

Salary overpayments are retrievable by Social Security number and name. Benefit overpayments are retrievable by Social Security number, Railroad Retirement claim number, and name.

SAFEGUARDS:

Salary overpayment records are maintained at the General Services Administration under safeguards equal to those of the Railroad Retirement Board (see GSA Systems of Records Notice: GSA–PPFM–9).

Benefit overpayment records:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Salary overpayments are maintained at the General Services Administration and follow that agency's retention and disposal guidelines.

Benefit overpayments.

Paper documents, with benefit overpayment data, are shredded three years after receipt. These records are identified and destroyed annually.

Magnetic tape and disk. Maintained in an on-line database. Overpayments are removed five years after balances reach $0.00. These records are identified and removed annually. Overpayments declared uncollectible and written off are removed ten years after being so declared. Removed records are written to tape and disk. The information written is general case history, which includes cause and type of overpayment, regular recovery actions, account adjustments resulting from posting interest, charges and cash receipts. Other activity, such as reconsideration, waiver and appeal actions, and delinquent recovery actions are also included. The tapes are retained for five years and, then, made available for overwrite. There is no retention schedule for records written to disk. When magnetic disk or other electronic media is no longer required or servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Salary overpayments: Director, General Services Administration National Payroll Center, Attention: 6BCY, 1500 Bannister Road, Kansas City, Missouri 64131–3088.

Benefit overpayments: Chief Financial Officer, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's salary overpayment record should be in writing addressed to the Director, General Services Administration National Payroll Center at the address above.

Requests for information regarding an individual's or business' benefit overpayment record should be in writing addressed to the System Manager identified above, including the full name, claim number, and social

security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Salary overpayments: General Services Administration maintains RRB salary records, including records of amounts overpaid to Railroad Retirement Board employees. The RRB also maintains salary overpayment records in folders and other RRB systems of records.

Benefit overpayments: Railroad Retirement Board beneficiaries' overpayment records are contained in claim folders, the RRB's accounts receivable system, and other RRB systems of records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–43

SYSTEM NAME:

Investigation Files.

SYSTEM LOCATION:

Office of Inspector General, U.S. Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

Controlled Unclassified Information (CUI).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any of the following categories of individuals on whom a complaint is made alleging a violation of law, regulation, or rule pertinent to the administration of programs by the RRB, or, with respect to RRB employees, alleging misconduct or conflict of interest in the discharge of their official duties: Current and former employees of the Retirement Railroad Board; contractors; subcontractors; consultants, applicants for, and current and former recipients of, benefits under the programs administered by the Railroad Retirement Board; officials and agents of railroad employers; members of the public who are alleged to have stolen or unlawfully received RRB benefit or salary or assisted in such activity; and others who furnish information, products, or services to the RRB.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, memoranda, and other documents alleging a violation of law, regulation or rule, or alleging misconduct, or conflict of interest; reports of investigations to resolve allegations with related exhibits, statements, affidavits or records obtained during the investigation; recommendations on actions to be taken; transcripts of, and documentation concerning requests and approval for, consensual monitoring of communications; photographs, video and audio recordings made as part of the investigation; reports from law enforcement agencies; prior criminal or noncriminal records as they relate to the investigation; reports of actions taken by management personnel regarding misconduct; reports of legal actions resulting from violations referred to the Department of Justice or other law enforcement agencies for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978; Public Law 95–452, 5 U.S.C. App., as amended.

PURPOSE(S):

The Office of Inspector General maintains this system of records to carry out its statutory responsibilities under the Inspector General Act. These responsibilities include a mandate to investigate allegations of fraud, waste, and abuse related to the programs and operations of the RRB and to refer such matters to the Department of Justice for prosecution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records may be disclosed to the Department of Justice or other law enforcement authorities in connection with actual or potential criminal prosecution or civil litigation initiated by the RRB, or in connection with requests by RRB for legal advice.

b. Records may be disclosed to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee or the issuance of a security clearance, provided that the subject individual is not an individual on whom the RRB has obtained information in conjunction with its administration of the Railroad Retirement Act, the Railroad Unemployment Act, the Milwaukee Railroad Restructuring Act, or the Rock Island Railroad Transition and Employee Assistance Act.

c. Records may be disclosed to members of the Council of Inspectors General for Integrity and Efficiency for the preparation of reports to the President and Congress on the activities of the Inspectors General.

d. Records may be disclosed to members of the Council of Inspectors General for Integrity and Efficiency, or the Department of Justice, as necessary, for the purpose of conducting qualitative assessment reviews of the investigative operations of RRB–OIG to ensure that adequate internal safeguards and management procedures are maintained.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic tape and Magnetic disk.

RETRIEVABILITY:

Name, SSN, RRB Claim Number, and assigned number, all of which are cross-referenced to the other information.

SAFEGUARDS:

General access is restricted to the Inspector General and members of his staff; disclosure within the agency is on a limited need-to-know basis.

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper: Retained for 10 years after the investigation has been closed. They are destroyed in accordance with NIST guidlines, in the fiscal year following the expiration of the 10-year retention period.

Magnetic tape: Magnetic tape records are retained for 90 days and then

written over following NIST guidelines. For disaster recovery purposes certain tapes are stored 12–18 months.

Magnetic disk: Retained until no longer required for any operational or administrative purposes When magnetic disk or other electronic media is no longer required or servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General, Office of Inspector General, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name, claim number, and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information. Many records in this system are exempt from the notification requirements under 5 U.S.C. 552a(k). To the extent that records in this system of records are not subject to exemption, they are subject to notification. A determination whether an exemption applies shall be made at the time a request for notification is received.

RECORD ACCESS PROCEDURE:

Requests for access to the record of an individual and requests to contest such a record should be in writing addressed to the System Manager identified above, including the full name, claim number, and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information. Many records in this system are exempt from the records access and contesting requirements under 5 U.S.C. 552a(k). To the extent that records in this system of records are not subject to exemption, they are subject to access and contest requirements. A determination as to whether an exemption applies shall be made at the time a request for access or contest is received.

CONTESTING RECORD PROCEDURE:

See notification section above.

RECORD SOURCE CATEGORIES:

The subject; the complainant; third parties, including but not limited to employers and financial institutions; local, state, and federal agencies; and other RRB record systems.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(j)(2) records in this system of records which are compiled for the purposes of criminal investigations are exempted from the requirements under 5 U.S.C. 552a(c)(3) and (4) (Accounting of Certain Disclosures), (d) (Access to Records), (e)(1), (2), (3), (4), (G), (H), and (I), (5) and (8) (Agency Requirements), (f) (Agency Rules), and (g) (Civil Remedies) of 5 U.S.C. 552a.

Pursuant to 5 U.S.C. 552a(k)(2) records in this system of records which consist of investigatory material compiled for law enforcement purposes are exempted from the notice, access and contest requirements under 5 U.S.C. 552a(c)(3), (d) (e)(1), (e)(4)(G), (H), and (I) and (f); however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual except to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence.

The reasons why the head of the Railroad Retirement Board decided to exempt this system of records under 5 U.S.C. 552a(k) are given in 20 CFR 200(f) and (g).

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RRB–44–45 [Reserved]

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RRB–46

SYSTEM NAME:

Personnel Security Files.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Railroad Retirement Board (RRB) employees and individuals being considered for possible employment, or contractor work, by the RRB.

CATEGORIES OF RECORDS IN THE SYSTEM: (UPDATED)

Completed and signed suitability investigation requests (investigations submitted through the automated system, eQIP, will not have a completed and signed investigation request form as this would be filled out via the web-based system); information concerning identity source documents; results of applicable background checks; copies of relevant material used to validate applicant's identity, including photos and fingerprint impressions. Records of actions taken by the Railroad Retirement Board in a personnel security investigation. If the action is favorable, the information will include identifying information and the action taken; if the action is unfavorable, the information will include the basis of the action which may be a summary of, or a selection, of information contained in an OPM investigation report. Information in an OPM investigation report may include: date and place of birth, marital status, dates and places of employment, foreign countries visited, membership in organizations, birth date and place of birth of relatives, arrest records, prior employment reports, dates and levels of clearances, and names of agencies and dates when, and reasons why, they were provided clearance information on Board employees.

Note: This system of records does not include the OPM investigation report itself, even though it is in possession of the Railroad Retirement Board. The report is covered under the System of Records OPM Central-9. Access to the report is governed by OPM.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, OMB Circular A–130 dated December 15, 1985, and Homeland Security Presidential Directive 12.

PURPOSE(S):

The purpose of this system of records is to maintain files documenting the processing of investigations on RRB employees and applicants for employment or contract work used in making security/suitability determinations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records may be disclosed to the Office of Personnel Management in carrying out its functions.

b. Records may be disclosed to an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to

its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

c. In the event of litigation where one of the parties is (1) the Board, any component of the Board, or any employee of the Board in his or her official capacity; (2) the United States where the Board determines that the claim, if successful, is likely to directly affect the operations of the Board or any of its components; or (3) any Board employee in his or her individual capacity where the Justice Department has agreed to represent such employees, the Board may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

d. Disclosure may be made to the PIV card applicant's representative at the request of the individual who is applying for a PIV card with the RRB.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: (UPDATED)

Paper and Electronic.

RETRIEVABILITY:

Name.

SAFEGUARDS: (UPDATED)

The records are kept in secure storage, in a locked room. Access to RRB paper and electronic personnel security files is limited to the Director of Human Resources (Personnel Security Officer) and the Chief of Human Services and Labor Relations. Access to contractor personnel security files is limited to the Director of Administration. Access to OIG personnel security files is limited to the Assistant Inspector General for Investigations. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

RETENTION AND DISPOSAL:

Destroy upon notification of death or not later than 5 years after separation or transfer of employee, whichever is applicable. Destruction is in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

For RRB Employees: Human Resources Security Officer, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

For RRB OIG Employees: Assistant Inspector General for Investigations, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

For Contractors: Director of Administration, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

The individual to whom the information applies, the Railroad Retirement Board, the Office of Personnel Management, the FBI and other law enforcement agencies, and other third parties.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–47 [Reserved]

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RRB–48

SYSTEM NAME:

Physical Access Management System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Railroad Retirement Board employees, contractors, Federal agency tenant employees, and other persons assigned responsibilities that require the issuance of credentials for identification and/or access privileges to secure locations within the agency's headquarters facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of completed and signed RRB key card and personal identity verification (PIV) requests; name, photograph, signature, social security account number, date of birth, ID badge serial number, date and time of requests for access, system record of access granted and/or allowed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Homeland Security Presidential Directive 12; Federal Information Processing Standards 201; Federal Property and Administrative Act of 1949, as amended.

PURPOSE(S):

The purpose of this system of records is to validate individuals who have been given credentials to access federally controlled property, secured areas or information systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records may be disclosed to another Federal agency or to a court when the government is party to a judicial proceeding before the court.

b. Records may be disclosed to a Federal agency, on request, in connection with the hiring and/or retention of an employee.

c. Records may be disclosed to officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in the performance of their authorized duties.

d. Records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee to whom the information pertains.

e. Records may be disclosed to the agency's Office of Inspector General for any official investigation or review related to the programs and operations of the RRB.

f. Records may be disclosed to agency officials for any official investigation or review related to the programs and operations of the RRB.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records.

RETRIEVABILITY:

Name, badge serial number.

SAFEGUARDS:

The records are secured in a locked room. Access to records of completed and signed personal identity verification requests of RRB employees is limited to the Director of Human Resources. Access to all other records is limited to the Assistant to the Director of Administration. Access to the electronic records is limited to RRB employees and official designated as registrars, deputy-registrars and issuers; it is also controlled through a user id and password security process. The security mechanism also limits access to data based on a user's role needs for accessing the data.

RETENTION AND DISPOSAL:

Destroy 5 years after final entry or 5 years after date of document, as appropriate, in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Human Resources, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

Assistant to the Director of Administration, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record(s) should be in writing to the System Manager(s) identified above, and must include the full name. Before information about any record will be released, the System Manager(s) may require the individual to provide proof of identity or require the requestor to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Individuals to whom building passes are issued.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–49

SYSTEM NAME:

Telephone Call Detail Records.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (generally agency employees and contractor personnel) who make or receive telephone calls from agency owned telephones at the agency's 844 North Rush Street headquarters building.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, telephone number, location of telephone, date and time phone call made or received, duration of call, telephone number called from agency telephone, city and state of telephone number called, cost of call made on agency phone.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 1348(b).

PURPOSE(S):

The purpose of this system of records are to verify the correctness of telephone service billing and to detect and deter possible improper use of agency telephones by agency employees and contractors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Relevant records may be released to a telecommunications company providing support to permit servicing the account.

b. Relevant records may be disclosed to representatives of the General Services Administration or the National Archives and Records Administration who are conducting records management inspections under the authority of 44 U.S.C. 2904 and 2906.

c. Records may be disclosed in response to a request for discovery or for the appearance of a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding.

d. Records may be disclosed in a proceeding before a court or adjudicative body to the extent that they are relevant and necessary to the proceeding.

e. Relevant records may be disclosed to respond to a Federal agency's request made in connection with the hiring or retention of an employee, the letting of a contract or issuance of a grant, license or other benefit by the requesting agency, but only to the extent that the information disclosed is relevant and necessary to the requesting agency's decision on the matter.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and Magnetic disk.

RETRIEVABILITY:

Name, telephone extension, number dialed.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. System securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics.

RETENTION AND DISPOSAL:

Paper. Reports, when issued, are disposed of as provided in National Archives and Records Administration General Records Schedule 12—Destroy when 3 years old. Initial reports may be destroyed earlier if the information needed to identify abuse has been captured in other records.

Magnetic disk: Maintained for approximately 180 days and then overwritten, following NIST guidelines. When magnetic disk or other electronic media is no longer required or servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the Systems Manager identified above, including the full name.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Telephone assignment records; computer software that captures telephone call information and permits query and reports generation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–50

SYSTEM NAME:

Child Care Tuition Assistance Program.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Railroad Retirement Board employees who voluntarily applied for child care tuition assistance, the employee's spouse, the employee's children and their child care providers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee (parent) name, Social Security Number, pay grade, home and work numbers, addresses, total family income, spouse employment information, names of children on whose behalf the employee parent is applying for tuition assistance, each applicable child's date of birth, information on child care providers used (including name, address, provider license number and state where issued, tuition cost, and provided tax identification number), and copies of IRS Form 1040 and 1040A for verification purposes. Other records may include the child's social security number, weekly expense, pay statements, records relating to direct deposits, verification of qualification and administration for child care assistance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 107–67, section 630 and E.O. 9397.

PURPOSE(S):

The purpose of the system is to determine eligibility for, and the amount of, the child care tuition assistance for lower income RRB employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records may be disclosed in response to a request for discovery or for the appearance or a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding.

b. Records may be disclosed in a proceeding before a court or adjudicative body to the extent that they are relevant and necessary to the proceeding.

c. Relevant records may be disclosed to respond to a Federal agency's request made in connection with the hiring or retention of an employee, the letting of a contract or issuance of a grant, license or other benefit by the requesting agency, but only to the extent that the information disclosed is relevant and necessary to the requesting agency's decision on the matter.

d. Relevant records may be disclosed to the Office of Personnel Management or the General Accountability Office when the information is required for evaluation of the subsidy program.

e. Relevant records may be disclosed to child care providers to verify a covered child's dates of attendance at the provider's facility.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic tape and Magnetic disk.

RETRIEVABILITY:

Name, Social Security Number.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in locking filing cabinents until shipment to the Federal facility that is responsible for the Federal Employees Education and Assistance Fund (FEEA). Access is limited to authorizied Federal employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

These records will be maintained permanently at FEEA until their official retention period is established by the National Archives and Records Administration (NARA).

SYSTEM MANAGER(S) AND ADDRESS:

Director of Human Resources, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the Systems Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Applications for child care tuition assistance submitted voluntarily by RRB employees; forms completed by child care providers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–51

SYSTEM NAME:

Railroad Retirement Board's Customer PIN/Password (PPW) Master File System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All RRB customers (applicants, claimants, annuitants and other customers) who elect to conduct transactions with RRB in an electronic business environment that requires the PPW infrastructure, as well as those customers who elect to block PPW access to RRB electronic transactions by requesting RRB to disable their PPW capabilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The information includes identifying information such as the customer's name, Social Security number, personal identification number (PIN)) and mailing address. The system also maintains the customer's Password Request Code (PRC), the password itself, and the authorization level and associated data (e.g. effective date of authorization).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 2(b)(6) of the Railroad Retirement Act, 45 U.S.C. 231f(b)(6); and the Government Paperwork Elimination Act.

PURPOSE(S):

The purpose of this system is to enable RRB customers who wish to conduct business with the RRB to do so in a secure environment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records may be disclosed in response to a request for discovery or for the appearance of a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding and provided that the disclosure would be clearly in the furtherance of the interest of the subject individual.

b. Records may be disclosed in a proceeding before a court or adjudicative body to the extent that they are relevant and necessary to the proceeding and provided that the disclosure would be clearly in the furtherance of the interest of the subject individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, and Magnetic disk.

RETRIEVABILITY:

Name and Social Security number.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

These records will be maintained permanently until their official retention period is established by the National Archives and Records Administration (NARA).

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the Systems Manager identified above, including the full name and social security number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Data for the system are obtained primarily from the individuals to whom the record pertains.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None

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RRB–52

SYSTEM NAME:

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Appellants for benefits under the Railroad Retirement or Railroad Unemployment Insurance Acts

CATEGORIES OF RECORDS IN THE SYSTEM:

Appellant name, social security number, railroad retirement board claim number, address, date of birth, sex, medical records, marriage or relationship records, military service, creditable earnings and service months, benefit payment history, work history, citizenship and legal residency status, correspondence and inquiries, and appeals of adverse determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6); sec. 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

PURPOSE(S):

Record decisions of The Board in benefit appeals cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

b. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act and may be disclosed during the course of an administrative appeal to individuals who need the records to prosecute or decide the appeal or to individuals who are requested to provide information relative to an issue involved in the appeal.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic tape and Magnetic disk.

RETRIEVABILITY:

Name, railroad retirement claim number, social security account number, board order number, docket number.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. System securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics.

RETENTION AND DISPOSAL:

No records from this system will be disposed of pending a record schedule determination by the National Archives and Records Administration (NARA).

SYSTEM MANAGER(S) AND ADDRESS:

Secretary of the Board, U.S. Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section.

CONTESTING RECORD PROCEDURE:

See Notification section.

RECORD SOURCE CATEGORIES:

Applications for benefits and appeal of decisions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–53

SYSTEM NAME:

Employee Medical and Eye Examination Reimbursement Program.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 N. Rush Street, Chicago, IL 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any RRB employees that request co-payment reimbursement for either eye or physical examinations.

CATEGORIES OF RECORDS IN THE SYSTEM:

RRB employee name and medical documentation including receipts for the physical exam co-pay and payment of the eye examination. Records prior to October 1, 2009 also contain the employee Social Security Number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(1)). Negotiated Labor Management Agreement between the U.S. Railroad Retirement Board and the Council of American Federation of Government Employees (AFGE), Locals in the Railroad Retirement Board.

PURPOSE(S):

To provide reimbursement for and maintain the records of the RRB's physical and eye examination program. For purposes of adjudicating the claim and approving reimbursement of co-payment fees related to RRB employee physical and eye examinations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

Internal RRB Use.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic disk.

RETRIEVABILITY:

Full name. Social security account number (for records prior to October 1, 2009).

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. System securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics.

RETENTION AND DISPOSAL:

These records will be maintained permanently until their official retention period is established by the National Archives and Records Administration (NARA).

SYSTEM MANAGER(S) AND ADDRESS:

Employee Health Services, U.S. Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section.

CONTESTING RECORD PROCEDURE:

See Notification section.

RECORD SOURCE CATEGORIES:

Employee reimbursement claim and proofs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–54

SYSTEM NAME:

Virtual Private Network (VPN) Access Management.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

RRB and other federal employees and contractors who are authorized to remotely access internal RRB information systems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, home telephone number, work telephone number, authentication information, group name, source IP address, remote computer name, home address, software serial numbers, access levels.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)) and Section 12(l) of the Railroad Unemployment Insurance Act (45 U.S.C. 362(l)).

PURPOSE(S):

Manage employee and contractor remote access to internal RRB information systems for official business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Records may be disclosed to another Federal agency or to a court when the government is party to a judicial proceeding before the court.

b. Records may be disclosed to a Federal agency, on request, in connection with the hiring and/or retention of an employee.

c. Records may be disclosed to officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in the performance of their authorized duties.

d. Records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee to whom the information pertains.

e. Records may be disclosed to the agency's Office of Inspector General for any official investigation or review related to the programs and operations of the RRB.

f. Records may be disclosed to agency officials for any official investigation or review related to the programs and operations of the RRB.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic tape and Magnetic disk.

RETRIEVABILITY:

Name, email address.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL: (UPDATED)

Records requiring special accountability (access request, authorization, and profiles) or for investigative purposes are retained and then destroyed six years after the VPN account is terminated or no longer needed for investigative or security purposes.

Routine system access and monitoring records are retained and then destroyed one year after creation, unless needed for investigative or security purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Infrastructure Services, U.S. Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and enrolled email address of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification procedure above.

CONTESTING RECORD PROCEDURE:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

VPN access application Form G–68, and infrastructure profiles.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–55

SYSTEM NAME:

Contact Log.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Annuitants, their representatives and other recipients of railroad retirement, survivor, disability, Medicare and supplemental annuities payable under the Railroad Retirement Act (RRA) and individuals receiving or applying for unemployment or sickness insurance benefits payable under the Railroad Unemployment Insurance Act (RUIA).

CATEGORIES OF RECORDS IN THE SYSTEM:

The Railroad Retirement Board (RRB) claim number, social security number of the annuitant/claimant, annuitant's name, contact name (if different from the annuitant), telephone number of the contact, name and office code of the RRB employee who submitted the contact, and the entered contact record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act (RRA) of 1974 (45 U.S.C. 231f(b)(6); and Section 12(l) of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. 362(1)).

PURPOSE(S): (UPDATED)

The Contact Log records, maintains and displays RRA and RUIA activities associated with customer initiated contacts with the RRB.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Disclosure of information concerning the annuitant/claimant may be made to the representative payee on the record for the annuitant.

b. Beneficiary identifying information may be disclosed to third party contacts to determine whether the beneficiary or potential beneficiary is capable of understanding and managing their benefit payments in their own best interest and to determine the suitability of a proposed representative payee.

c. Records may be disclosed in response to a request for discovery or for the appearance of a witness, to the extent what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding and provided the disclosure would be clearly in the furtherance of the interest of the subject individual.

d. Records may be disclosed in a proceeding before a court or adjudicative body to the extent they are relevant and necessary to the proceeding and provided the disclosure would be clearly in the furtherance of the interest of the subject individual.

e. Disclosure of records concerning the annuitant/claimant may be made to the attorney representing the annuitant/claimant, upon receipt of a written letter or declaration of representation.

f. Records may be disclosed to the annuitant/claimant's railroad union representative(s) to the extent what is disclosed is relevant to the subject matter involved in the union issue or proceeding and provided the disclosure would be clearly in the furtherance of the interest of the subject individual.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape and Magnetic disk.

RETRIEVABILITY:

RRB claim number or social security account number.

SAFEGUARDS:

Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

These records will be maintained permanently until their official retention period is established by the National Archives and Records Administration (NARA).

SYSTEM MANAGER(S) AND ADDRESS:

Office of Programs—Director of Policy and Systems, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Request for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number. Before information about any record is released, the System Manager will require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Contact Log information is obtained from members of the public who contacted the RRB and to whom the record pertains.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–56

SYSTEM NAME:

Employee Service and Railroad Employer Coverage Determination Files.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Railroad employees; individuals claiming railroad service; entities being considered as covered employers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals: Name, address, social security number, employment history. Employers: Name, Bureau of Accounts (B.A.) number, incorporation date, corporate structure, number of employees, services provided.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(6)); section 12(l) of the Railroad Retirement Unemployment Insurance Act (45 U.S.C. 362(l)); 20 CFR 259.

PURPOSE(S):

Records in this system or records are maintained to (1) record Board decisions as to who is an eligible employee of a covered entity for the purposes of benefit entitlement and (2) to record determinations as to who is an employer under the Railroad Retirement Act, for the purpose of a) crediting compensation and service months to employees for the purpose of benefits entitlement and b) assessment of appropriate taxes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any current or former employer to verify entitlement for benefits under the Railroad Retirement Act.

b. Certain identifying information about annuitants, such as name, social security number, RRB claim number, as well as address, year and month last worked for a railroad, last railroad occupation, identity of last railroad employer, and total months of railroad service may be furnished to railroad employers for purpose of determining whether annuitant has performed employee service for that employer, and therefore is entitled to benefits under the Railroad Retirement Act.

c. Certain information about annuitants such as year and month last worked for a railroad, the name(s) of railroad employer(s) the annuitant worked for, last railroad occupation, and total months of railroad service may be furnished to bonafide genealogical requests.

d. Board determinations regarding employer status are furnished to the Internal Revenue Service (IRS) as the

administrator of the Railroad Retirement Tax Act (RRTA).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, Magnetic tape and Magnetic disk.

RETRIEVABILITY:

Name, email address.

SAFEGUARDS:

Paper: Maintained in areas not accessible to the public in metal filing cabinents. Access is limited to authorizied RRB employees. Offices are locked during non-business hours. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper: For employee service records: Maintained for 90 days after imaging is completed, then destroyed. For employer coverage records: Maintained for 10 years after coverage is terminated, then destroyed in accordance with NIST guidelines.

Magnetic tape: Magnetic tape records are used to daily update the disk file, are retained for 90 days and then written over following NIST guidelines. For disaster recovery purposes certain tapes are stored 12–18 months.

Magnetic disk: Continually updated and permanently retained. When magnetic disk or other electronic media is no longer servicable, it is sanitized in accordance with NIST guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the General Counsel, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing, including the full name, social security number and railroad retirement claim number (if any) of the individual. Before information about any records will be released, the individual may be required to provide proof of identity, or authorization from the individual to permit release of information. Requests should be sent to the Office of the General Counsel, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

Requests for information regarding a railroad employer's records should be in writing, including the full corporate name, address, B.A. number (if any) of the company. Requests should be sent to the Office of the General Counsel, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

RECORD ACCESS PROCEDURE:

See Notification procedure above.

CONTESTING RECORD PROCEDURE:

See Notification procedure above.

RECORD SOURCE CATEGORIES:

Individual applicants or their representatives, railroad and other employers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–57

SYSTEM NAME:

Employee Emergency Notification System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

RRB Employees and Contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

The emergency notification system will contain both public and personal contact information for RRB employees and contractors.

PUBLIC INFORMATION STORED IN THIS SYSTEM INCLUDES:

a. Employee name and organizational unit; Contractor name and organization.

PERSONAL INFORMATION STORED IN THIS SYSTEM MAY INCLUDE:

a. Work telephone, cellular, fax number(s) and email address(es)

b. Identifying technical information for work issued Personal Digital Assistants (PDAs), cellular telephones, or other electronic devices, such as Serial Numbers, Electronic Serial Numbers, etc.

c. Home telephone, cellular number(s), personal email address(es) and Zip code of residence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 301, Department Regulations.

b. Executive Order (EO) 12656, Assignment of emergency preparedness responsibilities, November 18, 1988.

c. Homeland Security Presidential Directive (HSPD)—20, National Continuity Policy, May 9, 2007.

PURPOSE(S):

The purpose of this system of records is to maintain emergency contact information for employees and select contractors of the U.S. Railroad Retirement Board (RRB). The system provides for multiple communication device notification via telephonic, fax, text and electronic mail message delivery to registered RRB personnel in response to threat alerts issued by the Department of Homeland Security, activation of the Continuity of Operations Plan (COOP), weather related emergencies or other critical situations that may disrupt the operations and accessibility of the agency. The system also provides for the receipt of real-time message acknowledgements and related management reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

In addition to the conditions of disclosure listed in 5 U.S.C. 552a(b) of the Privacy Act and the RRB's Standard Disclosures, the RRB may release these records to any Federal government authority for the purpose of coordinating and reviewing agency continuity of operations plans or emergency contingency plans developed for responding to Department of Homeland Security threat alerts, weather related emergencies or other critical situations.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic tape, magnetic disk.

RETRIEVABILITY:

Name, Organizational Unit, Telephone, Fax or Cellular number, serial or electronic serial number or other unique identifier (work issued devices only), Email address, or Residence Zip Code.

SAFEGUARDS:

1. Paper: Maintained in areas not accessible to the public in metal filing cabinets at the RRB. Access is limited to authorized RRB employees. Records are stored in an office that has electronic access controlled doors. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

2. Magnetic tape and disks: Located at off-site commercial vendor data center. Computer and computer storage rooms are restricted to authorized personnel, have electronic access controlled doors. On-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics. In addition to the on-line query safeguards, they include encryption of data both at rest and in-transit.

RETENTION AND DISPOSAL:

1. Emergency Contract Information.

a. General. Records are maintained as long as the employee or contractor is working for or on the behalf of the RRB.

b. Paper Records. Destroy 90 days after the date entered into the system or after completion of the quality assurance process, whichever is later.

c. Electronic Records. Destroy within 90 days after the employee/contractor ceases employment/contract with the RRB.

2. Operational Data.

a. Actual messages, results and data. Cut off at end of fiscal year, destroyed at the end of the following fiscal year.

b. Test messages, results and data. Cut off at end of fiscal year, destroyed at the end of the following fiscal year.

3. Reports. Retained and disposal in accordance with National Archives and Records Administration (NARA), General Record Schedule (GRS), items 12 (Downloaded and derived data) and 16 (Hard copy print outs).

SYSTEM MANAGER(S) AND ADDRESS:

Office of Administration, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

RRB employees or supporting contractors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

No exemption is claimed for public information listed in this system of records.

Personal information listed in this system of records is exempted from disclosure to third parties under the Freedom of Information Act (FOIA) under the 5 U.S.C. 552a(b)(6), Personal Privacy rule. Additionally, personal information of law enforcement employees is protected from disclosure under 5 U.S.C. 552a(b)(7)C, Law Enforcement Records rule.

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RRB–58

SYSTEM NAME:

Employee Tuition Assistance Program (TAP).

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

RRB Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee name, grade, job title, business unit, course title, school name, class dates, number of hours per week, cost of tuition, estimated cost of textbooks/fees and claim tracking information (dates and amount paid).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 4101 to 4118, Government Employees Training Act.

b. 5 CFR part 410, Office of Personnel Management-Training.

c. Executive Order 11348, Providing for the further training of Government employees, April 20, 1967.

d. Executive Order 12107, Relating to the Civil Service Commission and labor management in the Federal Service, January 1, 1979.

PURPOSE(S):

The purpose of this system of records is to maintain employee Tuition Assistance Program (TAP) training history, to forecast future training needs and for audit and budgetary records and projections.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

In addition to the conditions of disclosure listed in 5 U.S.C. 552a(b) of the Privacy Act and the RRB's Standard Disclosures, the RRB may release these records to:

a. Federal agencies for screening and selecting candidates for training or developmental programs sponsored by the agency.

b. Federal oversight agencies for investigating, reviewing, resolving, negotiating, settling, or hearing complaints, grievances, or other matters under their authority.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic tape, magnetic disk.

RETRIEVABILITY:

Employee name, grade, job title, business unit and claim tracking information (dates and amount paid).

SAFEGUARDS:

1. Paper: Maintained in areas not accessible to the public in metal filing cabinets at the RRB. Access is limited to authorized RRB employees. Records are stored in an office that has electronic access controlled doors. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

2. Magnetic tape and disks: Computer and computer storage rooms are restricted to authorized personnel, have electronic access controlled doors. On-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology

(NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics.

RETENTION AND DISPOSAL:

Retained and disposal in accordance with National Archives and Records Administration (NARA), General Record Schedule, GRS–1, Item #29, Employee Training Records, Destroy when 5 years old or when superseded or obsolete, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Human Resources, Office of Administration, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name of the individual. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

RRB employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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RRB–59

SYSTEM NAME:

Electronic Information Systems Activity and Access Records.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

SECURITY CLASSIFICATION:

Controlled Unclassified Information (CUI).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (authorized or unauthorized) who attempt to or access RRB electronic information systems (stand-alone or network based). This includes individuals who send or receive electronic communications, access the internet/intranet, system databases, files or applications or pass electronic traffic through our network infrastructure, to include remote access.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system of records may include:

1. Electronic logs or reports from:

a. End user information systems,

b. Network servers or mainframe computer,

c. Network infrastructure devices,

d. Network security and management devices, and

e. Information systems performing contracted services for the agency.

2. Specific data collected may include information about the source, destination or intermediate connections that may contain:

a. Internet Protocol (IP) address,

b. Uniform Resource Locator (URL),

c. Date/Time of attempted or actual log-on,

d. Date/Time of log-off,

e. Duration of connection,

f. Size (amount) and type of data transferred,

g. Keyword(s) used in internet related searches,

h. Information system name,

i. Information system Media Access Control (MAC) address,

j. Electronic mail addresses and subject,

k. Files/Applications accessed,

l. User logon name and passwords, or password hashes, titles, or agency, or

m. Any other information that is necessary for information systems to connect, authenticate and transfer data.

3. Network security and management devices may capture additional information that is required for them to perform their mission to include complete network monitoring.

4. RRB information system logs generally do not contain personally identifiable information (PII), however incidental collection is possible during system monitoring or other official government purposes.

5. It is possible that during the course of official government business purposes, investigations or monitoring that an individual's name may be associated with an information system or its IP address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 5 U.S.C. 302, Delegation of Authority to Federal Agencies,

b. 44 U.S.C. 3544, Federal Agency Responsibilities, and

c. 45 U.S.C. 231f(b)(6) and 45 U.S.C. 362(l), Duties and Powers of the Railroad Retirement Board.

PURPOSE(S):

Information in this system of records may be used by any authorized staff member, in the performance of their official duties to assist in the planning, management, troubleshooting, security and investigations of our Federal information systems and supporting network.

Authorized managers or system security staff may use these records to assist them to investigate any potential or actual inappropriate use or any other improper activity by an employee, contractor, or other individual with our information systems. This information may be used to initiate disciplinary, administrative, or civil action. If investigation of the records appears to indicate a violation or potential violation of law, those and any supporting records may be referred to appropriate law enforcement officials for criminal investigation and possible prosecution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

In addition to the conditions of disclosure listed in 5 U.S.C. 552a(b) of the Privacy Act and the RRB's Standard Disclosures, the RRB may release these records:

a. To provide information to any authorized person(s) to assist in any official investigation involving the unauthorized, or inappropriate use of any RRB information system(s);

b. To an actual or potential party or his or her representative for the purpose of negotiation or discussion of such matters as settlement of the case or matter, or informal discovery proceedings;

c. To any Federal, State, local, or tribal law enforcement agency if information in this system of records may indicate a potential or actual violation of statute, regulation, rule or order issued by their respective governmental agency, and

d. To other government agencies where required by law.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disk, magnetic tape, optical or paper media as necessary for official business.

RETRIEVABILITY:

Records can typically be retrieved by any of the data elements below:

a. Internet Protocol (IP) address,

b. Uniform Resource Locator (URL),

c. Date/Time of attempted or actual log-on,

d. Date/Time of log-off,

e. Duration of connection,

f. Size (amount) of data transferred,

g. Keywords used in internet related searches,

h. Information system name,

i. Information system Media Access Control (MAC) address,

j. Electronic mail addresses and subject,

k. Files/Applications accessed,

l. User logon name and passwords, or password hashes, titles, or agency.

We do not typically connect any of the above data with a specific person; however, in some instances conducting official governmental business, a person's name may be connected to any of these data elements.

SAFEGUARDS:

Paper or Optical Media: Maintained in areas not accessible to the public in locking filing cabinets at the RRB. Access is limited to authorized RRB employees. Information that is related to an investigation is secured inside locking safes. Building has 24 hour on-site security officers, closed circuit television monitoring and intrusion detection systems.

Magnetic tape and disks: Computer and computer storage rooms are restricted to authorized personnel and have electronic access controlled doors. On-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix, role based access controls and audit trail. For electronic records, system securities are established in accordance with National Institute of Standards and Technology (NIST) guidelines, including network monitoring, defenses in-depth, incident response and forensics.

RETENTION AND DISPOSAL:

a. General System/Log Files:

Delete/destroy when one year old or when no longer needed for administrative, legal, audit or other operational purposes.

b. Investigative Files:

(1) Computer Security Incident Handling, Reporting, Follow-up Records, and Investigative Documents. Destroy/delete three years after after all follow up actions are completed.

(2) RRB Criminal Investigations. Maintained by RRB Office of Inspector General (Investigations). RRB Records Disposition Schedule 17, Item # 17–3: Place in inactive files when case is closed. Cutoff inactive files at end of the fiscal year. Destroy 10 years after cutoff.

(3) Other Criminal Investigations. Maintained in accordance with that Law Enforcement Agencies schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Information Resources Management, Bureau of Information Services, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092.

NOTIFICATION PROCEDURE:

To the extent permitted under the Privacy Act of 1974, (5 U.S.C. 552a) this system of records is exempted from access, notification and correction provisions. The exemption claimed is 5 U.S.C. 552a(k)(2), investigatory material compiled for law enforcement purposes. Additionally, law enforcement investigative material falls under RRB Privacy Act Systems of Records RRB–43 and is generally exempt from release under the reasons stated in that notice. Information in this Privacy Act System of Records is generally not releasable under a Freedom of Information Act (FOIA), 5 U.S.C. 552 exemptions: (b)(2) Risk of Circumvention, (b)(6) Personal Privacy, or (b)(7) Law Enforcement. Individuals (authorized or unauthorized) attempting to access an RRB information system are provided a warning notification that this is an official U.S. Government information system and that they have no expectation of privacy, the system may be monitored and that records of their activity may be used for adverse administrative, civil or criminal action. The individual must acknowledge and accept these conditions via a warning banner when they attempt to log onto the network. Individuals who circumvent or are not provided a log-on banner for whatever reason, are still subject to these provisions.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURE:

See Notification section above.

RECORD SOURCE CATEGORIES:

Most records are automatically generated electronically by RRB information systems, or by management officials during the course of official business.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Yes, this is an exempted system. See notification procedures above.

Appendix I

Offices of the U.S. Railroad Retirement Board (refer to *http://www.rrb.gov/field/field.asp* for the most current addresses):

Headquarters: 844 North Rush Street, Chicago, IL 60611–2092.

Office of Legislative Affairs: 1310 G Street Northwest, Suite 500, Washington, DC 20005–3004.

District Offices:

ALABAMA

Medical Forum Bldg., 950 22nd Street North, Room 426, Birmingham, AL 35203–1134.

ARIZONA

Fiesta Square, 1220 South Alma School Road, Mesa, AZ 85210–2098.

ARKANSAS

1200 Cherry Brook Drive, Suite 500, Little Rock, AR 72211–4122.

CALIFORNIA

858 South Oak Park Road, Suite 102, Covina, California 91724–3674.

Oakland Federal Building, 1301 Clay Street, Suite 110S, Oakland, CA 94612–5215.

910 Cirby Way, Suite 100, Roseville, CA 95661–4420.

COLORADO

721 19th Street, Room 177, Post Office Box 8869, Denver, CO 80201–8869.

FLORIDA

550 Water Street, Suite 220, Jacksonville, FL 32202–4411.

Timberlake Federal Building, 500 East Zack Street, Suite 300, Tampa, FL 33602–3918.

GEORGIA

Peachtree Summit Building, 401 West Peachtree Street, Room 1702, Atlanta, GA 30308–3519.

ILLINOIS

844 North Rush Street, Room 901, Chicago, IL 60611–2092.

Millikin Court, 132 South Water Street, Suite 517, Decatur, IL 62523–1077.

63 West Jefferson Street, Suite 102, Joliet, IL 60434–4337.

INDIANA

The Meridian Centre, 50 South Meridian Street, Suite 303, Indianapolis, IN 46204–3538.

IOWA

Federal Building, 210 Walnut Street, Room 921, Des Moines, IA 50309–2116.

KANSAS

Cambridge Plaza Suite, 2020 North Webb Road, Suite 104, Wichita, KS 67206–3408.

KENTUCKY

Theatre Building, 629 South 4th Street, Suite 301, Louisville, KY 40202–2461.

LOUISIANA

Hale Boggs Federal Building, 500 Poydras Street, Suite 1045, New Orleans, LA 70130–3399.

MARYLAND

George H. Fallon Building, 31 Hopkins Plaza, Suite 820, Baltimore, MD 21201–2896.

MASSACHUSETTS

408 Atlantic Avenue, Room 441, Boston, MA 02110–3349.

MICHIGAN

McNamara Federal Building, 477 Michigan Avenue, Room 1199, Detroit, MI 48226–2596.

MINNESOTA

Federal Building, 515 West First Street, Suite 125, Duluth, MN 55802–1399.

180 East 5th Street, Suite 195, St. Paul, MN 55101–1640.

MISSOURI

601 East 12th Street, Room G47, Kansas City, MO 64106–2818.

Young Federal Building, 1222 Spruce Street, Room 7.303, St. Louis, MO 63103–2846.

MONTANA

Judge Jameson Federal Building, 2900 Fourth Avenue North, Room 101, Billings, MT 59101–1266.

NEBRASKA

1299 Farnam Street, Suite 200, Omaha, NE 68101–0815.

NEW JERSEY

20 Washington Place, Room 516, Newark, NJ 07102–3127.

NEW MEXICO

421 Gold SW., Suite 304, Post Office Box 334, Albuquerque, NM 87103–0334.

NEW YORK

Leo O'Brien Federal Building, 11A Clinton Avenue, Suite 264, Albany, NY 12207–2382.

186 Exchange Street, Suite 110, Buffalo, NY 14204–2085.

1400 Old Country Road, Suite 202, Westbury, NY 11590–5119.

Federal Building, 26 Federal Plaza, Suite 3404, New York, NY 10278–3499.

NORTH CAROLINA

Quorum Business Park, 7508 East Independence Boulevard, Suite 120, Charlotte, NC 28227–9409.

NORTH DAKOTA

U.S. Post Office Building, 657 Second Avenue North, Room 312, Fargo, ND 58102–4727.

OHIO

525 Vine Street, Suite 1940, Cincinnati, OH 45202–3125.

Celebrezze Federal Building, 1240 East 9th Street, Room 907, Cleveland, OH 44199–2001.

OREGON

620 SW Main Street, Suite 112, Portland, OR 97205–3025.

PENNSYLVANIA

1514 11th Avenue, Post Office Box 990, Altoona, PA 16603–0990.

Federal Building, 228 Walnut Street, Room 576, Box 11697, Harrisburg, PA 17108–1697.

Nix Federal Building, 900 Market Street, Suite 301, Philadelphia, PA 19107–4293.

Moorhead Federal Building, 1000 Liberty Avenue, Room 1511, Pittsburgh, PA 15222–4107.

Siniawa Plaza II, 717 Scranton Carbondale Highway, Scranton, PA 18508–1121.

TENNESSEE

233 Cumberland Bend, Suite 104, Nashville, TN 37228–1806.

TEXAS

819 Taylor Street, Room 10G02, Post Office Box 17420, Fort Worth, TX 76102–0420.

Leland Federal Building, 1919 Smith Street, Suite 845, Houston, TX 77002–8098.

UTAH

125 South State Street, Room 1205, Salt Lake City, UT 84138–1137.

VIRGINIA

400 North 8th Street, Suite 470, Richmond, VA 23219–4819.

First Campbell Square, 210 First Street Southwest, Suite 110, Post Office Box 270, Roanoke, VA 24002–0270.

WASHINGTON

Pacific First Plaza, 155 108th Avenue Northeast, Suite 201, Bellevue, WA 98004–5901.

U.S. Court House, W 920 Riverside Avenue, Room 492B, Spokane, WA 99201–1008.

WEST VIRGINIA

New Federal Building, 640 4th Avenue, Room 145, Post Office Box 2153, Huntington, WV 25721–2153.

WISCONSIN

Reuss Plaza, 310 West Wisconsin Avenue, Suite 1168, Milwaukee, WI 53203–2213.

[FR Doc. 2014–22718 Filed 9–29–14; 8:45 am]

BILLING CODE 7905–01–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 189 September 30, 2014

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Conductor Pipe Installation Activities at Harmony Platform in Santa Barbara Channel Offshore of California; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD188

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Conductor Pipe Installation Activities at Harmony Platform in Santa Barbara Channel Offshore of California

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

ACTION: Notice; issuance of an Incidental Take Authorization (ITA).

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the ExxonMobil Production Company (ExxonMobil), a Division of ExxonMobil Corporation, to take marine mammals, by Level B harassment only, incidental to installing six conductor pipes via hydraulic hammer driving at the Harmony Platform, Santa Ynez Production Unit, located in the Santa Barbara Channel offshore of California.

DATES: Effective September 17, 2014, through September 16, 2015.

ADDRESSES: A copy of the final IHA and application are available by writing to Jolie Harrison, Supervisor, Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, by telephoning the contacts listed here, or by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

NMFS prepared an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA), which is also available at the same Internet address. NMFS also issued a Biological Opinion under section 7 of the Endangered Species Act (ESA) to evaluate the effects of the conductor pipe installation activities and IHA on marine species listed as threatened and endangered. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*), direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for the incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On March 3, 2014, NMFS received an application from ExxonMobil for the taking of marine mammals incidental to installing six conductor pipes by hydraulic hammering at the Harmony Platform, Santa Ynez Production Unit, in the Santa Barbara Channel offshore of California. Along with the IHA application, NMFS received an addendum titled ''Assessment of Airborne and Underwater Noise from Pile Driving Activities at the Harmony Platform.'' NMFS determined that the application was adequate and complete on April 28, 2014.

The project's estimated dates are from mid-September to mid-December 2014, but the planned action could occur anytime within a 12-month period from the effective date of the IHA. Acoustic stimuli (i.e., increased underwater and airborne sound) generated during the conductor pipe installation activities are likely to result in the take of marine mammals. Take, by Level B harassment only, of 32 species of marine mammals is anticipated to result from the activities.

Description of the Specified Activity

Overview

ExxonMobil plans to install six conductor pipes by hydraulic hammering at the Harmony Platform, Santa Ynez Production Unit, in the Santa Barbara Channel offshore of California.

Dates and Duration

ExxonMobil estimates that the planned conductor pipe installation activities will occur from mid-September to mid-December 2014, but the planned activities could occur anytime within a 12-month period from the effective date of the planned IHA. Precise scheduling is not presently available due to logistical and regulatory uncertainties. The estimated duration of the planned project is 91 days. Under normal working conditions, the planned project is expected to include approximately 84 days of installation activity on the Harmony Platform bounded by 7 days of project mobilization/demobilization activities. It will take approximately 14 days to install each conductor pipe (6 conductors × 14 days = 84 days). Figure 2–1 of the IHA application includes a timeline of pile-driving activities over the approximate three month duration.

Specified Geographic Region

Harmony Platform is located in the Santa Barbara Channel, which is approximately 100 km (54 nmi) long and 40 km (21.6 nmi) wide, situated between the Channel Islands and the east-west trending coastline of California. The Santa Barbara Channel is the site of several other producing oil fields, including Ellwood, Summerland, Carpinteria offshore, and Dos Cuadras. The Santa Barbara basin is the prominent feature of the Santa Barbara Channel, with sill depths of approximately 250 m (820.2 ft) and 450 m (1,467.4 ft) at eastern and western entrances, respectively, with shallow (60 m or 196.9 ft) inter-island passages to the south. Harmony Platform's geographical position is 34° 22′ 35.906″ North, 120° 10′ 04.486″ West, at a water depth of 366 m (1,200.8 ft) on the continental slope below a relatively

steep (7.5%) descent. The Harmony Platform is 43.5 km (27 miles) southwest of Santa Barbara, California (see Figure 1 of the IHA application). It is 4.7 km (2.5 nmi) from the shelf break, which is typically defined at the 100 m (328.1 ft) isobaths (USGS, 2009). It is 3.3 km (1.8 nmi) from the nearest buffered 200 m (656.2 ft) contour, which has been noted for its association with higher recorded densities of cetacean species (Redfern *et al.,* 2013). It is also located 10 to 15 km (5.4 to 8.1 nmi) north of a common traffic route used by vessels to access the ports of Long Beach and Los Angeles. Figure 1–1 of the IHA application includes the location of the Harmony Platform, general site bathymetry, and Santa Barbara area boundaries.

Detailed Description of the Specified Activity

ExxonMobil plans to install six conductor pipes by hydraulic hammering at Harmony Platform. The conductor pipe installation activities are estimated to occur from mid-September to mid-December 2014, but the action could occur anytime within a 12-month period from the effective date of the IHA. Harmony Platform is located 10 kilometers (km) (5.4 nautical miles [nmi]) off the coast of California, between Point Conception and the City of Santa Barbara. Harmony Platform is one of three offshore platforms in ExxonMobil's Santa Ynez Production Unit, and is located in the Hondo field (Lease OCS–P 0190) at a water depth of 336 meters (1,200.8 ft). Harmony Platform was installed on June 21, 1989 with the sole purpose of producing crude oil and gas condensate. It began production of crude oil, gas and gas condensate on December 30, 1993. A conductor pipe is installed prior to the commencement of drilling operations for oil and gas wells. It provides protection, stability/structural integrity, and a conduit for drill cuttings and drilling fluid to the platform. It also prevents unconsolidated sediment from caving into the wellbore, and provides structural support for the well loads. Drilling activities are currently ongoing at Harmony Platform utilizing the existing conductors and wells. The platform jacket structure (see Figure 1–2 of the IHA application) currently has conductors installed in 51 out of 60 slots, as approved by the Bureau of Ocean Energy Management (BOEM, formerly the Minerals Management Service [MMS]) in the original Development Production Plan. Addition of eight straight conductors at the Harmony Platform was approved by the Bureau of Safety and Environmental Enforcement (BSEE) on February 11, 2013 to maintain current production levels from the existing platform. Conductor installation with a hydraulic hammer is consistent with approved development plans, and is the same method that was used to install conductors on all three Santa Ynez Production Unit platforms from 1981 (Hondo) through 1993 (Harmony and Heritage). Pipe-driving the conductors is the only proven installation method that enables management of potential interferences with the existing platform infrastructure that will also reach the target depth. Non-pipe-driving conductor installation methods are not deemed feasible at this time due to increased risk to platform structural integrity, offset well collision, and shallow-hole broaching.

The total length of a single conductor pipe is approximately 505 m (1,656.8 ft). Each conductor consists of multiple sections of 66.04 centimeter (cm) (26 inch [in]) diameter steel pipe that will be sequentially welded end-to-end from an upper deck of the platform (see Figure 1–2 of the IHA application), and lowered into the 366 m water column through metal rings (conductor guides) affixed to the jacket structure that orient and guide the conductor. Once the conductor reaches the sediment surface, gravity-based penetration (i.e., the conductor will penetrate the seabed under its own weight) is expected to reach approximately 30 m (98.4 ft) below the seabed. A hydraulic hammer (S–90 IHC) with a manufacturer's specified energy range of 9 to 90 kiloJoules (kJ) will be located on the drill deck and used to drive the conductor to a target depth of approximately 90 to 100 m (295.3 to 328.1 ft) below the seabed; therefore, only roughly 60 m (196.9 ft) of each 505 m (1,656.8 ft) long conductor pipe will require hydraulic driving. The S–90 IHC hydraulic hammer will sit on the conductor throughout pile-driving operations, but a ram internal to the hammer will stroke back and forth using hydraulic pressure to impart energy to the conductor. No physical dropping of a weight will be employed to drive the conductor.

The S–90 IHC hydraulic hammer has an estimated blow rate of about 46 blows per minute. The portion of a complete conductor that must be actively driven (hammered) into the seafloor consists of 5 to 7 sections, which are sequentially welded end-to-end. Setup and welding will take 3.5 to 7.3 hours per section, mostly depending on the type of welding equipment used (e.g., automated welder). Impact hammer pipe-driving will take an estimated 2.5 to 3.3 hours for each section, depending primarily on sediment physical properties, which affect penetration rate. Complete installation of each conductor is estimated at approximately 14 days based on 24-hour (continuous) operations. Table 1–1 of the IHA application presents a summary of driving activities and estimated number of joints [requiring welding] for each conductor pipe). Figure 1–3 of the IHA application shows the estimated time in days for each of these activities that are required to install a single conductor pipe. ExxonMobil conservatively assumes that active hammering will be 3.3 hours, followed by 7.3 hours of hammer downtime (i.e., ''quiet time,'' a time at which other activities are performed in preparation for the next section of pile) over approximately 53 hours (2.2 days) of the approximately 14 days required to install one conductor pipe. This schedule produces 4.125 days (99 hours) of cumulated hammer driving for all six conductors over the project duration. Figure 1–4 depicts the 3.3 hour pile-drive/7.3 hour downtime cycle for an isolated 24-hour period, showing a maximum of 9.4 hours of hammer driving. In the event that efficiencies produce a 2.5 hour drive/3.5 hour downtime cycle, a maximum of 10 hours of hammer pile-driving could occur in a single 24-hour period. The complete installation of the conductor pipes is estimated at 14 days of continuous operation.

TABLE 1—SUMMARY OF CONDUCTOR PIPE INSTALLATION ACTIVITIES AND ASSOCIATED CHARACTERISTICS OF EACH CONDUCTOR PIPE AT HARMONY PLATFORM

Conductor pipe activity	Pipe length (m)	Estimated number of joints	Pile-driving required	Estimated number of days [3]
Installation level to sea level	49 (160.8 ft)	4	No	2
Sea level to seafloor	366 (1,200.8 ft)	28	No	5.6

TABLE 1—SUMMARY OF CONDUCTOR PIPE INSTALLATION ACTIVITIES AND ASSOCIATED CHARACTERISTICS OF EACH CONDUCTOR PIPE AT HARMONY PLATFORM—Continued

Conductor pipe activity	Pipe length (m)	Estimated number of joints	Pile-driving required	Estimated number of days [3]
From 0 to ~30 m below seafloor	30 [1] (98.4 ft)	3	No	0.9
From ~30 m to ~90 m below seafloor	60 (196.9 ft)	5 to 7	Yes [2]	0.69
Hammer downtime	NA	NA	No	1.52
Clean up and completion	NA	NA	No	3.6

[1] Estimated range of gravity-based penetration.
[2] See Figure 1–4 of the IHA application.
[3] See Figure 1–3 of the IHA application.

NMFS provided a detailed description of the planned activities in a previous notice for the proposed IHA (79 FR 36743, June 30, 2014). The activities to be conducted have not changed between the proposed IHA notice and this final notice announcing the issuance of the IHA. For a more detailed description of the authorized action, including site bathymetry and sediment physical characteristics, hydrodynamics and water column physical properties, platform and acoustic source specifications, metrics, characteristics of sound sources, predicted sound levels of impact hammer pile-driving, etc., the reader should refer to the notice of the proposed IHA (79 FR 36743, June 30, 2014), the IHA application, addendum, and associated documents referenced above this section.

Comments and Responses

A notice of the proposed IHA for ExxonMobil's conductor pipe installation activities was published in the **Federal Register** on June 30, 2014 (79 FR 36743). During the 30-day public comment period, NMFS received comments from approximately 4,700 private citizens (as supporters of SierraRise and Sierra Club), Center for Biological Diversity (CBD), California Coastal Commission (CCC), and the Marine Mammal Commission (Commission). The comments are online at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.* Following are the substantive comments and NMFS's responses:

MMPA Concerns

Comment 1: The Commission states that the densities used to estimate the numbers of takes were derived using two different methods. For humpback, blue, and fin whales, ExxonMobil and NMFS stated that they used densities from Redfern *et al.* (2013) because those data were derived in the same project area—the Santa Barbara Channel. However, the estimated densities for blue and fin whales in the **Federal Register** notice do not match the upper boundary of the density contours from Redfern *et al.* (2013), which are shown in Table 6–3 and 6–4 of ExxonMobil's IHA application. Those figures indicate that the density should be 0.006 whales/km² (not 0.008) for blue whales and 0.0065 whales/km² (not 0.004) for fin whales. Therefore, the Commission recommends that NMFS revise the density estimates for blue and fin whales to reflect the density information from Redfern *et al.* (2013).

Response: NMFS concurs with the Commission's recommendation. The densities of blue and fin whales in the IHA application and the notice of the proposed IHA (79 FR 36743, June 30, 2014) are slightly below the upper boundary contours displayed in Redfern *et al.* (2013). NMFS agrees that the density estimates should be 0.006 for the blue whale and 0.0065 for the fin whale. These minor corrections to the density estimates have only a minor effect on the calculated takes by Level B harassment, as shown in the table below. However, NMFS has increased the authorized takes for fin and blue whales to account for group size.

TABLE 2—PROPOSED AND CORRECTED DENSITY ESTIMATES FOR TWO OF THE SPECIES/STOCKS PROPOSED TO BE TAKEN INCIDENTAL TO EXXONMOBIL'S CONDUCTOR PIPE INSTALLATION ACTIVITIES

Species	Density estimates from Table 5 of the **Federal Register** notice of the proposed IHA	Corrected density from Redfern *et al.* (2013)	Calculated takes/requested takes from Table 5 of the **Federal Register** notice of the proposed IHA	Corrected calculated takes/ authorized takes
Fin whale (*Balaenoptera physalus*)	0.004	0.0065	0.005/1	0.00392/2
Blue whale (*Balaenoptera musculus*)	0.008	0.006	0.011/1	0.000362/2

Comment 2: The Commission states that for the species/stocks that are derived from Redfern *et al.* (2013), ExxonMobil and NMFS derived density estimates by dividing each species/stock's abundance estimate by the area of the Santa Barbara Channel (12,593 km²). The abundance estimates used by NMFS (in Table 5 of the notice of the proposed IHA [79 FR 36743, June 30, 2014]) were different from those used by ExxonMobil (in Table 3–1 of its IHA application). Although the reason for this discrepancy is not provided, it appears to the Commission that the abundance estimates in Table 5 of the **Federal Register** notice of the proposed IHA (79 FR 36743, June 30, 2014) were taken from the NMFS 2013 Pacific Stock Assessment Report (Carretta *et al.,* 2013). However, NMFS's derived density estimates were incorrect for four of the species identified. Table 3 (below) lists the four marine mammal species in question, NMFS's density estimates, and the Commission's corrected densities, based on the abundance estimates provided by NMFS in Table 5 of the **Federal Register** notice of the proposed IHA (79 FR 36743, June 30, 2014).

TABLE 3—PROPOSED AND CORRECTED DENSITY ESTIMATES, IN ANIMALS/KM², FOR FOUR OF THE SPECIES/STOCKS PROPOSED TO BE TAKEN INCIDENTAL TO EXXONMOBIL'S CONDUCTOR PIPE INSTALLATION ACTIVITIES

Species	Density estimates from Table 5 of the **Federal Register** notice of the proposed IHA	Corrected density estimates, derived from abundance estimates in Table 5 of the **Federal Register** notice of the proposed IHA
Gray whale	0.5067	1.519
Cuvier's beaked whale	0.17	0.523
Mesoplodon spp.	0.08	0.055
Bottlenose dolphin	0.11	0.080

Therefore, the Commission recommends that NMFS revise the density estimates for gray whales, Cuvier's beaked whales, *Mesoplodon* spp., and common bottlenose dolphins to reflect the best available abundance estimates from Carretta *et al.* (2013); the corrected density estimates should then be used in NMFS's revised take estimates.

Response: The differences in the calculated densities reported in the IHA application (Tables 3–1 and 6–1 and the notice of the proposed IHA (79 FR 36743, June 30, 2014) were largely due to differences in abundance estimates and/or assumptions on seasonal variability (gray whale only), or due to combining abundance estimates of closely related stocks of selected species (e.g., killer whales). Where available, NMFS uses the abundance estimates for NMFS 2013 Pacific Stock Assessment Report (Caretta *et al.,* 2013). Therefore, NMFS concurs with the Commission's recommendation regarding gray whales, Cuvier's beaked whales, *Mesoplodon* spp. beaked whales, and bottlenose dolphins, and has revised the abundance estimates and associated calculated and corrected density estimates. NMFS notes that these corrections produce little or no change in the number of calculated takes by Level B harassment for each of the identified species. An explanation of the density estimates and authorized take for each of the four species referenced in the Commission's comments follows:

• The gray whale density in the notice of the proposed IHA (79 FR 36743, June 30, 2014) is incorrect and should be approximately 1.5, based on the NMFS 2013 Stock Abundance Report. However, the corrected density estimate produces no change in the estimated take of 10 animals, which was increased (made more conservative based on group size and the schedule moving into the fall season, which is a higher density time period to account for the southward migration.

• The Cuvier's beaked whale density estimate in the notice of the proposed IHA (79 FR 36743, June 30, 2014) is incorrect and should be approximately 0.523. The notice of the proposed IHA also gave an incorrect abundance estimate for this species (6,950). The abundance of Cuvier's beaked whale abundance is 6,590 based on NMFS 2013 Stock Abundance Report (Caretta *et al.*, 2013). Based on the corrected density estimate of 0.523 and a corrected abundance estimate of 6,590 animals, NMFS estimates that approximately 4 animals may be taken.

• NMFS provided a density estimate of 0.08 for the *Mesoplodon* spp. beaked whale in the notice of the proposed IHA (79 FR 36743, June 30, 2014) based on an abundance of 1,024. Using the abundance estimate of 694 in the NMFS 2013 Stock Assessment Report, NMFS agrees with the Commission that the density estimate is 0.0551. This produces an estimated calculated take of approximately 1 animal using either abundance estimate. However, NMFS is authorizing take of 2 animals based on group size.

• The bottlenose dolphin density estimate in the notice of the proposed IHA (79 FR 36743, June 30, 2014) is incorrect and should be approximately 0.08, based on the offshore abundance of the stock. Common bottlenose dolphin densities in the IHA application and notice of the proposed IHA (79 FR 36743, June 30, 2014) were 0.11 based on an abundance of 1,329, derived from combining the coastal and offshore stocks (323 + 1,006). However, California coastal bottlenose dolphins are found within one km (0.54 nmi) of shore primarily from Point Conception south into Mexican waters, at least as far south as San Quintin, Mexico; therefore, we do not expect the coastal stock to be taken by the conductor pipe installation activities and do not consider this stock further in this analysis (Hansen, 1990; Caretta *et al.,* 1998; Defran and Weller, 1999). In southern California, animals are found within 500 m (0.27 nmi) of shoreline 99% of the time and within 250 m (0.13 nmi) 90% of the time (Hanson and Defran, 1993). The original calculated take estimates for bottlenose dolphins was 0.15, based on a density of 0.11. The corrected calculated take estimate is 0.4829, based on the corrected density of 0.0799. However, the corrected density estimate produces no change in the estimated take of 10 animals, which was increased (made more conservative) based on group size.

Comment 3: The Commission states that ExxonMobil estimated the numbers of marine mammal takes by multiplying the species specific densities by the area of the Level B harassment buffer zone (0.3188 km²) and the duration of the proposed conductor pipe installation activities. ExxonMobil calculated the latter as a total of 4.125 days for all six conductor pipes, apparently by summing each period of proposed conductor pipe installation activities and then dividing that cumulative exposure time by 24 hours to determine the number of days of exposure. Because pipe-driving sessions are interspersed between periods of no pipe-driving, summing across only pipe-driving periods underestimates the number of days of actual exposure. Instead, ExxonMobil should have summed across the entire pipe-driving timeframe, which includes period of no pipe-driving to determine the number of days animals would be exposed, because each day of pipe-driving has the potential to expose either the same animals repeatedly or different animals.

The Commission states that the take estimates should account for multiple days of exposure rather than aggregated hours of exposure. In this instance, ExxonMobil should have added 3.3 hours of estimated pile-driving per section to 7.3 hours of downtime per

section for a total of 10.6 hours per section of pipe. Multiplying that by the projected seven sections to be driven for each conductor pipe would result in a total of 74.2 hours, which when divided by 24 hours per day equated to 3.1 days of potential exposure per pipe. Using that method would yield a total of 18.6 days of potential exposure (3.1 days per conductor pipe multiplied by 6 pipes), which more accurately represents the total duration of proposed conductor pipe installation activities for all six conductor pipes. Accordingly, the Commission recommends that NMFS revise its take estimates for all species/stocks to account for the total number of days of potential exposure (i.e., 18.6 days), ensuring a more accurate estimate of potential takes.

The CBD also states that NMFS underestimates the impacts as the planned conductor pipe installation activities are intermittent and not continuous as described in the notice of the proposed IHA (79 FR 36743, June 30, 2014). Authorizing take based on this assumption underestimates actual take, which would occur over a much greater amount of time as it could impact communication and navigation of marine mammals in the action area.

Response: NMFS concurs with the Commission's recommendations and has revised the take calculations to account for 18.6 days of potential exposure. See Table 7 for the updated re-calculated take estimates and authorized take numbers.

Comment 4: The Commission states that ExxonMobil adjusted its take estimates by a factor of at least 10 for a number of species to account for group size. NMFS based its proposed take estimates on ExxonMobil's requested takes for all species except two—sperm whales and short-beaked common dolphins. NMFS proposed takes for a single sperm whale and 45 common dolphins, derived directly from density estimates with no adjustment for group size. Those two species typically occur in groups that may exceed the requested numbers of takes. Sperm whales typically occur in groups of 2 to 10 whales (Barlow *et al.,* 2005), and common dolphins occur in groups of hundreds to thousands of animals (Reeves *et al.,* 2002). If those species were to be observed in the vicinity of the project area, they likely would occur in numbers that exceed the requested number of takes. That could result in actual takes exceeding the authorized numbers of takes and/or premature shut-down of the proposed activities. In other similar situations, NMFS has increased the requested number of takes of a particular species to reflect the mean group size of that species (e.g., Table 4 in 78 FR 33811). Therefore, to ensure that the requested numbers of takes reflect numbers of individuals of each species that may be observed in the project area, the Commission recommends that NMFS increase its estimated numbers of takes for sperm whales and short-beaked common dolphins to reflect the minimum typical group size for each species (i.e., at least 2 and 450 animals, respectively).

Response: NMFS concurs with the Commission's recommendation and has increased the takes of sperm whales and short-beaked common dolphins from 1 and 45 to 2 and 450, respectively. NMFS has also increased the authorized take numbers for humpback (from 1 to 2), minke (from 1 to 2), sei (from 1 to 2), fin (from 1 to 2), blue (from 1 to 2), Baird's beaked (from 1 to 6), Cuvier's beaked (from 1 to 4), *Mesoplodon* spp. (from 1 to 2), killer (from 1 to 10), and short-finned pilot whales (from 1 to 40) as well as northern right whale dolphins (from 1 to 100) to account for average group size (Jefferson *et al.,* 2008).

Comment 5: The CBD states that NMFS underestimates the harmful impact of the proposed conductor pipe installation activities on endangered blue whales. The Santa Barbara Channel is important blue whale habitat. The global blue whale population has been reduced by commercial whaling from over 300,000 to likely fewer than 10,000 individuals. Blue whales off California are part of a population comprised of about 1,647 animals; scientists estimate that even three human-caused deaths each year will impede the recovery of the California population. Nine blue whales have died from collisions with ships from 2007 to 2011; this means that human-caused mortality of blue whales already exceeds the sustainable amount.

Response: NMFS fully considered the potential impacts of the planned conductor pipe installation activities on endangered blue whales. As described in the notice of the proposed IHA (79 FR 36743, June 30, 2014), NMFS anticipates only low level disturbance of blue whales, if any, in the form of Level B harassment. NMFS is authorizing take of two blue whale by Level B harassment only; no injury, serious injury, or mortality is anticipated or authorized. The potential impacts of the conductor pipe installation activities are expected to be temporary and are is not expected to have adverse consequences on the affected stock, including reductions in reproduction, numbers, or distribution that might appreciably reduce the stock's likelihood of surviving and recovering in the wild.

NMFS's Office of Protected Resources, Permits and Conservation Division, also initiated and engaged in formal consultation under section 7 of the ESA with NMFS's West Coast Regional Office, Protected Resources Division, on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. NMFS's West Coast Regional Office, Protected Resources Division issued a Biological Opinion addressing the effects of the proposed action on threatened and endangered species, including the blue whale. The Biological Opinion concluded that the proposed action is not likely to jeopardize the continued existence of the blue whale.

Comment 6: The CBD states that blue whales congregate throughout the Santa Barbara Channel (it hosts the world's densest summer seasonal congregation), and Harmony Platform is in the region that is an important area for blue whales. A recent tagging study determined the areas of highest use by blue whales off the West Coast. Researchers tagged 171 blue whales between 1993 and 2008, and the area of highest use was the western area in the Santa Barbara Channel (see Figure 1 of CBD's comments). The study showed that blue whales use the entire area of waters in southern California, but that the Santa Barbara Channel is the most heavily used. Between June and November, high densities of blue whales spend time feeding on the abundant planktonic krill in the area of this project (see Figure 2 of CBD's comments). The blue whales use the project area for foraging, and the conductor pipe installation activities will interfere with this important life function. Blue whales will be exposed to sounds that could have auditory damage, but could also be displaced from important foraging grounds.

Response: Harmony Platform, which is located at 34 22′35.906″ North and 120 10′04.48 West, is on the coastal side of the shipping lane in the Santa Barbara Channel (see Figure 1–1 of the IHA application). Based on Figure 1 from CBD's letter (adapted from Irvine [2014]), this location is in the lowest density area of blue whales in the U.S. Exclusive Economic Zone near the Channel Islands based on satellite tracks, with only 1 to 5 blue whales observed from 1998 to 2008. The highest density area (20 to 26 blue whales) shown in Figure 1 of CBD's letter is located further offshore from the shipping channel, and roughly coincides with the area of highest krill density in the California Current reported by Santora *et al.* (2011), which is approximately 30 to 50 km (16.2 to 27

nmi) from Harmony Platform. These distribution correlations are expected given that krill comprise the majority of the blue whale's diet, and indicate that blue whales rarely forage or congregate within 5 to 10 km (2.7 to 5.4 nmi) of Harmony Platform, which is well outside of the expected 325 m buffer zone for Level B harassment. NMFS anticipates only low level disturbance of blue whales, if any, in the form of Level B harassment, as Harmony Platform is located in an area of lowest blue whale density and second lowest krill density in the California Current (see Santora *et al.,* 2011, Figure 5). NMFS does not expect the conductor pipe installation activities to displace blue whales from foraging grounds.

Comment 7: CBD states that new science shows that blue whales, and possible other baleen whales, are highly susceptible to behavioral disturbance from noise pollution. The Goldbogen *et al.* (2013) study raises substantial concern because it demonstrates the potential impacts of high intensity noise on the essential life functions of blue whales. The study found that mid-frequency sonar can disrupt feeding and displace blue whales from high-quality prey patches, significantly impacting their foraging ecology, individual fitness, and population health. Even fairly low-received levels can have an adverse impact.

Response: The Goldbogen *et al.* (2013) study analyzed behavioral responses of tagged blue whales in response to simulated military sonar and other mid-frequency sounds used during a controlled exposure experiment in feeding areas within the Southern California Bight. The study concluded that the responses of animals to mid-frequency sonar were complex, dependent on the behavioral state and sound exposure factors, and represented a general avoidance response of a perceived threat that appeared to subside quickly after sound exposure. ExxonMobil's conductor pipe installation activities would not generate the same sound characteristics as the military sonar and other mid-frequency sounds that were used during those controlled exposure experiments. Moreover, the IHA requires ExxonMobil to implement monitoring and mitigation measures to avoid exposing marine mammals, including blue whales, to sounds levels that could have potential adverse impacts. As described in the notice of the proposed IHA (79 FR 36743, June 30, 2014), NMFS anticipates only low level disturbance of marine mammals in the form of Level B harassment from ExxonMobil's activities. NMFS does not anticipate significant impacts to the foraging behavior, individual fitness, or population health of blue whales in the action area.

Comment 8: The CBD states that the best available science indicates western North Pacific gray whales may be present in the survey area. Recently, a tagged western North Pacific gray whale traveled all the way from Sakhalin Island, Russia, to the west coast of North America, indicating that the population may merge with the eastern North Pacific population during migration and may therefore be taken by activity. There are currently an estimated 155 western North Pacific gray whales left in the world. With such low population numbers, the take of even one of these whales would have greater than negligible impacts on the species or stock.

Response: Western North Pacific gray whales are not expected to occur in the action area. There is evidence of movement between ''eastern'' and ''western'' populations of North Pacific gray whales, but the evidence thus far only supports low inter-area movements. For gray whales that migrate along the continental U.S., evidence from photo-identification work supports only seven confirmed western gray whale sightings (as well as a single satellite-tracked individual) ever in the central and eastern Pacific Ocean compared to roughly 20,000 individuals composing the eastern North Pacific population, which has been tracked for decades (Mate *et al.,* 2011; Burdin *et al.,* 2011; Weller *et al.,* 2011). These sightings occurred along Alaska, Washington, and Oregon, where foraging could occur. Urban *et al.* (2012) matched 13 individuals through photo-identification between summer feeding grounds in Russia and winter breeding lagoons in Mexico. The only motivation for an individual to continue further south (beyond foraging opportunities) is to participate in breeding and calving in lagoons of Baja California (Mexico) and the Gulf of California. However, numerous studies have found that genetic exchange between eastern and western populations is not occurring to a significant level (Leduc *et al.,* 2002; Lang *et al.,* 2004; Weller *et al.,* 2004b; Lang *et al.,* 2005; Swartz *et al.,* 2006; Weller *et al.,* 2006a; Weller *et al.,* 2007; Brownell Jr. *et al.,* 2009; Kanda *et al.,* 2010; Lang *et al.,* 2010b; Burdin *et al.,* 2011). Moore and Weller (2012) determined the probability of taking a single gray whale from the western population during the proposed Makah Indian Tribe hunt as 0.014 to 0.051 during a single year. NMFS does not expect western North Pacific gray whales to occur in the action area due to the lack of documented trans-Pacific movement (particularly as far as the action area) as well as the lack of rationale for gray whales from the western population to move through the area.

Comment 9: The CBD states that the North Pacific right whale is a potentially impacted species for which no take may be authorized. There are an estimated 25 to 30 individuals in the eastern stock of North Pacific right whales, making it the most highly endangered large whale in the world (Wade *et al.,* 2011). Although NMFS notes that North Pacific right whales may be present in the project area, it assumes, without support, that no North Pacific right whales will be taken.

Response: The North Pacific right whale is rarely found off the U.S. west coast. The majority of North Pacific right whale sightings from the eastern North Pacific stock occur in the Bering Sea and adjacent areas of the Aleutian Islands and Gulf of Alaska. Sightings of this species have been reported as far south as central Baja California in the eastern North Pacific, as far south as Hawaii in the central North Pacific, and as far north as the sub-Arctic waters of the Bering Sea and Sea of Okhotsk in the summer. Data from passive acoustic monitoring indicates that North Pacific right whales are present year-round in the southeastern Bering Sea, with peaks in the late summer (August to September). Although individuals may travel south from the high-latitudes of the Bering Sea to lower-latitudes, animals that have been sighted in waters off Hawaii or tropical Mexico have been considered extralimital for this species (Brownell *et al.,* 2001). The North Pacific right whale has not been observed near Harmony Platform. Therefore, no takes of North Pacific right whales are anticipated or authorized by NMFS. Although North Pacific right whales are not expected to occur in the action area, NMFS's Office of Protected Resources, Permits and Conservation Division also considered the conservation status, rarity, and habitat of ESA-listed marine mammals (including the North Pacific right whale) when developing mitigation measures for the conductor pipe installation activities. Included in the IHA are special procedures for situations or species of concern (see ''Mitigation'' section below). If a North Pacific right whale is visually sighted during the conductor pipe installation activities, the pipe-driving activities must be shut-down regardless of the distance of the animal(s) to the sound source. The pipe-driving will not resume firing until 30

minutes after the last documented whale visual sighting.

Comment 10: The CBD states that sperm whales reach peak abundance in California from April through mid-June and from the end of August through mid-November, which is during the time of the proposed conductor pipe installation activities. Any take of a sperm whale would have greater than negligible impacts on the stock because NMFS must take into account the cumulative take of sperm whales from other activities, including incidental catch by fisheries. The California drift gillnet fishery, which operates primarily in southern California from August through January, took an estimated sixteen endangered sperm whales in the 2010 to 2011 fishing season (Caretta and Enriquez, 2012). Including both fishery and ship-strike mortality, the average annual rate of kill and serious injury is four sperm whales, exceeding the potential biological removal level of 1.5 (Caretta *et al.,* 2012). With an estimated 971 sperm whales in the population, this level of anthropogenic take cannot be considered a negligible impact.

Response: Sperm whale abundance varied off California between 1979/1980 and 1991 (Barlow, 1994) and between 1991 and 2008 (Barlow and Forney, 2007). The most recent estimate from 2008 is the lowest to date, in sharp contrast to the highest abundance estimates obtained from NMFS's 2001 and 2005 surveys. However, there is no reason to believe that the population has declined; the most recent survey estimate likely reflects inter-annual variability in the study area. To date, there has not been a statistical analysis to detect trends in abundance. NMFS's 2013 Stock Assessment Report estimated a sperm whale abundance of 971 individuals for the California/Oregon/Washington stock. A new analysis by Moore and Barlow (in press) estimates a population abundance of approximately 21,31 animals (1,332 minimum).

NMFS expects potential impacts by Level B harassment only to sperm whales; no injury, serious injury, or mortality is anticipated or authorized. The potential impacts are expected to be temporary and the action is not expected to have adverse consequences on the stock, including reductions in reproduction, numbers, or distribution that might appreciably reduce the stock's likelihood of surviving and recovering in the wild. Based on our analysis of the likely effects of the action on sperm whales and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures (see ''Mitigation'' below), NMFS finds that the take of small numbers of sperm whales by Level B harassment incidental to ExxonMobil's conductor pipe installation activities will have a negligible impact on the affected marine mammal species or stocks.

NMFS's Office of Protected Resources, Permits and Conservation Division, also initiated and engaged in formal consultation under section 7 of the ESA with NMFS's West Coast Regional Office, Protected Resources Division, on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. NMFS's West Coast Regional Office, Protected Resources Division issued a Biological Opinion addressing the effects of the proposed action on threatened and endangered species, including the sperm whale. The Biological Opinion concluded that the proposed action is not likely to jeopardize the continued existence of the sperm whale.

Comment 11: The CCC states that sea surface temperatures off of southern California and in the eastern north Pacific Ocean at large have been above normal for several months, and with an apparent El Nino event emerging in the equatorial Pacific Ocean later this year, are likely to remain elevated through the fall, winter, and into 2015. As a consequence of the unusually warm waters, marine mammal species more typical of subtropical latitudes have been sighted off of southern California and in the Santa Barbara Channel. These species may continue to be present in numbers and locations beyond those that can be reflected accurately by density estimates derived from long term survey and abundance datasets. These include cetaceans such as Bryde's whales (*Balaenoptera brydei*), false killer whales (*Pseudorca crassidens*), and short-finned pilot whales (*Globicephala macrorhynchus*), which have rarely been seen off the California coast in recent years. In light of these unusual environmental conditions, it may be necessary for NMFS to consider whether additional species could be exposed to the conductor pipe installation activities, and to revisit the species abundance assumptions underlying its incidental take calculations for the species already evaluated in the proposed IHA.

Response: NMFS has received anecdotal reports from the public, whale watching companies, and other sources of recent sightings of Bryde's, false killer, and short-finned pilot whales. As discussed in the notice of the proposed IHA (79 FR 36743, June 30, 2014), these three species are generally found south of the Santa Barbara Channel and are unlikely to be found in the action area. Bryde's whales are extremely rare in the Southern California Bight, with fewer than ten confirmed sightings from August 2006 to September 2010 (Smultea *et al.,* 2012). NMFS West Coast Regional Office has received reports of up to 4 individual Bryde's whales sighted in the summer of 2014 and has had a total of 12 sightings ever documented in the past. NMFS West Coast Regional Office has received reports of up to 40 short-finned pilot whales sighted off the Channel Islands and elsewhere. A group of approximately 50 short-finned pilot whales were sighted off the coast of Dana Point in Orange County in June 2014. A group of approximately 40 to 70 false killer whales were sighted off the coast of Dana Point in March 2014. NMFS concurs with the CCC's recommendation and has authorized take, by Level B harassment, for Bryde's, false killer, and short-finned pilot whales based on the possibility of encountering a single individual Bryde's whale or a group of false killer and/or short-finned pilot whales in the action area of the planned conductor pipe installation activities at Harmony Platform. NMFS has also revisited the species abundance assumptions for all of the marine mammal species and has adjusted density estimates for those that occur in the California Current ecosystem. See Table 7 for the revised density estimates and authorized take numbers for these marine mammal species.

Comment 12: The CBD is concerned with NMFS's conclusion to exclude consideration of Guadalupe fur seals, which are rarely sighted animals with ranges within the action area.

Response: NMFS does not expect Guadalupe fur seals to be in the immediate action area or exposed to sounds generated by the conductor pipe installation activities. Guadalupe fur seals occur primarily near Guadalupe Island, Mexico, their primary breeding area. They are found north of the U.S.-Mexican border with a very small number of adults and pups observed on San Miguel Island (the western-most Channel Island in the Southern California Bight). Guadalupe fur seal strandings have occurred in California and north into Washington, which indicates that they must transit through southern California from Mexico to these areas where they have stranded. However, the encounter rate in the action area is considered to be very low. While they could potentially transit through the general area, NMFS considers it unlikely that they would be exposed to levels of sound associated

with take, given their rare occurrence in the area, the duration of the activities, and the size of the ensonified area.

Mitigation

Comment 13: The CBD states that the mitigation measures are inadequate to ensure the least practicable adverse impact. If NMFS decides to approve the action it must require additional monitoring and mitigation measures to implement the least practicable impact on marine mammals.

Response: NMFS's Office of Protected Resources, Permits and Conservation Division considered a number of mitigation measures before issuing the IHA, including measures proposed by ExxonMobil and additional measures recommended by the public. NMFS's Office of Protected Resources, Permits and Conservation Division has determined that the monitoring and mitigation measures required by the IHA provide the means of effecting the least practicable impact on species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Comment 14: The CBD states that NMFS must fully analyze time-area restrictions as a mitigation measure. NMFS must not allow pipe-driving when blue whales aggregate in the Santa Barbara Channel during June through November. The western portion of the Santa Barbara Channel, where Harmony Platform is located, provides a core area for the blue whales, and pipe-driving should be restricted in this important habitat for blue whales. This closure should further be extended to avoid overlap with the presence of other whales.

Response: NMFS disagrees with the CBD that time-area restrictions are necessary as a mitigation measure. The Harmony Platform is located at 34 22' 35.906'' North and 120 10' 04.48'' West, on the coastal side of the shipping lane in the Santa Barbara Channel (see Figure 1 of the IHA application). Based on Figure 1 in CBD's comment letter (adapted from Irvine, 2014), this location is in the lowest density of blue whales in the U.S. Exclusive Economic Zone near the Channel Islands based on satellite tracks, with only 1 to 5 blue whales observed from 1998 to 2008 (yellow zone in Figure 1). The highest density area shown in Figure 1 (20 to 26 blue whales) is located further offshore from the shipping lane, and roughly coincides with the area of highest krill density in the California Current reported by Santora *et al.* (2011), which is approximately 30 to 50 km from Harmony Platform. These distribution correlations are expected given that krill comprise the majority of the blue whale's diet, and indicate that blue whales rarely forage or congregate within 5 to 10 km of Harmony Platform. Therefore, given that the areas of highest blue whale density and krill density near the Channel Islands are well outside the 325 m buffer zone for the pipe-driving activities, NMFS disagrees that time-area restrictions for the blue whale are necessary.

Comment 16: The CBD states that NMFS must fully analyze larger exclusion zones as a mitigation measure. The use of more accurate thresholds would lead to larger exclusion zones. Additionally, the modeled distances disagree with measured sound levels for other pile-driving activities. The exclusion zone of 3.5 m for pinnipeds and 10 m for cetaceans is woefully inadequate to mitigate Level A harassment. Bailey *et al.* (2010) measured 205 dB of broadband sound at 10 m from the pile-driving source. While the source was louder at 226 dB in that study, it indicates that the exclusion zone should be much larger.

Response: NMFS disagrees with the CBD's comment. For a response to CBD's comment regarding NMFS' thresholds for Level A harassment, see the response to comment 21 (below) X. NMFS and ExxonMobil are not aware of any available in-situ measurements of underwater sound using a 90 kJ impact hammer with a 66 cm (26 in) diameter steel, 426.7 to 457.2 m (1,400 to 1,500 ft) pipe, in which case, acoustic modeling is an appropriate and oft-used scientifically defensible method available to estimate the buffer and exclusion zones established for potential impact and mitigation purposes. A detailed acoustic modeling report by JASCO titled ''Assessment of Airborne and Underwater Noise from Pile Driving Activities at the Harmony Platform'' was provided to NMFS with the IHA application, and includes detailed information on the computer model, uncertainties, and associated input parameters used to calculate distance to the buffer (Level B harassment) and exclusion (Level A harassment) zones. NMFS evaluated the report and determined that it provided sufficient support to establish predicted buffer and exclusion zones. Moreover, these predicted underwater and in-air sound levels will be assessed for accuracy when the monitoring data is analyzed after installation of the first conductor pipe, and the buffer and exclusion zones will be revised as necessary for the installation of the remaining pipes based on the results of the sound source verification.

Bailey *et al.* (2010) assessed the potential effects of underwater noise levels during pile-driving at an offshore windfarm on marine mammals; however, the piles and pile-driving technical details as well as the sound analysis in that study are different than those planned to be used during ExxonMobil's conductor pipe installation activities. The Bailey *et al.* (2010) study was conducted for the installation of wind turbines using much shorter ''piles'' in water depths of approximately 40 m (131.2 ft) (hammer specifications unknown); therefore, the underwater and in-air noise estimates and corresponding buffer and exclusion zones are not comparable between the two projects. This is because underwater sound propagation is a function of sound source energy and frequency, water depth and physical structure (e.g., salinity, temperature), bottom sediment type (hardness, porosity), and pipe material (e.g., steel, concrete) and size; all of which differ between the Bailey *et al.* (2010) site and the Harmony Platform site.

Comment 16: The CBD states that NMFS must fully analyze air bubble curtains, which can reduce sound by 20 to 30 dB depending on their design, or explore the use of other noise reduction technologies (e.g., pile caps, dewatered cofferdams, and other physical barriers) for mitigating underwater sound from impact hammer pipe-driving.

Response: NMFS and ExxonMobil evaluated the potential use of air bubble curtains to reduce the underwater sound generated during pipe-driving activities in a water depth of 365.8 m (1,200 ft). The use of an air bubble curtain is not feasible due to interference of the jacket infrastructure at Harmony Platform, and the water depth and current speed (greater than 10 meters per second) at the activity site, which prevents the ability to maintain a constant air bubble density along the conductor length that would be effective at reducing underwater sound from the conductor pipe installation activities. The conductor pipes are being installed in 365.8 m of water through 76.2 cm (30 in) guides that are attached to structural members on the Harmony Platform; therefore, an air bubble curtain would be ineffective at reducing the output sound level, as bubbles would be dispersed and carried by currents away from the pipe and redirected by interference from the surrounding jacket members and conductor infrastructure. Because the conductors pass through 365.8 m of water column, another issue that eliminated this sound reduction

technique from consideration was that the air nozzles used to generate the air bubbles would most likely freeze-up before reaching the sea bottom due to the pressure and cold temperatures of the water, which would render the air bubble curtain ineffective. All known applications of air bubble curtains that have effectively reduced sound by 20 to 30 dB have been used at depths shallower than 365.8 m and in waters with current velocities that are less than those commonly encountered in Santa Barbara Channel.

NMFS and ExxonMobil also evaluated the potential use of a dewatered cofferdam to reduce the underwater sound generated during conductor pipe installation activities. The installation of a dewatered cofferdam around each conductor installation is not feasible due to the 365.8 ft water depth and corresponding pressure. In addition, each conductor has a limited footprint and has subsea interference from the jacket infrastructure. Also, a cofferdam would have to be driven into the sea bottom at a depth of 365.8 m to provide structural stability and protection from water currents, which would create additional potential impacts to marine mammals in the action area.

NMFS and ExxonMobil also explored a physical noise abatement technology using flexible air-filled resonators that are lowered in multiple long hoses along the sides of each conductor prior to conductor pipe installation activities. The resonators would be filled with air in a hose-like structure that would close the gap around the conductors. This technology is not fully developed, and the scale of this noise abatement system would be unprecedented and impossible to install around Harmony Platform. The deepest known noise abatement system was installed in approximately 36.6 m (120 ft) of water, which is just one tenth of the depth where the planned conductor pipe installation activities will occur. This technology also has the same limitations as a bubble curtain, in that it uses air as the delivery system to fill the resonator and attenuate sound. At a water depth of 365.8 m, air would likely form hydrates prior to filling the resonators, which would render this approach ineffective.

Comment 17: The CBD states that NMFS must fully analyze and should restrict conductor pipe installation activities so that they do not occur during low visibility. The action is a 24-hour, continuous activity with pipe-driving potentially happening at night and during low visibility. The PSOs are ineffective at night and during low visibility. This means that during those times the exclusion zone will not be effective in mitigating take by Level A harassment. Furthermore, artificial lighting, while better for PSOs, brings hazards to migratory birds.

Response: NMFS disagrees with the CBD's comment. The IHA does consider and address conductor pipe installation activities during low-visibility and nighttime conditions. If inclement weather conditions (i.e., fog, rain, or rough Beaufort sea state) limit or impair PSO's visibility of the water's surface to less than 30.5 m (100 ft) within the action area, all noise-generating conductor pipe installation activities must be stopped until visibility improves. To facilitate visual monitoring during non-daylight hours, the exclusion zones must be illuminated by lights to allow for more effective viewing of the area by the PSO on-duty.

ExxonMobil is providing artificial lighting for conductor pipe installation activities during nighttime and low visibility operations at the +15 ft level of the Harmony Platform that will provide adequate visibility to allow observation of the 3.5 m and 10 m exclusion zones for pinnipeds and cetaceans, respectively, as well as the surrounding areas. The lighting will only be on for those periods when conductor pipes are being driven at night or during periods of low visibility which typically occur for only a short period of time during the activities using the impact hammer. The artificial lighting that will be installed will have light shields attached to direct the light downward toward the water. Note that the Harmony Platform has existing lighting to allow for safe operations and to comply with regulations. ExxonMobil will continue its current monitoring practices throughout the planned conductor pipe installation activities, and will note any increase in bird activity during nighttime operations.

Monitoring and Reporting

Comment 18: The Commission states that the accurate characterization of the sizes of the buffer and exclusion zones is critical for implementing mitigation measures and estimating the numbers of animals taken. In the past, the Commission has recommended a rapid turnaround of the in-situ sound source verification analysis to ensure that buffer and exclusion zones are the appropriate size. However, in at least one instance, rapid turnaround has resulted in errors, as occurred with ION's measurements of source levels during its 2012 Arctic in-ice survey. In that case, the size of the exclusion zone was decreased from that modeled based on erroneous field-report results. The error was not discovered until the end of the field season, when it was determined that the in-season adjustments resulted in unauthorized Level A harassment takes of bowhead whales. Since the purpose of sound source verification is to ensure protection of marine mammals, one way to reduce risk to marine mammals would be to allow only for expansion, but not contraction, of the buffer and/or exclusion zones after in-situ adjustment in the size of the buffer and/or exclusion zones if the size(s) of the estimated zones are determined to be too small. The CCC also supports an adaptive approach to adjusting the buffer and exclusion zones based on in-situ data collected during the sound source verification. The process of adjusting the zones should begin from a protective baseline.

Response: Monitoring will be performed during all impact hammer pipe-driving operations. Hydrophones will be deployed prior to the start of impact hammer pipe-driving the first pipe section. Data will be collected and analyzed upon completion of the conductor pipe's last pipe section. Monitoring equipment will be redeployed prior to installation of the remaining five conductor pipes. Upon completion of the first conductor pipe, acoustic data will be retrieved from the near field (approximately 10 m) and far field (approximately 325 to 500 m) recorders, analyzed, and compared to the predicted rms radii distances for the buffer and exclusion zones. ExxonMobil will consult with NMFS prior to proceeding with conductor pipe installation activities in the event that acoustic field data indicate that predicted radii distances for the buffer and exclusion zones need to adjusted (either expanded or contracted). Distances will be recalculated using field data, and monitoring equipment will be redeployed at the corrected distances prior to installation of the remaining conductor pipes, following authorization from NMFS. The planned extended down period (non-hammering) between the completion of the first pipe installation and the start of the second pipe installation will be used to determine the actual size of buffer and exclusion zones (i.e., Level B and Level A harassment zones) to ensure that the radii estimated from acoustic modeling are not too small.

Comment 19: The CCC states that due to the uncertainties with modeling, site specific, and/or seasonal oceanographic conditions, they request being provided copies of the monitoring reports referenced in the notice of the proposed IHA (79 FR 36743, June 30, 2014) for

ExxonMobil's conductor pipe installation activities. If monitoring indicates impacts greater than anticipated, CCC intends to continue to work with NMFS to assure the activity can be modified accordingly to minimize effects on marine mammals.

Response: NMFS will provide copies of the in-water and in-air monitoring and sound source verification report for ExxonMobil's conductor pipe installation activities to the CCC when the document has been completed (after the first conductor pipe has been installed and, the in-situ measurements taken). NMFS will also provide the final 90-day monitoring report required by the IHA to the CCC and make it publicly available on our Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#iha.*

Acoustic Thresholds

Comment 20: CBD states that NMFS's current 160 dB threshold for Level B harassment in the notice of the proposed IHA (79 FR 36743, June 30, 2014) does not reflect the best available science and is not sufficiently conservative. CBD state that in particular, the 160 dB threshold is non-conservative, because the scientific literature establishes that behavioral disruption can occur at substantially lower received levels for some species.

Response: NMFS's practice has been to apply the 160 dB received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Specifically, NMFS derived the 160 dB threshold data from mother-calf pairs of migrating gray whales (Malme *et al.,* 1983, 1984) and bowhead whales (Richardson *et al.,* 1985, 1986) responding to airgun operations. NMFS acknowledge there is more recent information bearing on behavioral reactions to sound sources such as pile-driving, seismic airguns, sonars, electromechanical devices, etc., but those data only illustrate how complex and context-dependent the relationship is between the various sound sources, and do not, as a whole, invalidate the current threshold. Accordingly, it is not a matter of merely replacing the existing threshold with a new one. NMFS discussed the science on this issue qualitatively in our analysis of potential effects to marine mammals in the **Federal Register** notice of the proposed IHA (79 FR 36743, June 30, 2014). NMFS is currently developing revised acoustic guidelines for assessing the effects of anthropogenic sound on marine mammals. Until NMFS finalizes these guidelines (a process that includes internal agency review, public notice and comment, and peer review), NMFS will continue to rely on the existing criteria for Level A and Level B harassment shown in Table 4 of the notice of the proposed IHA (79 FR 36743, June 30, 2014).

As mentioned in the **Federal Register** notice of the proposed IHA (79 FR 36743, June 30, 2014), NMFS expects that the onset for behavioral harassment is largely context dependent (e.g., behavioral state of the animals, distance from the sound source, etc.) when evaluating behavioral responses of marine mammals to acoustic sources. Although using a uniform sound pressure level of 160 dB for the onset of behavioral harassment for impulse noises may not capture all of the nuances of different marine mammal reactions to sound, it is an appropriate way to manage and regulate anthropogenic noise impacts on marine mammals until NMFS finalizes its acoustic guidelines.

Comment 21: CBD states that NMFS's use of the 180 and 190 dB thresholds for estimating Level A harassment and the likelihood of temporary and/or permanent threshold shift do not consider the best available science and is not sufficiently conservative. CBD cites Kastak *et al.* (2008), Lucke *et al.* (2009), Wood *et al.* (2012) and Kajawa and Liberman (2009).

Response: As explained in the notice of the proposed IHA (79 FR 36743, June 30, 2014), ExxonMobil will be required to establish a 180 and 190 dB re 1 μPa exclusion zone for marine mammals before the conductor pipe installation activities begin. NMFS expects that the required platform-based visual monitoring of the exclusion zones is appropriate to implement mitigation measures to prevent Level A harassment. If the PSOs observe marine mammals approaching the exclusion zone, ExxonMobil must shut-down pipe driving to ensure that the marine mammal does not approach the applicable exclusion radius. The avoidance behaviors discussed in the notice of the proposed IHA (79 FR 36743, June 30, 2014) also supports our expectations that individuals will avoid exposure at higher levels.

NMFS's current Level A thresholds, which identify levels above which PTS could be incurred, were designed to be precautionary in that they were based on levels were animals had incurred TTS. NMFS is currently working on finalizing acoustic guidance that will identify revised TTS and PTS thresholds that references the studies identified by CBD. In order to ensure the best possible product, the process for developing the revised thresholds includes both peer and public review (both of which have already occurred) and NMFS will begin applying the new thresholds once the peer and public input have been addressed and the acoustic guidance is finalized.

Regarding the Lucke *et al.* (2009) study, the authors found a threshold shift (TS) of a harbor porpoise after exposing it to airgun noise (single pulse) with a received sound pressure level (SPL) at 200.2 dB (peak–to-peak) re 1 μPa, which corresponds to a sound exposure level of 164.5 dB re 1 μPa^2 s after integrating exposure. NMFS currently uses the root-mean-square (rms) of received SPL at 180 dB and 190 dB re 1 μPa as the threshold above which permanent threshold shift (PTS) could occur for cetaceans and pinnipeds, respectively. Because the pipe-driving noise is a broadband impulse, one cannot directly extrapolate the equivalent of rms SPL from the reported peak-to-peak SPLs reported in Lucke *et al.* (2009). However, applying a conservative conversion factor of 16 dB for broadband signals from seismic surveys (Harris *et al.,* 2001; McCauley *et al.,* 2000) to correct for the difference between peak-to-peak levels reported in Lucke *et al.* (2009) and rms SPLs; the rms SPL for TTS would be approximately 184 dB re 1 μPa, and the received levels associated with PTS (Level A harassment) would be higher. This is still above the current 180 dB rms re 1 μPa threshold for injury. Yet, NMFS recognizes that the temporary threshold shift (TTS) of harbor porpoise is lower than other cetacean species empirically tested (Finneran *et al.,* 2002; Finneran and Schlundt, 2010; Kastelein *et al.,* 2012). NMFS considered this information in the notice of the proposed IHA (79 FR 36743, June 30, 2014).

A Thompson *et al.* (1998) telemetry study on harbor (*Phoca vitulina*) and grey seals (*Halichoerus grypus*) suggested that avoidance and other behavioral reactions by individual seals to small airgun sources may at times be strong, but short-lived. The researchers conducted 1-hour controlled exposure experiments exposing individual seals fitted with telemetry devices to small airguns with a reported source level of 215–224 dB re 1 μPa (peak-to-peak) (Thompson *et al.,* 1998; Gordon *et al.,* 2003). The researchers measured dive behavior, swim speed heart rate and stomach temperature (indicator for feeding), but they did not measure hearing threshold shift in the animals. The researchers observed startle responses, decreases in heart rate, and temporary cessation of feeding. In six out of eight trials, harbor seals exhibited strong avoidance behaviors, and swam

rapidly away from the source (Thompson *et al.,* 1998; Gordon *et al.,* 2003). One seal showed no detectable response to the airguns, approaching within 300 m (984 ft) of the source (Gordon *et al.,* 2003). However, they note that the behavioral responses were short-lived and the seals' behavior returned to normal after the trials (Thompson *et al.,* 1998; Gordon *et al.,* 2003). The study does not discuss temporary threshold shift or permanent threshold shift in harbor seals and the estimated rms SPL for this survey is approximately 200 dB re 1 μPa, well above NMFS's current 180 dB rms re 1 μPa threshold for injury for cetaceans and NMFS' current 190 dB rms re 1 μPa threshold for injury for pinnipeds (accounting for the fact that the rms sound pressure level (in dB) is typically 16 dB less than the peak-to-peak level).

In a study on the effect of non-impulsive sound sources on marine mammal hearing, Kastak *et al.* (2008) exposed one harbor seal to an underwater 4.1 kHz pure tone fatiguing stimulus with a maximum received sound pressure of 184 dB re 1 μPa for 60 seconds (Kastak *et al.,* 2008; Finneran and Branstetter, 2013). A second 60-second exposure resulted in an estimated threshold shift of greater than 50 dB at a test frequency of 5.8 kHz (Kastak *et al.,* 2008). The seal recovered at a rate of −10 dB per log (min). However, 2 months post-exposure, the researchers observed incomplete recovery from the initial threshold shift resulting in an apparent permanent threshold shift of 7 to 10 dB in the seal (Kastak *et al.,* 2008). NMFS notes that pipe-driving using an impact hammer sound is an impulsive source, and the context of Kastak *et al.* (2008) study is related to the effect of non-impulsive sounds on marine mammals.

NMFS also considered two other Kastak *et al.* (1999, 2005) studies. Kastak *et al.* (1999) reported TTS of approximately 4–5 dB in three species of pinnipeds (harbor seal, California sea lion, and northern elephant seal) after underwater exposure for approximately 20 minutes to sound with frequencies ranging from 100 to 2,000 Hz at received levels 60 to 75 dB above hearing threshold. This approach allowed similar effective exposure conditions to each of the subjects, but resulted in variable absolute exposure values depending on subject and test frequency. Recovery to near baseline levels was reported within 24 hours of sound exposure. Kastak *et al.* (2005) followed up on their previous work, exposing the same test subjects to higher levels of sound for longer durations. The animals were exposed to octave-band sound for up to 50 minutes of net exposure. The study reported that the harbor seal experienced TTS of 6 dB after a 25-minute exposure to 2.5 kHz of octave-band sound at 152 dB (183 dB SEL). The California sea lion demonstrated onset of TTS after exposure to 174 dB (206 dB SEL).

NMFS acknowledges that PTS could occur if an animal experiences repeated exposures to TTS levels. However, an animal would need to stay very close to the sound source for an extended amount of time to incur a serious degree of PTS, which in this case would be highly unlikely due to the required mitigation measures in place to avoid Level A harassment and the expectation that a mobile marine mammal would generally avoid an area where received sound pulse levels exceed 160 dB re 1 μPa (rms) (review in Richardson *et al.,* 1995; Southall *et al.,* 2007).

NMFS also considered recent studies by Kujawa and Liberman (2009) and Lin *et al.* (2011). These studies found that despite completely reversible threshold shifts that leave cochlear sensory cells intact, large threshold shifts (40 to 50 dB) could cause synaptic level changes and delayed cochlear nerve degeneration in mice and guinea pigs, respectively. NMFS notes that the high level of TTS that led to the synaptic changes shown in these studies is in the range of the high degree of TTS that Southall *et al.* (2007) used to calculate PTS levels. It is not known whether smaller levels of TTS would lead to similar changes. NMFS, however, acknowledges the complexity of noise exposure on the nervous system, and will re-examine this issue as more data become available.

In contrast, a recent study on bottlenose dolphins (Schlundt, *et al.,* 2013) measured hearing thresholds at multiple frequencies to determine the amount of TTS induced before and after exposure to a sequence of impulses produced by a seismic airgun. The airgun volume and operating pressure varied from 40 to 150 in^3 and 1,000 to 2,000 psi, respectively. After three years and 180 sessions, the authors observed no significant TTS at any test frequency, for any combinations of airgun volume, pressure, or proximity to the dolphin during behavioral tests (Schlundt, *et al.,* 2013). Schlundt *et al.* (2013) suggest that the potential for airguns (or in this case pipe-driving using an impact hammer) to cause hearing loss in dolphins is lower than previously predicted, perhaps as a result of the low-frequency content of airgun impulses compared to the high-frequency hearing ability of dolphins. Although the sounds from pipe-driving using an impact hammer are not equivalent to those produced by a seismic airgun, they are both considered impulse sounds.

Comment 22: CBD states that NMFS must consider that even behavioral disturbance can amount to Level A take if it interferes with essential life functions.

Response: NMFS notes that Level B take has been defined previously in this document and specifically relates to behavioral disturbance. NMFS acknowledge that behavioral harassment in certain contexts, or continued over long durations, may, in certain situations have impacts on health and fitness of marine mammals. The discussion of whether these more severe impacts on individuals (which could lead to population-level impacts) occur as a result of any particular project are included in the negligible impact analysis. They are also considered qualitatively in the development of mitigation measures, via consideration of biologically important areas in the analysis and for time-area closures, or other important factors. Please see the response to comment 21 for a discussion of studies addressing PTS (Level A harassment).

Comment 23: CBD requested that NMFS use a behavioral threshold below 160 dB for estimating take based on results reported in Bain and Williams (2006), Clark and Gagnon (2006), MacLeod *et al.* (2006), Risch *et al.* (2012), and DeRuiter *et al.* (2013).

Response: NMFS is constantly evaluating new science and how to best incorporate it into our decisions. This process involves careful consideration of new data and how it is best interpreted within the context of a given management framework. Each of these articles emphasizes the importance of context (e.g., behavioral state of the animals, distance from the sound source, etc.) in evaluating behavioral responses of marine mammals to acoustic sources.

These papers and the studies discussed in the notice of the proposed IHA (79 FR 36743, June 30, 2014) note that there is variability in the behavioral responses of marine mammals to noise exposure. However, it is important to consider the context in predicting and observing the level and type of behavioral response to anthropogenic signals (Ellison *et al.,* 2012). There are many studies showing that marine mammals do not show behavioral responses when exposed to multiple pulses at received levels at or above 160 dB re 1 μPa (e.g., Malme *et al.,* 1983; Malme *et al.,* 1984; Richardson *et al.,* 1986; Akamatsu *et al.,* 1993; Madsen

and Mohl, 2000; Harris *et al.,* 2001; Miller *et al.,* 2005; and Weir, 2008). And other studies show that whales continue important behaviors in the presence of seismic pulses (e.g., Richardson *et al.,* 1986; McDonald *et al.,* 1995; Greene *et al.,* 1999a, 1999b; Nieukirk *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005, 2006; Dunn and Hernandez, 2009).

In a passive acoustic research program that mapped the soundscape in the North Atlantic, Clark and Gagnon (2006) reported that some fin whales stopped singing for an extended period starting soon after the onset of a seismic survey in the area. The study did not provide information on received levels or distance from the sound source. The authors could not determine whether or not the whales left the area ensonified by the survey, but the evidence suggests that most if not all singers remained in the area (Clark and Gagnon, 2006). Support for this statement comes from the fact that when the survey stopped temporarily, the whales resumed singing within a few hours and the number of singers increased with time (Clark and Gagnon, 2006). Also, they observed that one whale continued to sing while the seismic survey was actively operating (Figure 4; Clark and Gagnon, 2006).

The authors conclude that there is not enough scientific knowledge to adequately evaluate whether or not these effects on singing or mating behaviors are significant or would alter survivorship or reproductive success (Clark and Gagnon, 2006). Thus, to address CBD's concerns related to the results of this action, it is important to note that ExxonMobil's action area is well away from any known breeding/calving grounds for low frequency cetaceans, thereby reducing further the likelihood of causing an effect on marine mammals.

MacLeod *et al.* (2006) discussed the possible displacement of fin and sei whales related to distribution patterns of the species during a large-scale seismic survey offshore the west coast of Scotland in 1998. The authors hypothesized about the relationship between the whale's absence and the concurrent seismic activity, but could not rule out other contributing factors (Macleod *et al.,* 2006; Parsons *et al.,* 2009). NMFS would expect that marine mammals may briefly respond to underwater sound produced by the pipe-driving activities by slightly changing their behavior or relocating a short distance. Based on the best available information, NMFS expects short-term disturbance reactions that are confined to relatively small distances and durations (Thompson *et al.,* 1998; Thompson *et al.,* 2013), with no long-term effects on recruitment or survival.

Risch *et al.* (2012) documented reductions in humpback whale (*Megaptera novaeangliae*) vocalizations in the Stellwagen Bank National Marine Sanctuary concurrent with transmissions of the Ocean Acoustic Waveguide Remote Sensing (OAWRS) low-frequency fish sensor system at distances of 200 km (108 nmi) from the source. The recorded OAWRS produced series of frequency modulated pulses and the signal received levels ranged from 88 to 110 dB re 1 μPa (Risch *et al.,* 2012). The authors hypothesize that individuals did not leave the area but instead ceased singing and noted that the duration and frequency range of the OAWRS signals (a novel sound to the whales) were similar to those of natural humpback whale song components used during mating (Risch *et al.,* 2012). Thus, the novelty of the sound to humpback whales in the study area provided a compelling contextual probability for the observed effects (Risch *et al.,* 2012). However, the authors did not state or imply that these changes had long-term effects on individual animals or populations (Risch *et al.,* 2012), nor did they necessarily rise to the level of an MMPA take. Thus, to address CBD's concerns related to the results of this study, NMFS again notes that the ExxonMobil's action area is well away from any known breeding/calving grounds for low frequency cetaceans, thereby reducing further the likelihood of causing an effect on marine mammals.

With repeated exposure to sound, many marine mammals may habituate to the sound at least partially (Richardson & Wursig, 1997). Bain and Williams (2006) examined the effects of a large airgun array (maximum total discharge volume of 1,100 in^3) on six species in shallow waters off British Columbia and Washington: harbor seal, California sea lion (*Zalophus californianus*), Steller sea lion (*Eumetopias jubatus*), gray whale (*Eschrichtius robustus*), Dall's porpoise (*Phocoenoides dalli*), and the harbor porpoise. Harbor porpoises showed ''apparent avoidance response'' at received levels less than 145 dB re 1 μPa at a distance of greater than 70 km (37.8 nmi) from the seismic source (Bain and Williams, 2006). However, the tendency for greater responsiveness by harbor porpoise is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.* 1995; Southall *et al.,* 2007). In contrast, the authors reported that gray whales seemed to tolerate exposures to sound up to approximately 170 dB re 1 μPa (Bain and Williams, 2006) and Dall's porpoises occupied and tolerated areas receiving exposures of 170 to 180 dB re 1 μPa (Bain and Williams, 2006; Parsons *et al.,* 2009). The authors observed several gray whales that moved away from the airguns toward deeper water where sound levels were higher due to propagation effects resulting in higher noise exposures (Bain and Williams, 2006). However, it is unclear whether their movements reflected a response to the sounds (Bain and Williams, 2006). Thus, the authors surmised that the gray whale data (i.e., voluntarily moving to areas where they are exposed to higher sound levels) are ambiguous at best because one expects the species to be the most sensitive to the low-frequency sound emanating from the airguns (Bain and Williams, 2006).

DeRuiter *et al.* (2013) recently observed that beaked whales (considered a particularly sensitive species to sound) exposed to playbacks (i.e., simulated) of U.S. tactical mid-frequency sonar from 89 to 127 dB re 1 μPa at close distances responded notably by altering their dive patterns. In contrast, individuals showed no behavioral responses when exposed to similar received levels from *actual* U.S. tactical mid-frequency sonar operated at much further distances (DeRuiter *et al.,* 2013). As noted earlier, one must consider the importance of context (for example, the distance of a sound source from the animal) in predicting behavioral responses. Regarding the public comments submitted by Clark *et al.* (2012) in reference to NMFS's use of the current acoustic exposure criteria; please refer to our earlier response to CBD.

None of these studies on the effects of airgun noise on marine mammals point to any associated mortalities, strandings, or permanent abandonment of habitat by marine mammals. Bain and Williams (2006) specifically conclude that ''. . . although behavioral changes were observed, the precautions utilized in the SHIPS survey did not result in any detectable marine mammal mortalities during the survey, nor were any reported subsequently by the regional marine mammal stranding network . . .'' The ExxonMobil's 160-dB threshold radius will likely not reach the threshold distances reported in these studies.

Currently NMFS is in the process of revising its behavioral noise exposure criteria based on the best and most recent scientific information. NMFS will use these criteria to develop methodologies to predict behavioral responses of marine mammals exposed to sound associated with conductor pipe

installation activities (primary source impact hammer operations). Although using a uniform sound pressure level of 160-dB re 1 μPa for the onset of behavioral harassment for impulse noises may not capture all of the nuances of different marine mammal reactions to sound, it is an appropriate way to manage and regulate anthropogenic noise impacts on marine mammals until NMFS finalizes its acoustic guidelines.

Comment 24: The CCC states that it applies a more conservative approach to permitting pile-driving in state waters and recommends using the model-generated 160-dB threshold as the initial exclusion zone that would trigger a shut-down of conductor pipe installation activities using the impact hammer if marine mammals are sighted by PSOs approaching or entering this area. The more protective 160 dB exclusion zone generated by modeling could subsequently be reduced if in-situ measurements taken during the sound source verification indicate that this is warranted. If use of the model-generated 160 dB threshold for this purpose was found to be infeasible, the CCC staff would recommend an alternate strategy of imposing an additional protective buffer to the model-generated 180 and 190 dB based exclusion zones.

Response: NMFS expects that acoustic stimuli resulting from the impact hammer pipe-driving associated with the conductor pipe installation activities has the potential to result in Level B harassment of marine mammals. NMFS disagrees with the CCC's recommendation to use the model-generated 160 dB threshold for underwater sounds as the initial exclusion zone that would trigger a shut-down for all marine mammals. Current NMFS practice, regarding exposure of marine mammals to high-level underwater sounds is that cetaceans and pinnipeds exposed to impulsive sounds at or above 180 and 190 dB (rms), respectively, have the potential to be injured (i.e., Level A harassment). NMFS considers the potential for Level B (behavioral) harassment to occur when marine mammals are exposed to sounds below injury thresholds but at or above the 160 dB (rms) threshold for impulse sounds (e.g., impact pile-driving) and the 120 dB (rms) threshold for continuous noise (e.g., vibratory pile-driving). No vibratory pile-driving is planned for ExxonMobil's planned activities in the Santa Barbara Channel.

The CCC's recommendation to use the estimated 160 dB exclusion zone as a trigger for shut-down is inconsistent with existing NMFS practice, and would effectively expand the Level A harassment exclusion zone for cetaceans and pinnipeds. It should be noted that a much larger exclusion zone for triggering shut-downs of conductor pipe installation activities has the potential to result in operational delays which could extend impact hammer pipe-driving time and/or result of losing a conductor pipe because successful completion of installation relies on consistent movement of the steel pipe through the bed sediment.

NMFS also disagrees with the CCC's recommendation regarding the use of a protective buffer to the model-generated 180 and 190 dB based exclusion zones. Monitoring will be performed during all impact hammer pipe-driving operations. Hydrophones will be deployed prior to the start of impact hammer pipe-driving the first pipe section. Data will be collected and analyzed upon completion of the conductor pipe's last pipe section. Monitoring equipment will be redeployed prior to installation of the remaining five conductor pipes. Upon completion of the first conductor pipe, acoustic data will be retrieved from the near field (approximately 10 m) and far field (approximately 325 to 500 m) recorders, analyzed, and compared to the predicted rms radii distances for the buffer and exclusion zones. ExxonMobil will consult with NMFS prior to proceeding with conductor pipe installation activities in the event that acoustic field data indicate that predicted radii distances for the buffer and exclusion zones need to adjusted (either expanded or contracted). Distances will be recalculated using field data, and monitoring equipment will be redeployed at the corrected distances prior to installation of the remaining conductor pipes, following authorization from NMFS. The planned extended down period (non-hammering) between the completion of the first pipe installation and the start of the second pipe installation will be used to determine the actual size of buffer and exclusion zones (i.e., Level B and Level A harassment zones) to ensure that the radii estimated from acoustic modeling are not determined to be too small.

NMFS and ExxonMobil acknowledges that in-situ measurements of the sound may not agree with the modeled acoustic data due to uncertainties and model limitations identified by the CCC; however, it is not possible to improve model accuracy without obtaining data from the field. For this reason, a sound source verification will be conducted during the driving of the impact hammer for the first conductor pipe. The data collected and analyzed will be used to establish more accurate buffer and exclusion zones, and refine the acoustic model, if needed, before installation of the second conductor pipe begins.

Finally, the CCC cites IHAs issued previously by NMFS as precedent for its recommended approach to establishing exclusion zones using the 160 dB threshold as the trigger for implementing a shut-down procedure. Based on the citation provided by CCC (e.g., Naval Base Kitsap wharfs/piers, 2011 and 2014), it is not clear whether the CCC believes there are additional examples of precedent or what specific action is referred to for 2011 (no references are provided in the CCC's letter, and NMFS issued two IHAs for construction activities at Naval Base Kitsap in 2011). However, referring to the 2014 example, in which NMFS issued an IHA to the Navy for take that could occur incidental to the third year of work associated with construction of a wharf (79 FR 43429, July 25, 2014), the exclusion zone was in fact established on the basis of in-situ sound source measurements, following initial definition based on modeling results. This approach was identical to that described by NMFS in our notice of the proposed IHA (79 FR 36743, June 30, 2014), and the example does not provide supportive precedent for the CCC's recommendation.

Effects Analyses

Comment 25: The CBD states that NMFS's evaluation in the notice of the proposed IHA (79 FR 36743, June 30, 2014) regarding the impacts from loss of prey on foraging are unknown; therefore, NMFS must get such data and analyze it to make its negligible impact determination.

Response: NMFS disagrees with the CBD's comment. The anticipated effects on marine mammal habitat, including effects on potential prey and potential foraging habitat were described in the notice of the proposed IHA (79 FR 36743, June 30, 2014). Secondary effects, such as impacts to prey and habitat, are very important to NMFS's analysis and are considered in both the negligible impact analysis as well as qualitatively in the development of mitigation measures, via consideration of biologically important areas in the analysis and for time-area closures, or other important factors.

NEPA Concerns

Comment 26: The CBD states that NMFS must comply fully with the National Environmental Policy Act (NEPA). The CBD states that NMFS notes that it will complete an EA prior to its decision on the IHA. Based on

multiple factors in NEPA's regulations, that the proposed activities do constitute a significant impact, and NMFS should prepare a full EIS. The purpose and need for the action is unclear and unnecessary. The IHA application does not fully explain the need and purpose of the additional conductor pipes. The notice of the proposed IHA (79 FR 36743, June 30, 2014) states that the conductors are ''to maintain current production levels from the existing platform.'' This indicates that there is no need for the proposed action because maintenance of the current production levels should be able to be attained through the status quo.

Response: In accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), NMFS completed an EA titled, ''Environmental Assessment on the Issuance of an Incidental Harassment Authorization to ExxonMobil Production Company to Take Marine Mammals by Harassment Incidental to Conductor Pipe Installation Activities at Harmony Platform in the Santa Barbara Channel Offshore of California.''

NMFS's EA includes all required components, including a brief discussion of need for the proposed action, a listing of the alternatives to the proposed action, a description of the affected environment, a brief discussion of the environmental impacts of the proposed action and alternatives, and sufficient evidence and analysis for determining whether to prepare an EIS or a Finding of No Significant Impact (FONSI).

NOAA Administrative Order (NAO) 216–6 contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of ''context'' and ''intensity.'' NMFS evaluated the significance of this action based on the NAO 216–6 criteria and CEQ's context and intensity criteria. Based on this evaluation, NMFS determined that issuance of this IHA to ExxonMobil would not significantly impact the quality of the human environment and issued a FONSI. Accordingly, preparation of an EIS is not necessary. NMFS's determination and evaluation of the NAO 216–6 criteria and CEQ's context and intensity criteria are contained within the FONSI issued for this action, which is available on NMFS's Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.*

Comment 27: The CBD states NMFS must consider the additional suggested mitigation measures as alternatives in its NEPA analysis. An environmental review must ''inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.'' NMFS must ''rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.'' In addition, an agency must discuss measures designed to mitigate its action's impact on the environment. Accordingly, time-area closures, larger exclusion zones, low-visibility limitations, and noise reducing techniques should be considered in the range of alternatives.

Response: In accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), NMFS completed an EA titled, ''Environmental Assessment on the Issuance of an Incidental Harassment Authorization to ExxonMobil Production Company to Take Marine Mammals by Harassment Incidental to Conductor Pipe Installation Activities at Harmony Platform in the Santa Barbara Channel Offshore of California.'' The EA analyzes the impacts on the human environment of the issuance of an IHA by NMFS to ExxonMobil for conductor pipe installation activities at Harmony Platform in Santa Barbara Channel. It includes an evaluation of two alternatives:

(1) Issuance of an IHA with mitigation measures, and

(2) A no action alternative (i.e., do not issue an IHA and do not conduct the seismic survey).

The EA also included a section on alternatives that were considered but eliminated from further consideration. NMFS considered whether other alternatives could meet the purpose and need and support ExxonMobil's conductor pipe installation activities. NMFS considered an alternative with additional mitigation measures; including the specific measures suggested by CBD, but eliminated that alternative from further consideration because the additional mitigation measures were considered not practicable or not likely to minimize adverse impacts. NMFS also considered an alternative that would allow for the issuance of an IHA with no required mitigation or monitoring but eliminated that alternative from further consideration, as it would not be in compliance with the MMPA and therefore would not meet the purpose and need.

The EA will be available on the NMFS ITA Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.*

Comment 29: The CBD states that NMFS has a duty to consider the indirect impacts of its action. Indirect effects ''are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.'' Although the purpose of the conductor pipes is unclear, any changes in production, drilling, waste, techniques, or lifetime of the oil and gas operations at Harmony Platform must be fully disclosed and adequately evaluated. If, for example, the conductor pipes will be used for or enable hydraulic fracturing or other unconventional well stimulation techniques then the environmental effects must evaluated.

Response: Changes to the production, drilling, waste, techniques, or lifetime of the oil and gas operations at Harmony Platform are regulated by the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement. As stated in the notice of the proposed IHA (79 FR 36743, June 30, 2014), ExxonMobil requested an IHA from NMFS to take marine mammals, by harassment, incidental to installing six conductor pipes at Harmony Platform. In accordance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.), NMFS completed an EA to evaluate the environmental effects of authorizing the take of marine mammals incidental to ExxonMobil's activities. The EA considers the direct, indirect, and cumulative impacts related to the issuance of an IHA authorizing the take of marine mammals incidental ExxonMobil's activities.

NMFS notes that all produced fluids from ExxonMobil's offshore Santa Ynez Production Unit are routed to the onshore treating facilities located in Las Flores Canyon, where it is treated and re-routed via pipeline, and discharged under an existing Environmental Protection Agency National Pollutant Discharge Elimination System (NPDES) permit. ExxonMobil has not used hydraulic fracturing on any of the wells on the three platforms in the Santa Ynez Production Unit located offshore of California. ExxonMobil has not and does not plan to use hydraulic fracturing or other unconventional well techniques in its offshore operations.

Comment 29: The CBD states that NMFS must also look at the cumulative effects (past, present, and reasonably foreseeable future actions) of the action. For example, the Santa Barbara Channel is a busy shipping lane which means that the cumulative effects of noise

pollution from ship traffic and ship strikes must be evaluated. Whales fleeing pile-driving activities may be forced into shipping lanes to continue their foraging. Additionally, hydraulic fracturing activities from offshore oil and gas platforms in the area threaten endangered species and marine mammals in numerous ways—from oil spills and vessel strikes to air and water pollution. More than half of the platforms in federal waters discharge their wastewater, which can include toxic fracking chemicals, into the ocean. Harmony Platform alone is permitted to discharge over 33,000 barrels of wastewater into the ocean each year.

Response: The NMFS EA analyzes the effects of NMFS's issuance of an IHA with mitigation and monitoring measures for the conductor pipe installation activities in light of other past, present, and reasonably foreseeable actions in the area including (1) other impact pipe-driving activities; (2) research activities; (3) military testing and training activities; (4) oil and gas activities; (5) vessel traffic, noise, and collisions; (6) commercial and recreational fishing; and (7) climate change. The EA concludes that the impacts of the issuance of an IHA for ExxonMobil's proposed conductor pipe installation activities in the Santa Barbara Channel offshore of California are expected to be no more than minor and short-term with no potential to contribute to cumulatively significant impacts.

NMFS notes that Harmony Platform is located on the coastal side of the shipping lane in Santa Barbara Channel, while foraging areas are concentrated on the seaward side of the shipping lane; thus the whales would not be forced into the area busy with vessel traffic to forage. The shipping channel is located 12 to 14 km (6.5 to 7.6 nmi) from the Harmony Platform, and underwater sounds are within normal ambient ranges at the platform (e.g., 120 dB). As stated previously in this document, ExxonMobil does not perform hydraulic fracturing at Harmony Platform or elsewhere offshore of California. All produced water, including any fluids that are produced through the wells, are treated at the Las Flores Canyon facility and discharged as permitted under the Clean Water Act.

General Concerns

Comment 30: Numerous private citizens, as supporters of SierraRise and Sierra Club, and the CBD, oppose the issuance of the IHA to ExxonMobil. They call on the government to stop destructive actions in the Santa Barbara Channel that lead to impairment, injury, and death of marine mammals. ExxonMobil's conductor pipe installation activities could lead to the death of many whales, otters, and more animals that are already threatened by toxic fracking fluids that have been dumped into their water. The commenters state that marine mammals deserve a safe, healthy ocean environment to live in, a healthy ocean is more important than more climate-killing offshore drilling.

Response: As described in detail in the **Federal Register** notice for the proposed IHA (79 FR 36743, June 30, 2014), as well as in this document, NMFS anticipates only behavioral disturbance to occur during the conductor pipe installation activities. NMFS has determined that ExxonMobil's conductor pipe installation activities will not cause injury, serious injury, or mortality to marine mammals managed under NMFS's jurisdiction, and not takes by injury, serious injury, or mortality are authorized. Further, ExxonMobil is required to implement a number of mitigation and monitoring measures during the impact hammer pipe-driving activities, which are described below in the ''Mitigation'' and ''Monitoring and Reporting'' sections. NMFS has determined that the required mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. The sea otter is managed by the U.S. Fish and Wildlife Service.

Comment 31: The CBD states that NMFS should consider the environmental impacts of the activity on nearby marine protected areas (MPAs), reserves, and the Channel Islands National Marine Sanctuary that are located in the vicinity of the conductor pipe installation activities.

Response: NMFS has considered environmental impacts of the conductor pipe installation activities on nearby MPAs as well as the Channel Islands National Marine Sanctuary. Individual mainland MPAs in southern California include: Point Conception State Marine Reserve (SMR), Kashtayit State Marine Conservation Area (SMCA), Naples SMCA, Campus Point SMCA, Goleta Slough SMCA, Point Dume SMCA, Point Dume SMR, Point Vicente SMCA, Abalone Cove SMCA, Bolsa Chica Basin SMCA, Upper Newport Bay SMCA, Crystal Cove SMCA, Laguna Beach SMR, Laguna Beach SMCA, Dana Point SMCA, Batiquitos Lagoon SMCA, Swami's SMCA, San Elijo Lagoon SMCA, San Diego-Scripps Coastal SMCA, Matlahuayl SMR, South La Jolla SMR, South La Jolla SMCA, Famosa Slough SMCA, Cabrillow SMR, and Tijuana River Mouth SMCA. Individual island MPAs include: Richardson Rock SMR and Federal MR, San Miguel Island Special Closure, Harris Point SMR and Federal MR, Judith Rock SMR, Carrington Point SMR, Skunk Point SMR, South Point SMR and Federal MR, Painted Cave SMCA, Gull Island SMR and Federal MR, Anacapa Island Special Closure, Anacapa Island SMR and Federal MR, Anacapa Island SMCA and Federal MCA, Footprint SMR and Federal MR, Begg Rock SMR, Santa Barbara Island MR and Federal MR, Arrow Point to Lion Head Point SMCA, Blue Cavern SMCA, Bird Rock SMCA, Long Point SMR, Casino Point SMCA, Lover's Cover SMCA, Farnsworth Onshore SMCA, Farnsworth Offshore SMCA, and Cat Harbor SMCA. The closest MPAs, which are Naples SMCA and Point Conception SMR, are over 18.5 km (10 nmi) east-southeast and 27.8 km (15 nmi) west-northwest at its closest boundary to Harmony Platform, respectively. Sound levels generated during the planned conductor pipe installation activities will not have significant consequences on MPAs because all MPAs are a minimum of 18.5 km from the Harmony Platform and the platform is not in shallow water depths.

The Channel Islands National Marine Sanctuary is about 25.9 km (14 nmi) southwest at its closest boundary to Harmony Platform. NMFS has contacted Channel Islands National Marine Sanctuary regarding ExxonMobil's planned conductor pipe installation activities and the associated issuance of an IHA. NMFS has determined that a consultation under the National Marine Sanctuary Act is not necessary as the planned action is not anticipated to have impacts on sanctuary resources.

Comment 32: The CBD states that noise from conductor pipe installation activities can impact EFH and NMFS must fully comply with its statutory obligation to consult on the impact of federal activities on essential fish habitat (EFH) under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). The EFH consultation should include an evaluation of the effects of the action on EFH, proposed mitigation, and make conservation recommendations.

Response: NMFS disagrees with the commenter's assessment. NMFS's issuance of an IHA and the mitigation and monitoring measures required by the IHA would not affect ocean and coastal habitat or EFH. Therefore, NMFS, Office of Protected Resources,

Permits and Conservation Division determined that an EFH consultation is not required.

Comment 33: The CBD states that NMFS must comply fully with the Endangered Species Act (ESA) and develop a robust Biological Opinion based on the best available science. The proposed conductor pipe installation activities may have harmful impacts on ESA-listed marine mammals (including North Pacific right, humpback, sei, fin, blue, and sperm whales, as well as southern sea otters and Guadalupe fur seals), which must be fully and accurately vetted through the consultation process. Accordingly, NMFS must complete consultation and obtain any take authorization before authorizing the proposed activities. They further urge NMFS to establish more stringent mitigation measures to avoid adverse impacts to ESA-listed species.

Response: Section 7(a)(2) of the ESA requires that each federal agency insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of such species. Of the species of marine mammals that may occur in the action area, several are listed as endangered under the ESA, including the North Pacific right, Western North Pacific gray, humpback, sei, fin, blue, and sperm whales as well as the Guadalupe fur seal. Although critical habitat is designated for the North Pacific right whale, no critical habitat for North Pacific right whales occurs in the action area. The North Pacific right whale critical habitat in the Pacific Ocean can be found online at: *http://www.nmfs.noaa.gov/pr/pdfs/criticalhabitat/northpacificrightwhale.pdf.*

NMFS's Office of Protected Resources, Permits and Conservation Division, initiated and engaged in formal consultation under section 7 of the ESA with NMFS's West Coast Regional Office, Protected Resources Division, on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. NMFS's West Coast Regional Office, Protected Resources Division issued a Biological Opinion addressing the effects of the proposed actions on threatened and endangered species as well as designated critical habitat in September 2014. The Biological Opinion concluded that NMFS's issuance of an IHA to ExxonMobil is not likely to jeopardize the existence of any threatened and endangered species and would have no effect on critical habitat. NMFS's West Coast Regional Office, Protected Resources Division, relied on the best scientific and commercial data available in conducting its analysis.

NMFS's Office of Protected Resources, Permits and Conservation Division also considered the conservation status and habitat of ESA-listed marine mammals. Included in the IHA are special procedures for situations or species of concern (see ''Mitigation'' section below). If a North Pacific right whale is visually sighted during the conductor pipe installation activities, the pipe-driving activities must be shut-down regardless of the distance of the animal(s) to the sound source. The pipe-driving will not resume firing until 30 minutes after the last documented whale visual sighting. Concentrations of humpback, sei, fin, blue, and/or sperm whales will be avoided if possible (i.e., exposing concentrations of animals to 160 dB), and the activities will be shut-down if necessary. For purposes of the conductor pipe installation activities, a concentration or group of whales will consist of three or more individuals visually sighted that do not appear to be traveling (e.g., feeding, socializing, etc.). NMFS's West Coast Regional Office, Protected Resources Division, issued an Incidental Take Statement (ITS) incorporating the requirements of the IHA as Terms and Conditions of the ITS. Compliance with the ITS is likewise a mandatory requirement of the IHA. NMFS's Office of Protected Resources, Permits and Conservation Division has determined that the mitigation measures required by the IHA provide the means of effecting the least practicable impact on species or stocks and their habitat, including ESA-listed species.

Comment 34: The CBD states that NMFS must comply fully with the Coastal Zone Management Act (CZMA). The CZMA requires that applicants for federal permits to conduct an activity affecting a natural resource of the coastal zone of a state ''shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program.'' CBD states that marine species that will be affected by the project are ''natural resources'' protected by California's coastal management program, and that California should be given the opportunity to review the IHA for consistency with their coastal management programs.

Response: As the lead federal agency for the IHA, NMFS considered whether the action would have effects on the coastal resources of any state along the U.S. West Coast. As concluded in the notice of the proposed IHA (79 FR 36743, June 30, 2014), any potential impacts from the conductor pipe installation activities would mainly be to marine species in close proximity to the Harmony Platform and would be of a short duration and temporary in nature. The Harmony Platform is located at 34° 22′35.906″ North and 120°10′04.48″ West, which is located approximately 10 km (5.4 nmi) off the coast of California, in federal waters. NMFS discussed issuance of the IHA and ExxonMobil's planned conductor pipe installation activities with the California Coastal Commission. Therefore, NMFS has concluded that we have met all of the responsibilities under the CZMA.

Comment 35: The CBD is concerned that ExxonMobil is not in full compliance with the Outer Continental Shelf Lands Act (OCSLA). The CBD states that NMFS provided no support for its statement that the proposed conductor pipe installation activities are considered in the existing Development and Production Plan.

Response: The OCSLA is administered by the Department of the Interior. NMFS does not have the regulatory authority to permit ExxonMobil's activities under the OCSLA. As stated in the notice of the proposed IHA (79 FR 36743, June 30, 2014), ExxonMobil requested an IHA from NMFS to take marine mammals, by harassment, incidental to installing six conductor pipes at Harmony Platform in the Santa Barbara Channel. Consistent with its regulatory authority under the MMPA, NMFS determined that authorizing the take of small numbers of marine mammals by Level B harassment incidental to ExxonMobil's activities would have a negligible impact on marine mammals species or stocks and would not have an unmitigable adverse impact on the availability of species or stocks for taking for subsistence uses, and prescribed the permissible methods of taking by harassment pursuant such activity and other means of effecting the least practicable impact on species or stocks and their habitat.

Description of the Marine Mammals in the Area of the Specified Activity

The marine mammals that generally occur in the planned action area belong to four taxonomic groups: mysticetes (baleen whales), odontocetes (toothed whales), pinnipeds (seals and sea lions), and fissipeds (sea otters). The marine mammal species that potentially occur within the Pacific Ocean in proximity to the action area in the Santa Barbara

Channel off the coast of California (ranging from Point Conception and south, including the entire Southern California Bight) include 31 species of cetaceans (whales, dolphins, and porpoises) and 6 species of pinnipeds. The southern sea otter (*Enhydra lutris nereis*) is listed as threatened under the ESA and is managed by the U.S. Fish and Wildlife Service and is not considered further in this IHA notice.

Marine mammal species listed as threatened or endangered under the U.S. Endangered Species Act of 1973 that could potentially occur in the action area (ESA; 16 U.S.C. 1531 *et seq.*), include the North Pacific right (*Eubalaena japonica*), Western North Pacific population gray (*Eschrichtius robustus*), humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whale as well as the Guadalupe fur seal (*Arctocephalus townsendi*). Of those threatened and endangered species, the humpback, sei, fin, blue, and sperm whale are likely to be encountered in the action area.

Cetaceans occur throughout the Santa Barbara Channel action area, including nearby the Harmony Platform, from the surf zone to open ocean environments beyond the Channel Islands. Distribution is influenced by a number of factors, but primary among these are patterns of major ocean currents, bottom relief, and sea surface temperature. These physical oceanographic conditions affect prey abundance, which may attract marine mammals during periods of high productivity, and vice versa. Water movement is near continuous, varying seasonally, and is generally greatest from late spring to early fall in response to varying wind stress. This phenomenon is much greater in the western Santa Barbara Channel. This near continuous movement of water from the ocean bottom to the surface creates a nutrient-rich, highly productive environment for marine mammal prey (Jefferson *et al.,* 2008). Most of the large cetaceans are migratory, but many small cetaceans do not undergo extensive migrations. Instead, they undergo local or regional dispersal, on a seasonal basis or in response to food availability. Population centers may shift on spatial scales exceeding 100 km (54 nmi) over small time scales (days or weeks) (Dailey and Bonnell, 1993).

Systematic surveys (1991 to 1993, 1996, 2001, 2005) in the southern California region have been carried out via aircraft (Carretta and Forney, 1993) and vessel (Ferguson and Barlow, 2001; Barlow, 2003) by NMFS. In addition, a vessel survey in the U.S. Exclusive Economic Zone (EEZ), and out to 556 km (300.2 nmi) offshore of California, Oregon, and Washington, was conducted in the summer and fall of 2005 by NMFS (Forney, 2007). Many other regional surveys have also been conducted (Carretta, 2003). Becker (2007) analyzed data from vessel surveys conducted since 1986, and compiled marine mammal densities. There are 31 cetacean and 6 pinniped species with ranges that are known to occur in the Eastern North Pacific Ocean waters of the project area. These include the North Pacific right whale, dwarf sperm whale (*Kogia sima*), harbor porpoise (*Phocoena phocoena*), Steller sea lion (*Eumatopias jubatus*), and Guadalupe fur seal. However, these species are extremely rare, found in the Channel Islands, or are primarily found north or south of the Santa Barbara Channel, and are unlikely to be found in the action area. The harbor porpoise occurs north of Point Conception, California. Guadalupe fur seals are most common at Guadalupe Island, Mexico, which is their primary breeding ground (Melin and Delong, 1999). Although adult and juvenile males have been observed at San Miguel Island, California, since the mid-1960's, and in the late 1990's a pup was born on the islands (Melin and Delong, 1999), more recent sightings are extremely rare. These species are not considered further in this document. Table 4 (below) presents information on the occurrence, abundance, distribution, population status, and conservation status of the species of marine mammals that may occur in the project area during September to December 2014.

TABLE 4—THE HABITAT, OCCURRENCE, RANGE, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PIPE INSTALLATION PROJECT AREA OFF THE COAST OF CALIFORNIA IN THE PACIFIC OCEAN

[See text and Tables 3–1 in ExxonMobil's IHA application for further details]

Species	Habitat	Occurrence	Range	Best population estimate (Minimum) [1]	ESA [2]	MMPA [3]
Mysticetes						
North Pacific right whale (*Eubalaena japonica*).	Coastal and pelagic	Rare	North Pacific Ocean between 20 to 60° North.	NA (26)—Eastern North Pacific stock.	EN	D
Gray whale (*Eschrichtius robustus*).	Coastal and shelf	Transient during seasonal migrations.	North Pacific Ocean, Gulf of California to Arctic—Eastern North Pacific stock.	19,126 (18,107)—Eastern North Pacific stock 155 (142)—Western North Pacific population.	DL—Eastern North Pacific stock EN—Western North Pacific population.	NC—Eastern North Pacific stock D—Western North Pacific population
Humpback whale (*Megaptera novaeangliae*).	Pelagic, nearshore waters, and banks.	Seasonal, sightings near northern Channel Islands.	Cosmopolitan	1,918 (1,855)—California/Oregon/Washington (CA/OR/WA) stock.	EN	D
Minke whale (*Balaenoptera acutorostrata*).	Pelagic and coastal	Less common in summer, small number around northern Channel Islands.	Tropics and sub-tropics to ice edges.	478 (202)—CA/OR/WA stock.	NL	NC
Bryde's whale (*Balaenoptera edeni*).	Pelagic and coastal	Rare, infrequent summer off California.	Tropical and sub-tropical zones between 40° North and 40° South.	NA—No stock for CA/OR/WA.	NL	NC

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[See text and Tables 3–1 in ExxonMobil's IHA application for further details]

Species	Habitat	Occurrence	Range	Best population estimate (Minimum) [1]	ESA [2]	MMPA [3]
Sei whale (*Balaenoptera borealis*).	Primarily offshore, pelagic.	Rare, infrequent summer off California.	Tropical to polar zones, favor mid-latitude temperate areas.	126 (83)—Eastern North Pacific stock.	EN	D
Fin whale (*Balaenoptera physalus*).	Continental slope, pelagic.	Year-round presence	Tropical, temperate, and polar zones of all oceans.	3,051 (2,598)—CA/OR/WA stock.	EN	D
Blue whale (*Balaenoptera musculus*).	Pelagic, shelf, coastal.	Seasonal, arrive April to May, common late-summer to fall off Southern California.	Tropical waters to pack ice edges.	1,647 (1,551)—Eastern North Pacific stock.	EN	D
Odontocetes						
Sperm whale (*Physeter macrocephalus*).	Pelagic, deep sea	Common year-round, more likely in waters >1,000 m.	Tropical waters to pack ice edges.	971 (751)—CA/OR/WA stock.	EN	D
Pygmy sperm whale (*Kogia breviceps*).	Pelagic, slope	Seaward of 500 to 1,000 m, Limited sightings in Southern California Bight.	Tropical to warm temperate zones (temperate preference).	579 (271)—CA/OR/WA stock.	NL	NC
Dwarf sperm whale (*Kogia sima*).	Deep waters off the shelf.	Rare	Tropical to warm temperate zones (warmer preference).	NA—CA/OR/WA stock.	NL	NC
Baird's beaked whale (*Berardius bairdii*).	Pelagic	Primarily along continental slope late spring to early fall.	North Pacific Ocean and adjacent seas.	847 (466)—CA/OR/WA stock.	NL	NC
Cuvier's beaked whale (*Ziphius cavirostris*).	Pelagic	Possible year-round occurrence.	Cosmopolitan	6,590 (4,481)—CA/OR/WA stock.	NL	NC
Blainville's beaked whale (*Mesoplodon densirostris*).	Pelagic	Rare, continental slope region, generally seaward of 500 to 1,000 m depth.	Temperate and tropical waters worldwide.	694 (389)—*Mesoplodon* spp. CA/OR/WA stock.	NL	NC
Perrin's beaked whale (*Mesoplodon perrini*).	Pelagic	Rare, continental slope region, generally seaward of 500 to 1,000 m depth.	North Pacific Ocean	694 (389)—*Mesoplodon* spp. CA/OR/WA stock.	NL	NC
Lesser beaked whale (*Mesoplodon peruvianis*).	Pelagic	Rare, continental slope region, generally seaward of 500 to 1,000 m depth.	Temperate and tropical waters Eastern Pacific Ocean.	694 (389)—*Mesoplodon* spp. CA/OR/WA stock.	NL	NC
Stejneger's beaked whale (*Mesoplodon stejnegeri*).	Pelagic	Rare, continental slope region, generally seaward of 500 to 1,000 m depth.	North Pacific Ocean	694 (389)—*Mesoplodon* spp. CA/OR/WA stock.	NL	NC
Ginkgo-toothed beaked whale (*Mesoplodon ginkgodens*).	Pelagic	Rare, continental slope region, generally seaward of 500 to 1,000 m depth.	Temperate and tropical waters Indo-Pacific Ocean.	694 (389)—*Mesoplodon* spp. CA/OR/WA stock.	NL	NC
Hubbs' beaked (*Mesoplodon carlhubbsi*).	Pelagic	Rare, continental slope region, generally seaward of 500 to 1,000 m depth.	North Pacific Ocean	694 (389)—*Mesoplodon* spp. CA/OR/WA stock.	NL	NC
Killer whale (*Orcinus orca*).	Pelagic, shelf, coastal, pack ice.	Varies on inter-annual basis, likely in winter (January to February).	Cosmopolitan	240 (162)—Eastern North Pacific Offshore stock 346 (346)—Eastern North Pacific Transient stock 354 (354)—West Coast Transient stock.	NL	NC
False killer whale (*Pseudorca crassidens).*	Pelagic	Rare	Tropical to warm temperate zones.	NA—No stock for CA/OR/WA.	NL	NC
Short-finned pilot whale (*Globicephala macrorhynchus*).	Pelagic, shelf, coastal.	Uncommon, more common before 1982.	Warm temperate to tropical waters, ~50° North to 40° South.	760 (465)—CA/OR/WA stock.	NL	NC

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[See text and Tables 3–1 in ExxonMobil's IHA application for further details]

Species	Habitat	Occurrence	Range	Best population estimate (Minimum) [1]	ESA [2]	MMPA [3]
Bottlenose dolphin (*Tursiops truncatus*).	Offshore, inshore, coastal, estuaries.	Offshore stock—Year-round presence Coastal stock—Limited, small population within 1 km of shore.	Tropical and temperate waters between 45° North and South.	1,006 (684)—CA/OR/WA Offshore stock 323 (290)—California Coastal stock.	NL	NC
Striped dolphin (*Stenella coeruleoalba*).	Off continental shelf	Occasional visitor	Tropical to temperate waters, 50° North to 40° South.	10,908 (8,231)—CA/OR/WA stock.	NL	NC
Short-beaked common dolphin (*Delphinus delphis*).	Shelf, pelagic, seamounts.	Common, more abundant in summer.	Tropical to temperate waters of Atlantic and Pacific Ocean.	411,211 (343,990)—CA/OR/WA stock.	NL	NC
Long-beaked common dolphin (*Delphinus capensis*).	Inshore	Common, more inshore distribution, year-round presence.	Nearshore and tropical waters.	107,016 (76,224)—California stock.	NL	NC
Pacific white-sided dolphin (*Lagenorhynchus obliquidens*).	Offshore, slope	Common, year-round, more abundant November to April.	Temperate waters of North Pacific Ocean.	26,930 (21,406)—CA/OR/WA, Northern and Southern stock.	NL	NC
Northern right whale dolphin (*Lissodelphis borealis*).	Pelagic	Common, more abundant November to April.	North Pacific Ocean, 30 to 50° North.	8,334 (6,019)—CA/OR/WA stock.	NL	NC
Risso's dolphin (*Grampus griseus*).	Deep water, seamounts.	Common, present in summer, more abundant November to April.	Continental slope and outer shelf of tropical to temperate waters.	6,272 (4,913)—CA/OR/WA stock.	NL	NC
Dall's porpoise (*Phocoenoides dalli*).	Shelf, slope, offshore	Common, more abundant November to April.	North Pacific Ocean, 30 to 62° North.	42,000 (32,106)—CA/OR/WA stock.	NL	NC
Harbor porpoise (*Phocoena phocoena*).	Coastal and inland waters.	AK to Point Conception, CA.	Shallow temperate to sub-polar waters of Northern Hemisphere.	NA	NL	NC
Pinnipeds						
California sea lion (*Zalophus californianus*).	Coastal, shelf	Common, Channel Island breeding sites in summer.	Eastern North Pacific Ocean—Alaska to Mexico.	296,750 (153,337)—U.S. stock.	NL	NC
Steller sea lion (*Eumetopias jubatus*).	Coastal, shelf	Rare	North Pacific Ocean—Central California to Korea.	49,685 (45,916)—Western stock 58,334 to 72,223 (52,847)—Eastern stock.	EN—Western stock DL—Eastern stock.	D
Pacific harbor seal (*Phoca vitulina richardii*).	Coastal	Common, haul-outs and rookeries in Channel Islands, bulk of stock north of Point Conception.	Coastal temperate to polar regions in Northern Hemisphere.	30,196 (26,667)—California stock.	NL	NC
Northern elephant seal (*Mirounga angustirostris*).	Coastal, pelagic when not migrating.	Common, haul-outs and rookeries in Channel Islands, December to March and April to August, spend 8 to 10 months at sea.	Eastern and Central North Pacific Ocean—Alaska to Mexico.	124,000 (74,913)—California breeding stock.	NL	NC
Northern fur seal (*Callorhinus ursinus*).	Pelagic, offshore	Common, small population breeds on San Miguel Island May to October.	North Pacific Ocean—Mexico to Japan.	12,844 (6,722)—California stock.	NL	NC
Guadalupe fur seal (*Arctocephalus townsendi*).	Coastal, shelf	Rare, observed in Channel Islands.	California to Baja California, Mexico.	7,408 (3,028)—Mexico to California stock.	T	D

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[See text and Tables 3–1 in ExxonMobil's IHA application for further details]

Species	Habitat	Occurrence	Range	Best population estimate (Minimum) [1]	ESA [2]	MMPA [3]
Fissipeds						
Southern sea otter (*Enhydra lutris nereis*).	Coastal	Mainland coastline from San Mateo County to Santa Barbara County, CA San Nicolas Island.	North Pacific Rim—Japan to Mexico.	2,826 (2,723)—California stock.	T	D

NA = Not available or not assessed.
[1] NMFS Marine Mammal Stock Assessment Reports.
[2] U.S. Endangered Species Act: EN = Endangered, T = Threatened, DL = Delisted, and NL = Not listed.
[3] U.S. Marine Mammal Protection Act: D = Depleted, S = Strategic, and NC = Not Classified.

Further detailed information regarding the biology, distribution, seasonality, life history, and occurrence of these marine mammal species in the planned project area can be found in sections 3 and 4 of ExxonMobil's IHA application. NMFS has reviewed these data and determined them to be the best available scientific information for the purposes of the IHA.

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., impact hammer pipe-driving) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to revise to the level of take (for example, with acoustics), we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measureable avoidance). This section is intended as a background of potential effects and does not consider either the specific manner in which this activity will be carried out or the mitigation that will be implemented, and how either of those will shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity will impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low-frequency cetaceans (13 species of mysticetes): functional hearing is estimated to occur between approximately 7 Hz and 30 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia* spp., the franciscana (*Pontoporia blainvillei*), and four species of cephalorhynchids): functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Phocid pinnipeds in water: functional hearing is estimated to occur between approximately 75 Hz and 100 kHz;
- Otariid pinnipeds in water: functional hearing is estimated to occur between approximately 100 Hz and 40 kHz.

As mentioned previously in this document, 32 marine mammal species managed under NMFS jurisdiction (28 cetacean and 4 pinniped species) are likely to occur in the action area. Of the 28 cetacean species likely to occur in ExxonMobil's action area, 7 are classified as low-frequency cetaceans (i.e., gray, humpback, minke, Bryde's, sei, fin, and blue whale), 19 are classified as mid-frequency cetaceans (i.e., sperm, Baird's beaked, Cuvier's beaked, Blainville's beaked, Perrin's beaked, Lesser beaked, Stejneger's beaked, Ginkgo-toothed beaked, Hubb's beaked, killer, false killer, and short-finned pilot whale, as well as bottlenose, striped, short-beaked common, long-beaked common, Pacific white-sided, northern right whale, and Risso's dolphin), 2 are classified as high-frequency cetaceans (i.e., pygmy sperm whale and Dall's porpoise), 2 are classified as phocids (i.e., harbor and northern elephant seal), and 2 are classified as otariid pinnipeds (i.e., California sea lion and northern fur seal) (Southall *et al.,* 2007). A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

Current NMFS practice, regarding exposure of marine mammals to high-level underwater sounds is that cetaceans and pinnipeds exposed to impulsive sounds at or above 180 and 190 dB (rms), respectively, have the potential to be injured (i.e., Level A harassment). NMFS considers the potential for Level B (behavioral) harassment to occur when marine mammals are exposed to sounds below injury thresholds but at or above the 160 dB (rms) threshold for impulse sounds

(e.g., impact pile-driving) and the 120 dB (rms) threshold for continuous noise (e.g., vibratory pile-driving). No vibratory pile-driving is planned for ExxonMobil's planned activities in the Santa Barbara Channel. Current NMFS practice, regarding exposure of marine mammals to high-level in-air sounds, as a threshold for potential Level B harassment, is at or above 90 dB re 20 μPa for harbor seals and at or above 100 dB re 20 μPa for all other pinniped species (Lawson *et al.,* 2002; Southall *et al.,* 2007). NMFS has not established a threshold for Level A harassment for marine mammals exposed to in-air noise; however, Southall et al. (2007) recommends 149 dB re 20 μPa (peak) (flat) as the potential threshold for injury from in-air noise for all pinnipeds.

Acoustic stimuli generated by the conductor pipe installation activities, which introduce sound into the marine environment and in-air, may have the potential to cause Level B harassment of marine mammals in the action area. The effects of sounds from impact hammer pile-driving activities might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). Permanent hearing impairment, in the unlikely event that it occurred, will constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.,* 2007). Although the possibility cannot be entirely excluded, it is unlikely that the planned project will result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, some behavioral disturbance is expected.

The notice of the proposed IHA (79 FR 36743, June 30, 2014) included a discussion of the effects of impact hammer pile-driving on mysticetes, odontocetes, and pinnipeds including tolerance, masking, behavioral disturbance, hearing impairment, other non-auditory physical effects, and airborne sound effects. NMFS refers readers to that document, ExxonMobil's IHA application and addendum and NMFS's EA for additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to pile-driving activities.

Anticipated Effects on Marine Mammal Habitat, Fish, and Invertebrates

NMFS included a detailed discussion of the potential effects of this action on marine mammal habitat, including anticipated effects on potential prey and anticipated effects on potential foraging habitat in the notice of the proposed IHA (79 FR 36743, June 30, 2014). The conductor pipe installation activities will not result in any permanent impact on habitats used by the marine mammals in the action area, including the food sources they use (i.e., fish and invertebrates), and there will be not physical damage to any habitat. While NMFS anticipates that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and inconsequential, which was considered in further detail in the notice of the proposed IHA (79 FR 36743, June 30, 2014), as behavioral modification. The main impact associated with the activity will be temporarily elevated noise levels and the associated direct effects on marine mammals.

Mitigation

In order to issue an Incidental Take Authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses (where relevant).

ExxonMobil incorporated a suite of appropriate mitigation measures into its project description (see Section 11 of the IHA application). NMFS re-evaluated these mitigation measures after receiving public comments on the notice of the proposed IHA.

To reduce the potential for disturbance from acoustic stimuli associated with the proposed activities, ExxonMobil and/or its designees will implement the following mitigation measures for marine mammals:

(1) Buffer and exclusion zones around the sound source;

(2) Hours of operation;

(3) Shut-down procedures;

(4) Ramp-up procedures; and

Special procedures for situations or species of concern.

Exclusion Zones—ExxonMobil uses radii to designate exclusion and buffer zones and to estimate take for marine mammals. Table 5 (see below) shows the distances at which one will expect marine mammal exposures to three received sound levels (160, 180, and 190 dB) from the impact hammer. The 180 and 190 dB level shut-down criteria are applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000). ExxonMobil used these levels to establish the exclusion and buffer zones.

TABLE 5—MODELED MAXIMUM DISTANCES TO WHICH IN-WATER SOUND LEVELS ≥190, 180 AND 160 dB re 1 μPa (rms) AND IN-AIR SOUND LEVELS ≥90 (FOR HARBOR SEALS) AND 100 dB re 20 μPa (rms) (FOR ALL OTHER PINNIPEDS) COULD BE RECEIVED DURING THE IMPACT HAMMER PILE-DRIVING ACTIVITIES (BASED ON MAXIMUM HAMMER ENERGY OF 90 KJ) IN THE SANTA BARBARA CHANNEL OFF THE COAST OF CALIFORNIA

Source	Water depth (m)	Predicted RMS radii distances (m) for in-water pile-driving			Modeled RMS radii distances (m) for in-air pile-driving	
		160 dB	180 dB	90 dB	190 dB	100 dB
90 kJ Impact Hammer Pile-Driver	366	325 (1,066.3 ft)	10 (32.8 ft)	3.5 (11.5 ft)	123 (403.5 ft)	41 (134.5 ft)

Based on the modeling, exclusion zones (for triggering a shut-down) for Level A harassment will be established for cetaceans and pinnipeds at 3.5 m (11.5 ft) and 10 m (32.8 ft) from the conductor pipe sound source, respectively. These shut-down zones will be monitored by a dedicated PSO. If the PSO detects a marine mammal(s) within or about to enter the appropriate exclusion zone, the pile-driving activities will be shut-down immediately. If marine mammals are present within the shut-down zone before impact pile-driving activities begin, start of operations will be delayed until the exclusion zones are clear for at least 30 minutes. If marine mammals

appear in the shut-down zone during pile-driving activities, the PSO will instruct the hammer operator to halt all operations in a safe, but immediate manner. Pile-driving activities will only resume once the exclusion zone has been cleared for at least 30 minutes. In the unlikely event that the marine mammal enters the exclusion zone during pile-driving activities, the exposure and behaviors will be documented and reported by the PSO and NMFS will be contacted within 24 hours. A non-PSO safety spotter will also be assigned to the lower deck observation area. All personnel operating at the lower observation levels will be required to wear appropriate personal protective equipment.

Hours of Operation—The planned activities will be conducted on a continual 24-hour basis; therefore, some of the 2.5 to 3.3 hours of active impact pile-driving periods will be expected to occur during non-daylight hours. To facilitate visual monitoring during non-daylight hours, the exclusion zones will be illuminated to allow more effective viewing by the PSO. Lighting will not be expected to attract marine mammals. The areas where the exclusion zones occur fall within the jacket structure of the platform, and therefore could be easily illuminated by lights and monitored during non-daylight hours. For the buffer zone, which will extend out to 325 m (1,066.3 ft) from the conductor pipe, PSOs will be stationed on an upper deck of the Harmony Platform to monitor for marine mammals during the pile-driving activities. During non-daylight hours, PSOs will utilize night-vision devices and other appropriate equipment to monitor marine mammals. If nighttime visual aids are insufficient, ExxonMobil plans to use daytime visual counts of marine mammals as an estimate of the number of marine mammals present during non-daylight hours (within a 24-hour period), noting that diurnal activities for most marine mammals are expected to vary somewhat.

Shut-down Procedures—ExxonMobil will shut-down the operating hammer if a marine mammal is detected outside the exclusion zone, and the sound source will be shut-down before the animal is within the exclusion zone. Likewise, if a marine mammal is already within the exclusion zone when first detected, the sound source will be shut-down immediately.

Following a shut-down, ExxonMobil will not resume pile-driving activities until the marine mammal has cleared the exclusion zone. ExxonMobil will consider the animal to have cleared the exclusion zone if:

- A PSO has visually observed the animal leave the exclusion zone, or
- A PSO has not sighted the animal within the exclusion zone for 15 minutes for species with shorter dive durations (i.e., small odontocetes and pinnipeds), or 30 minutes for species with longer dive durations (i.e., mysticetes and large odontocetes, including sperm, pygmy and dwarf sperm, killer, and beaked whales).

All visual monitoring will be conducted by qualified PSOs. Visual monitoring will be conducted continuously during active pile-driving activities. PSOs will not have any tasks other than visual monitoring and will conduct monitoring from the best vantage point(s) practicable (e.g., on the Harmony Platform or other suitable location) that provides 360° visibility of the Level A harassment exclusion zones and Level B harassment buffer zone, as far as possible. The PSO will be in radio communication with the hammer operator during pile-driving activities, and will call for a shut-down in the event a pinniped or cetacean appears to be headed toward its respective exclusion zone for cetaceans and pinnipeds.

Ramp-up Procedures—Ramp-up (sometimes referred to as a ''soft-start'') of the impact hammer provides a gradual increase in sound levels until the full sound level is achieved. The purpose of a ramp-up is to ''warn'' marine mammals in the vicinity of the impact hammer and to provide the time for them to leave the area avoiding any potential injury or impairment of their hearing abilities. A ramp-up consists of an initial set of three strikes from the impact hammer at 40% energy, followed by a 30-second waiting period, then two subsequent three strike sets.

The buffer zone will be monitored by PSOs beginning 30 minutes before pile-driving activities, during pile-driving, and for 30 minutes after pile-driving stops. During ramp-up, the PSOs will monitor the exclusion zone, and if marine mammals are sighted, a shut-down will be implemented.

If the complete exclusion zone has not been visible for at least 30 minutes prior to the start of operations in either daylight or nighttime, ExxonMobil will not commence the ramp-up. ExxonMobil will not initiate a ramp-up of the impact hammer if a marine mammal is sighted within or near the applicable exclusion zones during the day or close to the Harmony Platform at night.

Special Procedures for Situations of Species of Concern—It is unlikely that a North Pacific right whale will be encountered during the conductor pipe installation activities, but if so, the pipe-driving activities will be shut-down immediately if one is visually sighted at any distance from the Harmony Platform because of its rarity and conservation status. The pipe-driving activities shall not resume (with ramp-up) until 30 minutes after the last documented North Pacific right whale visual sighting. Concentrations of humpback, sei, fin, blue and/or sperm whales shall be avoided if possible (i.e., exposing concentrations of animals to 160 dB), and the sound source shall be shut-down if necessary. For purposes of this planned conductor pipe installation activities, a concentration or group of whales will consist of three or more individuals visually sighted that do not appear to be traveling (e.g., feeding, socializing, etc.).

Oil Spill Plan—ExxonMobil has developed an Oil Spill Response Plan and it is on file with BOEM.

Mitigation Conclusions

NMFS has carefully evaluated the applicant's mitigation measures and has considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. NMFS's evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation, including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the activity.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of hammer pile-driving, or other activities expected to result in the take of marine mammals (this goal may

contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of times (total number or number at biologically important time or location) individuals will be exposed to received levels of hammer pile-driving, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of hammer pile-driving, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance of minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on NMFS's evaluation of the applicant's measures, as well as other measures considered by NMFS or recommended by the public, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. ExxonMobil submitted a marine mammal monitoring plan as part of the IHA application. It can be found in Section 13 of the IHA application. The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of sound from impact hammer pile-driving activities that we associate with specific adverse effects, such as behavioral harassment, TTS or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict receive level, distance from the source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Monitoring

ExxonMobil will conduct to sponsor marine mammal monitoring during the conductor pipe installation activities, in order to implement the mitigation measures that require real-time monitoring, and to satisfy the anticipated monitoring requirements of the IHA. ExxonMobil's ''Monitoring Plan'' is described below this section. ExxonMobil understand that this monitoring plan will be subject to review by NMFS and that refinements may be required. Two main types of monitoring will be performed for this planned project: (1) In-situ measurement of sound pressure levels; and (2) visual observations of the number and type of marine mammals that enter sound exposure zones. In-situ acoustic data will be used to validate model predictions of sound pressure levels near and with distance from the conductor pipe sound source, including the predicted maximum distances for the buffer and exclusion zones. If measured results differ from modeled results, measured data will be used to revise buffer and exclusion zone boundaries to reflect actual conditions during planned project activities. Data from visual monitoring will be used to validate take estimate calculations.

Acoustic Monitoring

Acoustic monitoring using hydrophones and microphones will be conducted to obtain and validate modeled in-water and in-air sound levels during the pipe-driving activities. Each hydrophone (in-water) and microphone (in-air) will be calibrated following the manufacturer's recommendations prior to the start of the planned project and checked for accuracy and precision at the end of the data collection for each conductor pipe or as practical during conductor pipe installation activities. Environmental data will be collected to supplement the acoustic monitoring and include: wind speed and direction, air temperature, humidity, near-surface water temperature, weather conditions, and other appropriate factors that could contribute to influencing either in-air or in-water sound transmission levels. Prior to deploying monitoring equipment, the acoustics specialist will be provided with the hammer model and size, hammer energy settings, and projected blows per minute for the conductor pipe segments requiring hammer pipe-driving. Background in-air and in-water sound levels will be measured at Harmony Platform in the absence of pipe-driving activities to obtain an ambient noise level, and recorded over a frequency range of 10 Hz to 20 kHz. Ambient noise level measurements will be conducted before, during, and after the project. The measured in-air and in-water sound data will be used to recalibrate and refine the sound propagation model used to determine the buffer and exclusion zones. Also, sound pressure levels associated with ramp-up techniques will be measured.

In-Water Monitoring—Acoustic monitoring will be performed at a minimum of two fixed stations located at 14 to 30 m (45.9 to 98.4 ft) and approximately 325 to 500 m (+/− 33 m 10%, 1,066.3 to 1,640.4 ft) depending on the conductor pipe sound source location to the monitoring location.

These distances represent the 180 dB and 160 dB (rms) modeled sound levels. The following general approach will be used to measure in-water sound levels:

• Acoustic monitoring will be conducted over the entire conductor pipe installation period for each conductor pipe, starting approximately 1 hour prior to conductor pipe installation through 1 hour after impact hammering has stopped. Pre- and post-hammer conductor pipe installation data will be used to determine ambient/background noise levels.

• A stationary hydrophone system with the ability to measure and record sound pressure levels will be deployed at a minimum of two monitoring locations (stations). SPLs will be recorded in voltage, converted to microPascals (μPa), and post-processed to decibels (dB [re 1 μPa]). For the first conductor pipe installation, hydrophones are placed at 14 to 30 m (+/−1 m) and at 325 to 500 (+/−33 m) depending on the conductor pipe sound source location to the monitoring location at depths ranging from 10 to 30 m (32.8 to 98.4 ft) below the water surface to avoid potential inferences for surface water energy, and to target the depth range of maximum occurrence of marine mammals most likely in the area during the operations. The equipment will obtain data for the most likely depth range of marine mammal occurrence. Horizontal displacement of +/−10% may be expected for instrument movement due to the water depth and forces from tides, currents, and storms. Additional hydrophone mooring systems may be deployed at additional distances and/or depths. Following each successive conductor pipe installation, the water depth and geographical orientation of the hydrophone may be changed to validate modeled SPLs at varying water depths and direction.

• At a minimum, the following sound data will be analyzed (post-processed) from recorded sound levels: Absolute peak overpressure and under pressure levels for each conductor pipe; average, minimum, and maximum sound pressure levels (rms), integrated from 3 Hz to 20 kHz; average duration of each hammer strike (blow), and total number of strikes per continuous impact hammer conductor pipe installation period for each conductor.

In the event that field measurements indicate different sound pressure levels (rms) values than those predicted by modeling for either the maximum distances of the buffer or exclusion zones from the conductor sound source, corresponding boundaries for the buffer and appropriate exclusion zones will be increased/decreased accordingly, following NMFS notification, concurrence, and authorization.

In-Air Monitoring—Reference measurements will be made at approximately 10 to 20 m (32.8 to 65.6 ft) from the initial hammer strike position using a stationary microphone. The microphone will be placed as far away from other large sound sources as practical. The in-air buffer zone predicted for pinnipeds (non-harbor seal, 100 dB re 20 μPa) was estimated at 41 m (134.5 ft) from the hammer impact point on the conductor pipe. In-air sound levels will be recorded at several points around the base of the Harmony Platform at sea level to validate modeled sound levels. Distances closer to the sound source may be monitored for model validation purposes, but only if safety issues are not introduced. Recorded data will be recorded as dB (re 20 μPa, A-weighted and unweighted) for comparison to in-air noise thresholds for Level B harassment for pinnipeds.

Sound Source Verification—At the initiation of conductor pipe installation activities using the impact hammer (i.e., the installation of the first pipe), direct measurements will be taken in the near and far field of the received levels of underwater and in-air sound versus distance and direction from the sound source using calibrated hydrophones. The acoustic data from the sound source verification will be analyzed as quickly as reasonably practicable in the field and used to verify and adjust (based on the predicted distances) the buffer and exclusion zones distances. The field report will be made available to NMFS for review and approval and PSOs after completing the measurements and before beginning the installation of the remaining conductor pipes.

Platform-Based Visual Monitoring

ExxonMobil's PSOs will be based aboard the Harmony Platform and will watch for marine mammals near the platform during conductor pipe installation activities during daytime and nighttime pipe-driving activities. Visual monitoring for marine mammals will be performed at a minimum during periods of active hammer pipe-driving throughout the planned project following general procedures in Baker *et al.* (2013). Monitoring by PSOs will begin at least 30 minutes before the start of impact hammer pipe-driving, continue through an estimated 2.5 to 3.3 hours of pipe-driving, and conclude 30 minutes after pipe-driving stops (up to 4.3 hours of monitoring per a period of pipe-driving). Five to 7 periods of impact hammer pipe-driving will be required for each conductor pipe. When feasible, PSOs will conduct observations during periods when the impact hammer pipe-driving is not operating for comparison of sighting rates and behavior with and without operations and between pipe-driving periods. In addition to monitoring during pipe-driving activities, baseline monitoring of marine mammals will be performed up to one week before and one week after conductor pipe installation, as well as selected periods in between impact hammer pipe-driving activities.

The exclusion zone will be monitored to prevent injury to marine mammal species. Based on PSO observations, the impact hammer pipe-driving will be shut-down when marine mammals are observed within or about to enter the designated exclusion zone. The exclusion zone is a region in which a possibility exists of adverse effects on animal hearing or physical effects. A comprehensive monitoring plan will be developed to ensure compliance with the IHA for this project.

Methods—There will be a team of 3 PSOs based aboard Harmony Platform conducting monitoring during active hammer pipe-driving periods. Visual observations will take place during active hammering periods which includes both daylight and nighttime operations. This monitoring will occur for approximately 4.3 hours (3.3 hour monitoring plus 0.5 hour pre- and post-hammering) during a single hammering phase followed by approximately 6.3 hours of off-duty rest. A total of 5 to 7 observation periods corresponding to the driving of the pipe segments will be anticipated for each of the six conductors. It is possible that an impact hammer pipe-driving session will take less than 3.3 hours and that the ''rest interval'' for the visual monitors separating driving segments will be less than 6.3 hours. If driving and rest intervals are reduced and additional segments are added (e.g., seven instead of five), two alternating teams of three PSOs may be required. At the conclusion of impact hammer pipe-driving activities for a single conductor pipe, PSOs may be transferred to shore to await the next active pipe-driving phase.

PSOs will be placed at the best practicable vantage point(s) (e.g., lower platform level, upper platform level) to monitor the applicable buffer and exclusion zones for marine mammals. The PSOs will have authority to implement shut-down/delay ramp-up procedures, if applicable, by calling the hammer operator for a shut-down via radio communication. For the buffer zone, two PSOs will be stationed on an

upper platform deck where they have a clear view of the monitoring area. They will be approximately 180 degrees apart and each will monitor approximately one-half of the corresponding buffer zone and beyond with binoculars and other appropriate equipment. For exclusion zone area, one PSO will concurrently monitor the applicable radii for pinnipeds and cetaceans, respectively, from a lower level observation post that provides a clear view of the sea surface around the actively driven conductor pipe. The lower observation area will be illuminated during nighttime observations. Visual aids may be used but will not be required, providing the PSO has a clear view of the sea surface with the naked eye. A non-PSO safety spotter will also be assigned to the lower deck observation area. The safety spotter will be available to deter errant California sea lions using NMFS-recommended methods (see below) (NMFS, 2008).

All personnel operating on the Harmony Platform will be required to receive required training and wear appropriate personal protective equipment. Personal protective equipment is specific to the task, location, and environmental conditions (e.g., weather, operations risks). It includes items such as floatation vests, hard hats, steel-toed shoes, gloves, fire-resistant clothing, gear, eye protection, and other protective equipment. Details on specific personal protective equipment items required for PSO and acoustic monitoring will be determined via the regular work risk assessment process, and will be presented in the associated monitoring plans for the project.

Equipment for monitoring will include hearing protection from where observations are made from high noise areas of the platform, marine radios with headsets, time keeping device (e.g., watch or cell phone), day and night range finding binoculars (7 x 50 or greater), notebooks with standardized recording forms, species identification guides, and a project-specific monitoring plan approved by NMFS (to be submitted separately).

PSO Qualifications—Monitoring will be conducted by qualified PSOs defined in Baker *et al.* (2013) and approved by NMFS. PSOs dedicated to the planned project will have no other activity-related tasks.

PSO Data and Documentation

PSOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially ''taken'' by harassment (as defined in the MMPA). They will also provide information needed to order a shut-down of the impact hammer when a marine mammal is within or near the exclusion zone. Visual observations will also be made during pipe-driving activities as well as daytime periods from the Harmony Platform when the regular operations will be underway without pipe-driving activities to collect baseline biological data.

When a sighting is made, the following information about the sighting will be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from platform, sighting cue, apparent reaction to the sound source (e.g., none, avoidance, approach, paralleling, etc., and including responses to ramp-up), speed of travel, and duration of presence.

2. Date, time, location, heading, speed, activity of the conductor pipe installation activities, weather conditions, Beaufort sea state and wind force, visibility, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations, as well as information regarding ramp-ups or shut-downs will be recorded in a standardized format.

Results from the platform-based visual observations will provide the following information:

1. The basis for real-time mitigation (impact hammer shut-down).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.

3. Data on the occurrence, distribution, and activities of marine mammals in the area where the conductor pipe installation activities are conducted.

4. Information to compare the distance and distribution of marine mammals relative to the source platform at times with and without pipe-driving activities.

5. Data on the behavior and movement patterns of marine mammals seen at times with and without pipe-driving activities.

Reporting

ExxonMobil will submit a comprehensive report to NMFS within 90 days after the end of the conductor pipe installation activities and the expiration of the IHA (if issued). The report would describe the pipe-driving activities that were conducted and sightings of marine mammals near the operations. The report submitted to NMFS will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will summarize the dates and location of impact hammer pipe-driving activities and all marine mammal sightings (i.e., dates, times, locations, activities, and associated seismic survey activities). The report will minimally include:

- Summaries of monitoring effort—total hours, total distances, and distribution of marine mammals through the activity period accounting for Beaufort sea state and other factors affecting visibility and detectability of marine mammals;
- Analyses of the effects of various factors influencing detectability of marine mammals including Beaufort sea state, number of PSOs, and fog/glare;
- Species composition, occurrence, and distribution of marine mammals sightings including date, water depth, numbers, age/size/gender, and group sizes; and analyses of the effects of activities;
- Sighting rates of marine mammals during periods with and without impact hammer pipe-driving activities (and other variables that could affect detectability);
- Initial sighting distances versus operational activity state;
- Closest point of approach versus operational activity state;
- Observed behaviors and types of movements versus operational activity state;
- Numbers of sightings/individuals seen versus operational activity state; and
- Distribution around the platform versus operational activity state.

The report will also include estimates of the number and nature of exposures that could result in ''takes'' of marine mammals by harassment or in other ways (based on presence in the buffer and/or exclusion zones). After the report is considered final, it will be publicly available on the NMFS Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental/.*

Reporting Prohibited Take—In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality (e.g., ship-strike, gear interaction, and/or entanglement), ExxonMobil will

immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov* and the West Coast Regional Stranding Coordinator (562–980–3230). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Type of activity involved;
- Description of the circumstances during and leading up to the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with ExxonMobil to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. ExxonMobil may not resume their activities until notified by NMFS via letter or email, or telephone.

Reporting an Injured or Dead Marine Mammal with an Unknown Cause of Death—In the event that ExxonMobil discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), ExxonMobil will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS West Coast Regional Office (1–866–767–6114) and/or to the West Coast Regional Stranding Coordinator (562–980–3230). The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with ExxonMobil to determine whether modifications to the activities are appropriate.

Reporting an Injured or Dead Marine Mammal Not Related to the Activities—In the event that ExxonMobil discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate or advanced decomposition, or scavenger damage), ExxonMobil will report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS West coast Regional Office (1–866–767–6114) and/or to the West Coast Regional Stranding Coordinator (562–980–3230), within 24 hours of discovery. ExxonMobil will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

TABLE 6—NMFS'S CURRENT UNDERWATER AND IN-AIR ACOUSTIC EXPOSURE CRITERIA

Criterion	Criterion definition	Threshold
Impulsive (Non-Explosive) Sound		
Level A harassment (injury)	Permanent threshold shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 μPa-m (root means square [rms]) (cetaceans). 190 dB re 1 μPa-m (rms) (pinnipeds).
Level B harassment	Behavioral disruption (for impulsive noise)	160 dB re 1 μPa-m (rms).
Level B harassment	Behavioral disruption (for continuous noise)	120 dB re 1 μPa-m (rms).
In-Air Sound		
Level A harassment	NA	NA.
Level B harassment	Behavioral disruption	90 dB re 20 μPa (harbor seals). 100 dB re 20 μPa (all other pinniped species). NA (cetaceans).

Level B harassment is anticipated and authorized as a result of the conductor pipe installation activities at the Harmony Platform in the Santa Barbara Channel offshore of California. Acoustic stimuli (i.e., increased underwater and in-air sound) generated during the pipe-driving activities are expected to result in the behavioral disturbance of some marine mammals. There is no evidence that the planned activities could result in injury, serious injury, or mortality for which ExxonMobil seeks the IHA. The required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality.

The following sections describe ExxonMobil and NMFS's methods to estimate take by incidental harassment and present the total take authorized incidental to the conductor pipe installation activities at the Harmony Platform in the Santa Barbara Channel offshore of California. The estimated takes were calculated using information on sound source levels, sound propagation, maximum distances from the sound source to Level A and Level B harassment exposure thresholds, and estimated density of marine mammals in the action area. Take estimates were calculated for in-water (cetaceans and pinnipeds) and in-air (pinnipeds only). The estimates are based on the following information:

- Thresholds for marine mammals to in-water and in-air noise;
- Sound levels at the conductor pipe from hammer strike;
- Sound propagation (transmission/spreading loss) through the environment (i.e., air, water);
- Maximum distances from the sound sources to the corresponding impact zones (based on Level A and Level B harassment thresholds) for marine mammals;
- Density estimate for each species of marine mammals (calculated as stock abundance divided by 12,592 km^2 [3,671.2 nmi^2]area [except where noted]); and
- Number of takes for each species of marine mammals within a group (calculated as density multiplied by buffer/exclusion zone multiplied by days of activity).

Sound levels for impulsive (impact) pipe-driving by the hammer and propagation through water and in-air at the Harmony Platform were modeled by JASCO Applied Sciences, Ltd. The modeling results are presented in JASCO's acoustic modeling report as an addendum to the IHA application titled ''Assessment of Airborne and Underwater Noise from Pile Driving Activities at the Harmony Platform.'' Methods used to estimate marine mammal densities and takes for the action area in the Santa Barbara Channel are presented in Sections 6.1.5 and 6.1.6 of the IHA application for likely exposures to species of marine mammals.

Densities of marine mammal species likely to occur in the action area of the Santa Barbara Channel were taken directly from scientific literature or calculated using corresponding abundances in NMFS Stock Assessment Reports. Density estimates for sperm and Baird's beaked whale, and short-beaked common, Pacific white-sided, Risso's, and northern right whale dolphin, and Dall's porpoise were determined using the Strategic Environmental and Development Program (SERDP)/National Aeronautics and Space Administration (NASA)/NOAA Marine Animal Mapper and OBIS–SEAMAP database using NMFS Southwest Fisheries Science Center (SWFSC) summer densities for the California Current ecosystem. Density estimates for the blue, fin, and humpback whale were taken directly from Redfern *et al.* (2013), using the upper limit reported for the density contour that includes the Harmony Platform. Redfern *et al.* (2013) estimated densities for these three species using NMFS sightings collected from primarily August through November over a period from 1991 to 2009 throughout the Santa Barbara Channel. Results for blue, fin, and humpback whales are presented in Figures 6–3, 6–4, and 6–5 of the IHA application. These densities are considered more accurate than those based on reported stock abundances because even though they are for the same monthly period and geographical location, they include a correction factor to correct for non-observational periods. For calculated densities of likely affected marine mammal species, stock abundances, which generally range from the state of Washington to northern Baja California, Mexico, were assumed to be concentrated within the 12,593 km^2 (3,671.5 nmi^2) action area in the Santa Barbara Channel. The action area includes the Harmony Platform, and extends 18 km (9.7 nmi) to the north, 60 km (32.4 nmi) to the west, and 70 km (37.8 nmi) to the south of Point Conception, California. The eastern boundary is 35 km (18.9 nmi) east of Anacapa Island. Use of this area produces a conservative density estimate because the geographical range of each marine mammal species evaluated is much greater than 70 km (nmi) of the coastline selected to represent the action area, including season-specific ranges for species that migrate (e.g., gray whale). For marine mammal species potentially exposed to in-air noise, pinniped densities were calculated by dividing the stock abundance for each marine mammal species by the 1,130 m^2 (12,163.2 ft^2) impact area of the Harmony Platform near sea level where the animals could potentially haul-out and/or have their heads out of the water. Tables 6–7 and 6–8 of the IHA application describe the calculated densities and estimated take by marine mammal species as well as associated data for the in-water and in-air sound thresholds, respectively. Although there is some uncertainty about the representativeness of the data and the assumptions used in the calculations below, the approach used here is believed to be the best available approach.

TABLE 7—ESTIMATED DENSITIES AND POSSIBLE NUMBER OF MARINE MAMMAL SPECIES THAT MIGHT BE EXPOSED TO GREATER THAN OR EQUAL TO 160 dB (PIPE-DRIVING ACTIVITIES) DURING EXXONMOBIL'S CONDUCTOR PIPE INSTALLATION ACTIVITIES IN THE SANTA BARBARA CHANNEL OFFSHORE OF CALIFORNIA

Species	Density in action area (#/km^2)[1]	Calculated take from pipe-driving activities in-water (i.e., estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa)[4]	Calculated take from pipe-driving activities in-air (i.e., estimated number of individuals exposed to sound levels ≥90 dB re 20 μPa for harbor seals and 90 dB re 20 μPa for all other pinnipeds)[5]	Total authorized Take[6]	Abundance[7]	Approximate percentage of population/stock estimate (for authorized take)[8]	Population trend[7]
Mysticetes							
North Pacific right whale.	NA	0	0	0	NA (26)—Eastern North Pacific stock.	NA	NA.

TABLE 7—ESTIMATED DENSITIES AND POSSIBLE NUMBER OF MARINE MAMMAL SPECIES THAT MIGHT BE EXPOSED TO GREATER THAN OR EQUAL TO 160 dB (PIPE-DRIVING ACTIVITIES) DURING EXXONMOBIL'S CONDUCTOR PIPE INSTALLATION ACTIVITIES IN THE SANTA BARBARA CHANNEL OFFSHORE OF CALIFORNIA—Continued

Species	Density in action area (#/km²)[1]	Calculated take from pipe-driving activities in-water (i.e., estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa)[4]	Calculated take from pipe-driving activities in-air (i.e., estimated number of individuals exposed to sound levels ≥90 dB re 20 μPa for harbor seals and 90 dB re 20 μPa for all other pinnipeds)[5]	Total authorized Take[6]	Abundance[7]	Approximate percentage of population/stock estimate (for authorized take)[8]	Population trend[7]
Eastern North Pacific Gray whale.	1.5188	3.063	0	10	19,126 (18,107)—Eastern North Pacific stock 155 (142)—Western North Pacific population.	0.05	Increasing over past several decades—Eastern North Pacific stock.
Humpback whale	[3] 0.0055	0.0332	0	2	1,918 (1,855)—CA/OR/WA stock.	0.1	Increasing.
Minke whale	0.04	0.2418	0	2	478 (202)—CA/OR/WA stock.	0.42	NA.
Bryde's whale	NA	0	0	2	NA	NA	NA.
Sei whale	0.01	0.0605	0	2	126 (83)—Eastern North Pacific stock.	1.58	NA.
Fin whale	[3] 0.0065	0.0392	0	2	3,051 (2,598)—CA/OR/WA stock.	0.07	Increasing.
Blue whale	[2] 0.006	0.00362	0	2	1,647 (1,551)—Eastern North Pacific stock.	0.12	NA.
Odontocetes							
Sperm whale	[2] 0.0000542	0.000327	0	2	971 (751)—CA/OR/WA stock.	0.21	NA.
Pygmy sperm whale	0.05	0.302	0	1	579 (271)—CA/OR/WA stock.	0.17	NA.
Dwarf sperm whale	NA	0	0	0	NA—CA/OR/WA stock	NA	NA.
Baird's beaked whale	[2] 0.001224	0.0074	0	6	847 (466)—CA/OR/WA stock.	0.71	NA.
Cuvier's beaked whale	0.5233	3.1633	0	4	6,590 (4,481)—CA/OR/WA stock.	0.06	Declining off CA/OR/WA.
Mesoplodon beaked whale.	0.0551	0.3331	0	2	694 (389)—CA/OR/WA stock.	0.29	Declining off CA/OR/WA.
Killer whale	0.07464	0.4512	0	10	240 (162)—Eastern North Pacific stock 346 (346)—Eastern North Pacific Transient stock 354 (354)—West Coast Transient stock.	4.17/2.89/2.82	NA—Eastern North Pacific Offshore stock; NA—Eastern North Pacific Transient stock; Increasing—West Coast Transient stock.
False killer whale	NA	0	0	50	NA	NA	NA.
Short-finned pilot whale	0.06	0.3627	0	40	760 (465)—CA/OR/WA stock.	5.26	NA.
Bottlenose dolphin	0.0799	0.4829	0	10	1,006 (684)—CA/OR/WA stock.	0.99	NA—CA/OR/WA Offshore stock; NA—CA Coastal stock.
Striped dolphin	[2] 0.002711	0.0164	0	20	10,908 (8,231)—CA/OR/WA stock.	0.18	NA.
Short-beaked common dolphin.	[2] 0.946007	5.7186	0	450	411,211 (343,990)—CA/OR/WA stock.	0.11	Varies with oceanographic conditions.
Long-beaked common dolphin.	8.5	51.3825	0	120	107,016 (76,224)—CA stock.	0.11	Increasing over last 30 years.
Pacific white-sided dolphin.	[2] 0.068630	0.4149	0	30	26,930 (21,406)—CA/OR/WA stock.	0.11	NA.
Northern right whale dolphin.	[2] 0043996	0.2659	0	100	8,334 (6,019)—CA/OR/WA stock.	1.19	NA.
Risso's dolphin	[2] 0.053323	0.3223	0	10	6,272 (4,913)—CA/OR/WA stock.	0.16	NA.
Dall's porpoise	0.028931	0.1749	0	50	42,000 (32,106)—CA/OR/WA stock.	0.12	NA.
Harbor porpoise	0	0	0	0	NA	NA	NA.
Pinnipeds							
California sea lion	23.6	142.662	17.997	143 + 18 = 161	296,750 (153,337)—U.S. stock.	0.05	Increasing.
Steller sea lion	NA	0	0	0	49,685 (42,366)—Western stock 58,334 (72,223)—Eastern stock.	NA	Declining—Western stock; Increasing—Eastern stock; Declining in CA.
Pacific harbor seal	2.4	14.508	5.491	15 + 6 = 21	30,196 (26,667)—CA stock.	0.07	Increased 1981 to 2004.

TABLE 7—ESTIMATED DENSITIES AND POSSIBLE NUMBER OF MARINE MAMMAL SPECIES THAT MIGHT BE EXPOSED TO GREATER THAN OR EQUAL TO 160 dB (PIPE-DRIVING ACTIVITIES) DURING EXXONMOBIL'S CONDUCTOR PIPE INSTALLATION ACTIVITIES IN THE SANTA BARBARA CHANNEL OFFSHORE OF CALIFORNIA—Continued

Species	Density in action area (#/km²)[1]	Calculated take from pipe-driving activities in-water (i.e., estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa)[4]	Calculated take from pipe-driving activities in-air (i.e., estimated number of individuals exposed to sound levels ≥90 dB re 20 μPa for harbor seals and 90 dB re 20 μPa for all other pinnipeds)[5]	Total authorized Take[6]	Abundance[7]	Approximate percentage of population/stock estimate (for authorized take)[8]	Population trend[7]
Northern elephant seal	9.85	59.5433	7.512	60 + 8 = 68	124,000 (74,913)—CA breeding stock.	0.05	Increasing through 2005.
Northern fur seal	0.79	4.7756	0.602	5 + 1 = 6	12,844 (6,722)—California stock.	0.05	Increasing.
Guadalupe fur seal	NA	0	0	0	7,408 (3,028)—Mexico to CA stock.	NA	Increasing.

NA = Not available or not assessed.
[1] Planned action area (12,593 km²) in the Santa Barbara Channel off the coast of California.
[2] OBIS–SEAMAP SERDP–SDSS NMFS SWFSC summer density data for the California Current ecosystem.
[3] Redfern *et al.* (2013)
[4] Calculated take is the estimated number of animals in the in-water ensonified buffer zone multiplied by the number of days (18.6).
[5] Calculated take is the estimated number of animals in the in-air ensonified buffer zone multiplied by the number of days (18.6).
[6] Authorized take includes calculated takes for animals in the ensonified in-water and in-air buffer zones. Authorized takes for cetaceans were increased to account for group size.
[7] NMFS Marine Mammal Stock Assessment Reports (Caretta *et al.,* 2013)
[8] Total authorized (and calculated) takes expressed as percentages of the species or stock.

Numbers of marine mammals that might be present and potentially disturbed are estimated based on the available data about marine mammal distribution and densities in the Santa Barbara Channel action area. ExxonMobil estimated the number of different individuals of marine mammal species that may be exposed to in-water and in-air sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) and in-air sounds with received levels greater than or equal to 90 dB re 20 μPa (rms) (for harbor seals)/100 dB re 20 μPa (rms) (for all other pinniped species) for impact hammer pipe-driving activities on one or more occasions by considering the total marine area that will be within the 160 dB in-water radius and 90 dB (for harbor seals)/100 dB (for all other pinniped species) in-air radius around the impact hammer pipe-driving on at least one occasion and the expected density of marine mammals in the area (in the absence of the conductor pipe installation activities). The number of possible exposures can be estimated by considering the total marine area that will be within the in-water 160 dB radius and in-air 90 dB (for harbor seals)/100 dB (for all other pinniped species) radius around the impact hammer pipe-driving activities. The in-water 160 dB and in-air 90dB (harbor seal)/100 dB (for all other pinniped species) radii are based on acoustic modeling data for the impact hammer pipe-driving activities that may be used during the action (see the addendum to the IHA application). It is unlikely that a particular animal will stay in the area during the entire impact hammer pipe-driving activities.

The number of different individuals potentially exposed to received levels greater than or equal to 160 dB re 1 μPa (rms) for in-water noise and 90 dB re 20 μPa (rms) (for harbor seals)/100 dB re 20 μPa (rms) (for all other pinniped species) for in-air noise from impact hammer pipe-driving activities was calculated by multiplying:

(1) The expected species density (in number/km²), times

(2) The anticipated area to be ensonified to that level during conductor pipe installation (buffer zone = π x [maximum distance]²), times

(3) The number of days of the conductor pipe installation activities.

NMFS notes that ExxonMobil had estimated the total number of days of the conductor pipe installation activities as 4.125 in its application, based on the total number of estimated hours of impact pipe-driving. NMFS received comments during the public comment period stating that this approach underestimates the number of days of actual exposure to the installation activities because pipe-driving sessions will be interspersed between periods of no pipe-driving. Specifically, the Commission commented that ExxonMobil should have added 3.3 hours of estimated pile-driving per section to 7.3 hours of downtime per section for a total of 10.6 hours per section of pipe. Multiplying that by the projected seven sections to be driven for each conductor pipe would result in a total of 74.2 hours, which when divided by 24 hours per day equates to 3.1 days of potential exposure per pipe. Using this method would yield a total of 18.6 days of potential exposure (3.1 days per conductor pipe multiplied by 6 pipes), which more accurately represents the total duration of proposed conductor pipe installation activities for all six conductor pipes. NMFS agrees, and revised the total number of days of installation activities to 18.6.

Applying the approach described above, approximately 0.3318 km² will be ensonified within the in-water 160 dB isopleth and approximately 0.0053 km²/0.0475 km² will be ensonified within the in-air 90 dB (harbor seals)/100 dB (for all other pinniped species) isopleths for impact hammer pipe-driving activities (assuming omnidirectional spreading of sound from the conductor pipe) during the conductor pipe installation activities. The take calculations within the action area account for animals in the initial density snapshot and account for new (i.e., turnover) or previously exposed animals over an approximate 18.6 day period that approach and enter the area ensonified above or equal to the 160 dB isopleth for in-water noise and 90/100 dB isopleth for in-air noise from the impact hammer pipe-driving activities; however, studies suggest that many marine mammals will avoid exposing themselves to sounds at these levels, which suggests that there will not necessarily be a large number of new animals entering the action area once the conductor pipe installation activities

started. Also, the approach assumes that no cetaceans or pinnipeds will move away or toward the Harmony Platform. The take estimates represent the number of individuals that are expected (in absence of conductor pipe installation activities) to occur over an approximate 18.6 day period of time in the waters that will be exposed to greater than or equal to 160 dB (rms) in-water and greater than or equal to 90/100 dB (rms) in-air for impact hammer pipe-driving activities.

ExxonMobil's estimates of exposures to various sound levels assume that the planned activities will be carried out in full. The estimates of the numbers of marine mammals potentially exposed to 160 dB (rms) for in-water noise and 90 dB re 20 μPa (rms) (for harbor seals)/100 dB re 20 μPa (rms) (for all other pinniped species) for in-air noise received levels are precautionary and probably overestimate the actual numbers of marine mammals that could be involved. These estimates include standard contingencies for weather, equipment, or mitigation delays in the time planned for the planned activities. The authorized takes were increased for certain marine mammal species (i.e., gray, humpback, minke, sei, fin, blue, sperm, Baird's beaked, Cuvier's beaked, Mesoplodont beaked, killer, and short-finned pilot whales and bottlenose, striped, short-beaked common, long-beaked common, Pacific white-sided, northern right whale, and Risso's dolphins and Dall's porpoise) to account for group behavior. Based on recommendations from the CCC received during the 30-day public comment period on the notice of the proposed IHA (79 FR 36743, June 30, 2014), NMFS has authorized takes for Bryde's whales and false killer whales, which are considered warmer water species.

Table 7 shows the estimates of the number of different individual marine mammals anticipated to be exposed to greater than or equal to 160 dB re 1 μPa (rms) for the conductor pipe installation activities if no animals moved away from the Harmony Platform. No takes by Level A harassment have been authorized. The total take authorization is given in the fifth column of Table 7.

Encouraging and Coordinating Research

ExxonMobil will coordinate the planned marine mammal monitoring program associated with the conductor pipe installation activities with researchers and other parties that express interest in this activity, area, and anthropogenic sound effects on marine mammals. ExxonMobil will coordinate with applicable U.S. agencies (e.g., NMFS), and will comply with their requirements.

ExxonMobil supports research on marine mammals and sound in the environment through academic, industry, and private sector collaborations. ExxonMobil is a founding member and largest contributor to the Sound and Marine Life Joint Industry Program (JIP) through the International Oil and Gas Producers (OGP), and the International Association of Geophysical Contractors (IAGC). Through JIP and other venues, ExxonMobil provides annual funding and support for fundamental and applied scientific research to better understand the effects of anthropogenic sound on marine life. ExxonMobil also conducts internal research and monitoring programs specific to sound effects from exploration and production activities. These efforts have helped produce effective mitigation strategies and techniques to reduce potential sound effects on marine mammals from their operations and those from the oil and gas industry as a whole. More information on selected examples of ExxonMobil's involvement and contributions to scientific research on marine mammals and sound can be found in section 14 of the IHA application.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the MMPA also requires NMFS to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Analysis and Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

In making a negligible impact determination, NMFS evaluated factors such as:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited); and

(3) The context in which the takes occur (i.e., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

As described above and based on the following factors, the specified activities associated with the conductor pipe installation activities are not likely to cause PTS, or other non-auditory injury, serious injury, or death. The factors include:

(1) The likelihood that marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The potential for temporary or permanent hearing impairment is relatively low and will likely be avoided through the implementation of the required monitoring and mitigation (i.e., shut-down) measures;

(3) The fact that cetaceans and pinnipeds will have to be closer than 10 m and 3.5 m, respectively, during impact hammer pipe-driving activities to be exposed to levels of underwater sound believed to have a minimal chance of causing a permanent threshold shift (PTS; i.e., Level A harassment); and

(4) The likelihood that marine mammal detection ability by trained

PSOs is high at close proximity to the platform.

No injuries, serious injuries, or mortalities are anticipated to occur as a result of ExxonMobil's planned conductor pipe installation activities, and none are authorized by NMFS. Table 7 of this document outlines the number of authorized Level B harassment takes that are anticipated as a result of these activities. NMFS's practice has been to apply the 160 dB re 1 μPa (rms) received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provide a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]). Current NMFS practice, regarding exposure of marine mammals to high-level in-air sounds, as a threshold for potential Level B harassment, is at or above 90 dB re 20 μPa for habor seals and at or above 100 dB re 20 μPa for all other pinniped species (Lawson *et al.,* 2002; Southall *et al.,* 2007). NMFS has not determined Level A harassment thresholds for marine mammals for in-air noise.

As mentioned previously, NMFS estimates that 32 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. The population estimates for the marine mammal species that may be taken by Level B harassment were provided in Table 4 and 7 of this document. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see ''Potential Effects on Marine Mammals'' section above) in this notice, the planned activity is not expected to impact rates of annual recruitment or survival for any affected species or stock, particularly given NMFS's and the applicant's requirement to implement mitigation, monitoring, and reporting measures to minimize impacts to marine mammals. Additionally, the conductor pipe installation activities will not adversely impact marine mammal habitat.

For the marine mammal species that may occur within the action area, there are no known designated or important feeding and/or reproductive areas. Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (i.e., 24 hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Potential impacts are not likely to be significant from the pipe-driving activities as the use of the impact hammer will occur over 30 intermittent intervals of 2.5 to 3.3 hours each interspersed with period of downtime, for a cumulative total of about 18.6 days of potential exposure spread out over a 91-day period. Additionally, the conductor pipe installation activities will be increasing sound levels in the marine environment in a relatively small area surrounding the Harmony Platform (compared to the range of the animals), and some animals may only be exposed to and harassed by sound for less than a day.

Of the 37 marine mammal species under NMFS jurisdiction that may or are known to likely to occur in the action area, seven are listed as threatened or endangered under the ESA: North Pacific right, western North Pacific gray whale, humpback, sei, fin, blue, and sperm whale and Guadalupe fur seal. These species are also considered depleted under the MMPA. Of these ESA-listed species, incidental take has been requested to be authorized for humpback, sei, fin, blue, and sperm whales. There is generally insufficient data to determine population trends for the other depleted species in the action area. To protect these animals (and other marine mammals in the action area), ExxonMobil must cease impact hammer pipe-driving activities if any marine mammal enters designated exclusion zones. No injury, serious injury, or mortality is expected to occur and due to the nature, degree, and context of the Level B harassment anticipated, and the activities are not expected to impact rates of recruitment or survival.

NMFS has determined, provided that the aforementioned mitigation and monitoring measures are implemented, the impact of conducting pipe-driving activities in the Santa Barbara Channel off the coast of California, may result, at worst, in a modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals.

Changes in diving/surfacing patterns, habitat abandonment due to loss of desirable acoustic environment, and cessation of feeding or social interaction are some of the significant behavioral modifications that could potentially occur as a result of the conductor pipe installation activities. While behavioral modifications, including temporarily vacating the area during the impact hammer pipe-driving activities, may be made by these marine mammal species to avoid the resultant acoustic disturbance, the availability of alternate areas within these areas for species and the short and sporadic duration of the conductor pipe installation activities have led NMFS to determine that the taking by Level B harassment from the specified activity will have a negligible impact on the affected species in the specified geographic region. NMFS believes that the length of the conductor pipe installation activities (approximately 18.6 days total), the requirement to implement mitigation measures (e.g., shut-down of impact hammer pipe-driving activities), and the inclusion of the monitoring and reporting measures, will reduce the amount and severity of the potential impacts from the activity to the degree that it will have a negligible impact on the species or stocks in the action area. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from ExxonMobil's conductor pipe installation activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

The estimate of the number of individual cetaceans and pinnipeds that could be exposed to pipe-driving sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) for all marine mammals for in-water sound levels and at or above 90 dB re 20 μPa for harbor seals and at or above 100 dB re 20 μPa for all other pinniped species for in-air sound levels during the conductor pipe installation activities is in Table 7 of this document.

In total, 10 gray, 2 humpback, 2 minke, 2 Bryde's, 2 sei, 2 fin, 2 blue, and 2 sperm whale could be taken by Level B harassment during the conductor pipe installation activities, which will represent 0.05, 0.05, 0.2, unknown, 0.8, 0.03, 0.06, and 0.21% of the stock populations, respectively. Some of the cetaceans potentially taken by Level B harassment are delphinids and porpoises with estimates of 1 pygmy sperm, 6 Baird's beaked, 4 Cuvier's beaked, 2 *Mesoplodon* spp. beaked, 10 killer, 50 false killer, and 40 short-finned pilot whale, 10 bottlenose, 20 striped, 450 short-beaked common, 120 long-beaked common, 20 Pacific white-sided, 100 northern right whale, and 10 Risso's dolphin as well as 50 Dall's porpoise, which will represent 0.17, 0.71, 0.06, 0.29, 4.17/2.89/2.82, unknown, 5.26, 0.99, 0.18, 0.11, 0.11,

0.11, 1.19, 0.16, and 0.12% of the affected stock populations, respectively. The pinnipeds that could potentially be taken by Level B harassment are the California sea lion, Pacific harbor and northern elephant seal, and northern fur seal with estimates of 161, 21, 68, and 6 individuals, which will represent 0.05, 0.07, 0.05, and 0.05% of the affected stock populations, respectively.

NMFS has determined that the authorized take estimates represent small numbers relative to the affected species or stocks sizes (i.e., all are less than 6%). Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks. See Table 7 for the authorized take numbers of marine mammals.

No known current regional population or stock abundance estimates for the northeast Pacific Ocean offshore of California are available for the two species under NMFS's jurisdiction that could potentially be affected by Level B harassment over the course of the IHA. These species include the Bryde's whale and false killer whale. Bryde's whales are distributed worldwide in tropical and sub-tropical waters and their occurrence in the action area is rare. Surveys have shown them to be common and distributed throughout the eastern tropical Pacific Ocean with a concentration around the equator east of 110° West and a reduction west of 140° West. Bryde's whales in California are likely to belong to a larger population inhabiting at least the eastern part of the tropical Pacific Ocean. In the western North Pacific Ocean, Bryde's whale abundance in the early 1980s was estimated to be 22,000 to 24,000 (Tillman and Mizroch, 1982; Miyashita, 1986). Bryde's whale abundance has never been estimated for the entire eastern Pacific Ocean; however, a portion of that stock in the eastern tropical Pacific Ocean was estimated as 13,000 (Wade and Gerrodette, 1993). The false killer whale is distributed worldwide throughout warm temperate and tropical oceans and their occurrence in the action area is rare. In the North Pacific Ocean, this species is well known from southern Japan, Hawaii, and the eastern tropical Pacific Ocean. This species occurs in the U.S. waters of the northern Gulf of Mexico, Hawaiian Islands, around Palmyra and Johnston Atolls, and American Samoa.

These two species did not have density model outputs within the SERDP/NASA/NOAA and OBIS–SEAMAP database. However, limited OBIS–SEAMAP sightings data exist for these species within or adjacent to the action area. Even where the limited number of sightings suggests that density is very low and encounters are less likely, for any species with OBIS–SEAMAP sightings data within or adjacent to the action area, NMFS believes it is wise to include coverage for potential takes. Generally, to quantify this coverage, NMFS assumed that ExxonMobil could potentially encounter one group of each species during the conductor pipe installation activities, and NMFS thinks it is reasonable to use the average group size to estimate the take from these potential encounters. Therefore, even though we do not have abundance data for these species, because of the limited sightings and low probability of encountering them, we have predicted take of no more than one individual group of each of these species of animals during the conductor pipe installation activities. Qualitatively, given what is known about cetacean biology and the range of these species, one group as a portion of the total population abundance within the U.S. EEZ would be considered small for both species.

Endangered Species Act

Of the species of marine mammals that may occur in the action area, several are listed as threatened or endangered under the ESA, including the North Pacific right, western North Pacific gray, humpback, sei, fin, blue, and sperm whale and Guadalupe fur seal. ExxonMobil did not request take of endangered North Pacific right whales, western North Pacific gray whales, or Guadalupe fur seals due to the low likelihood of encountering these species during the pipe-driving activities. NMFS's Office of Protected Resources, Permits and Conservation Division, initiated formal consultation under section 7 of the ESA with NMFS's West Coast Regional Office, Protected Resources Division, to obtain a Biological Opinion evaluating the effects of issuing the IHA to ExxonMobil under section 101(a)(5)(D) of the MMPA on threatened and endangered marine mammals. NMFS's Biological Opinion concluded that the action and issuance of the IHA are not likely to jeopardize the continued existence of listed species and included an Incidental Take Statement incorporating the requirements of the IHA as Terms and Conditions. The Biological Opinion also concluded that designated critical habitat of these species does not occur in the action area.

National Environmental Policy Act

To meet National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requirements published by the Council of Environmental Quality (CEQ) and NOAA Administrative Order 126–6, Environmental Review Procedures for Implementing the National Environmental Policy Act, NMFS conducted a NEPA analysis to evaluate the effects of authorizing the take of marine mammals. NMFS prepared an Environmental Assessment titled ''Environmental Assessment on the Issuance of an Incidental Harassment Authorization to ExxonMobil Production Company to Take Marine Mammals by Harassment Incidental to Conductor Pipe Installation Activities at Harmony Platform in the Santa Barbara Channel offshore of California.'' NMFS has determined that the issuance of the IHA is not likely to result in significant impacts on the human environment and issued a Finding of No Significant Impact (FONSI).

Authorization

NMFS has issued an IHA to ExxonMobil for the take, by Level B harassment, of small numbers of marine mammals incidental to conducting conductor pipe installation activities at Harmony Platform in Santa Barbara Channel offshore of California, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: September 19, 2014.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–22758 Filed 9–29–14; 8:45 am]

BILLING CODE 3510–22–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 189 September 30, 2014

Part IV

Department of Energy

10 CFR Part 431

Energy Conservation Program: Energy Conservation Standards for Small, Large, and Very Large Air-Cooled Commercial Package Air Conditioning and Heating Equipment; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket Number EERE–2013–BT–STD–0007]

RIN 1904–AC95

Energy Conservation Program: Energy Conservation Standards for Small, Large, and Very Large Air-Cooled Commercial Package Air Conditioning and Heating Equipment

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

ACTION: Notice of proposed rulemaking (NOPR) and public meeting.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including small, large, and very large air-cooled commercial package air conditioning and heating equipment. EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this document, DOE proposes to amend the energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment. This document also announces a public meeting to receive comment on these proposed standards and associated analyses and results.

DATES: DOE will hold a public meeting on Thursday, November 6, 2014, from 9 a.m. to 4 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See section VII Public Participation for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) before and after the public meeting, but no later than December 1, 2014. See section VII Public Participation for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 4A–104, 1000 Independence Avenue SW., Washington, DC 20585. To attend, please notify Ms. Brenda Edwards at (202) 586–2945. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting Ms. Edwards to initiate the necessary procedures. Please also note that those wishing to bring laptops into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing laptops, or allow an extra 45 minutes. Persons can attend the public meeting via webinar. For more information, refer to the Public Participation section VII.

Any comments submitted must identify the NOPR for Energy Conservation Standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment, and provide docket number EE–2013–BT–STD–0007 and/or regulatory information number (RIN) number 1904–AC95. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: CommPkgACHP2013 STD0007@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Office of Energy Efficiency and Renewable Energy through the methods listed above and by email to *Chad_S_Whiteman@omb.eop.gov.*

For detailed instructions on submitting comments and additional information on the rulemaking process, see section VII of this document (Public Participation).

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at regulations.gov. All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0007.* This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section VII for further information on how to submit comments through *www.regulations.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202)–287–1692. Email: *John.Cymbalsky@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mailstop GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

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I. Summary of the Proposed Rule

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Pursuant to EPCA, any new or amended energy conservation standard that DOE prescribes for certain equipment, such as small, large, and very large air-cooled commercial package air conditioning and heating equipment (also known as commercial unitary air conditioners and heat pumps), shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)(II)). Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6313(a)(6)(A)(ii)(II)). In accordance with these and other statutory provisions discussed in this notice, including EPCA's requirement that DOE review its standards for this equipment every six years, DOE proposes amended energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment (also referred to in this notice as small, large, and very large air-cooled commercial unitary air conditioners and commercial unitary heat pumps). The proposed standards, which are collectively characterized as Trial Standard Level 3 (TSL 3), prescribe the minimum allowable efficiency level based on an integrated energy efficiency ratio (IEER) and, for air-cooled commercial unitary heat pumps, coefficient of performance (COP). These proposed levels are shown in Table I.1. These proposed standards, if adopted, would apply to all equipment listed in Table I.1 and manufactured in and intended for distribution and sale in the U.S., or imported into, the U.S. on or after the date three years after the publication of the final rule for this equipment.

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

TABLE I.1—PROPOSED ENERGY CONSERVATION STANDARDS FOR SMALL, LARGE, AND VERY LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT

Equipment type		Heating type	Proposed energy conservation standard
Small Commercial Packaged Air Conditioners (AC) and Heat Pump (HP) (Air-Cooled)—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating	14.8 IEER.
		All Other Types of Heating	14.6 IEER.
	HP	Electric Resistance Heating or No Heating	14.1 IEER, 3.5 COP.
		All Other Types of Heating	13.9 IEER, 3.4 COP.
Large Commercial Packaged AC and HP (Air-Cooled)—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating	14.2 IEER.
		All Other Types of Heating	14.0 IEER.
	HP	Electric Resistance Heating or No Heating	13.4 IEER, 3.3 COP.
		All Other Types of Heating	13.2 IEER, 3.3 COP.
Very Large Commercial Packaged AC and HP (Air-Cooled)—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating	13.5 IEER.
		All Other Types of Heating	13.3 IEER.
	HP	Electric Resistance Heating or No Heating	12.5 IEER, 3.2 COP.
		All Other Types of Heating	12.3 IEER, 3.2 COP.

A. Benefits and Costs to Customers

Table I.2 presents DOE's evaluation of the economic impacts of the proposed standards on customers of small, large, and very large air-cooled commercial unitary air conditioners (CUAC), as measured by the average life-cycle cost (LCC) savings and the median payback period.[2] The average LCC savings are positive for all CUAC equipment classes, and the PBP is less than the average lifetime of the equipment, which is estimated to be 18.4 years. These classes account for approximately 90 percent of total shipments of small, large, and very large air-cooled CUAC and commercial unitary heat pumps (CUHP).[3]

TABLE I.2—IMPACTS OF PROPOSED STANDARDS ON CUSTOMERS OF SMALL, LARGE, AND VERY LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT

Equipment class	Average LCC savings (2013$)	Median payback period (years)
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	4,779	3.9
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	3,469	6.6
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	16,477	2.5

DOE's analysis of the impacts of the proposed standards on consumers is described in section IV.F of this proposed rulemaking.

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 (2014) through the end of the analysis period (2048). Using a real discount rate of 6.2 percent, DOE estimates that the industry net present value for manufacturers is $1,261 million.[4] Under the proposed standards, DOE expects that INPV will be reduced by 7.02 to 24.71 percent, which is a reduction of approximately $88.55 to $311.58 million. Based on comments from manufacturers of covered equipment, the industry is currently going through an extended period of consolidation. It is possible that the proposed standards would contribute to continued consolidation.

DOE's analysis of the impacts of the proposed standards on manufacturers is described in section IV.J of this proposed rulemaking.

C. National Benefits and Costs

DOE's analyses indicate that the proposed standards would save a significant amount of energy. The lifetime savings for small, large, and very large air-cooled CUAC and CUHP purchased in the 30-year period that begins in the year of compliance with amended standards (2019–2048), in comparison to the base case without amended standards, amount to 11.7 quadrillion Btu of energy (quads).[5] This is a savings of 29 percent relative to the energy use of this equipment in the base case.[6]

The cumulative net present value (NPV) of total customer costs and savings of the proposed standards for small, large, and very large air-cooled CUAC and CUHP ranges from $16.5 billion to $50.8 billion for 7-percent and 3-percent discount rates, respectively. This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for products purchased in 2019–2048.

In addition, the proposed standards would have significant environmental benefits.[7] The energy savings described

[2] The payback period measures the amount of time it takes for savings in operating costs to equal the incremental cost increase.

[3] DOE did not analyze LCC impacts for small, large, and very large air-cooled CUHP because energy modeling was performed only for CUAC equipment. The reasons for this approach are discussed in section IV.C.4.

[4] All monetary values in this document are expressed in 2013 dollars and, where appropriate, are discounted to 2014 unless explicitly stated otherwise.

[5] A quad is equal to 10^{15} British thermal units (Btu).

[6] The base case assumptions are described in section IV.H.

[7] 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

above are estimated to result in cumulative emission reductions of 1,085 million metric tons (Mt)[8] of carbon dioxide (CO_2), 3,072 thousand tons of methane (CH_4), 15.5 thousand tons of nitrous oxide (N_2O), 2,934 thousand tons of sulfur dioxide (SO_2), 1,021 thousand tons of nitrogen oxides (NO_X) and 3.57 tons of mercury (Hg).[9] The estimated CO_2 emissions reductions through 2030 amount to 64 Mt.[10] These projections are expected to change in light of recently available data from the estimated from the Annual Energy Outlook (AEO) 2014 data, which suggest a drop in potential emissions reductions over a similar period of time.

The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 (otherwise known as the Social Cost of Carbon, or SCC) developed by an interagency process.[11] The derivation of the SCC values is discussed in section IV.L. Using discount rates appropriate for each set of SCC values (see Table I.3), DOE estimates the present monetary value of the CO_2 emissions reduction to be between $6.1 billion and $95.9 billion, with a value of $30.9 billion using the central SCC case represented by $40.5/t in 2015. Additionally, DOE estimates the present monetary value of the NO_X emissions reduction to be $343 million and $1,060 million at 7-percent and 3-percent discount rates, respectively.

Table I.3 summarizes the national economic costs and benefits expected to result from the proposed standards for small, large, and very large air-cooled CUAC and CUHP.

TABLE I.3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR SMALL, LARGE, AND VERY LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT *

Category	Present value *billion 2013$*	Discount rate (%)
Benefits		
Operating Cost Savings	20.6	7
	59.7	3
CO_2 Reduction Monetized Value ($12.0/t case) **	6.1	5
CO_2 Reduction Monetized Value ($40.5/t case) **	30.9	3
CO_2 Reduction Monetized Value ($62.4/t case) **	49.9	2.5
CO_2 Reduction Monetized Value ($119/t case) **	95.9	3
NO_X Reduction Monetized Value (at $2,684/ton) **	0.3	7
	1.1	3
Total Benefits †	51.9	7
	91.6	3
Costs		
Incremental Installed Costs	4.1	7
	8.8	3
Total Net Benefits		
Including Emissions Reduction Monetized Value †	47.8	7
	82.8	3

* This table presents the costs and benefits associated with small, large, and very large air-cooled CUAC and CUHP shipped in 2019–2048. These results include benefits to customers 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 found in the literature.[12]

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with 3-percent discount rate.

The benefits and costs of today's proposed standards, for products sold in 2019–2048, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic

December 31, 2012. Emissions factors based on the Annual Energy Outlook 2014 (AEO 2014), which became available too late for incorporation into this analysis, indicate that a significant decrease in the cumulative emission reductions of carbon dioxide, methane, nitrous oxide, sulfur dioxide, nitrogen oxides and mercury from the proposed standards can be expected if the projections of power plant utilization assumed in AEO 2014 are realized. For example, the estimated amount of cumulative emission reductions of CO2 are expected to decrease by 36% from DOE's current estimate (from 1,085 Mt to 697Mt) based on the projections in AEO 2014 relative to AEO 2013. The monetized benefits from GHG reductions would likely decrease by a comparable amount. DOE plans to use emissions factors based on the most recent AEO available for the next phase of this rulemaking, which may or may not be AEO 2014, depending on the timing of the issuance of the next rulemaking document.

[8] A metric ton is equivalent to 1.1 short tons. Results for NO_X and Hg are presented in short tons.

[9] The reductions are measured over the period in which equipment purchased in 2019–2048 continue to operate.

[10] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a 36% decrease in cumulative emissions reductions for CO_2 thus decreasing the estimate of 64 Mt of CO2 reductions through the year 2030 to 41 Mt. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

[11] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government. May 2013; revised November 2013. *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*

[12] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. The monetized benefits from GHG reductions would likely decrease by a comparable amount. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

value of the benefits from consumer operation of products that meet the proposed standards; consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing customer NPV, and (2) the annualized monetary value of the benefits of CO_2 and NO_X emission reductions.[13]

Although combining the values of operating savings and CO_2 emission reductions provides a useful perspective, two issues should be considered. First, the national operating savings are domestic U.S. consumer monetary savings that occur as a result of market transactions while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of small, large, and very large air-cooled CUAC and CUHP shipped in 2019–2048. The SCC values, on the other hand, reflect the present value of some future climate-related impacts resulting from the emission of one ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed standards are shown in Table I.4. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate, the cost of the standards proposed in today's rule is $430 million per year in increased equipment costs, while the benefits are $2,177 million per year in reduced equipment operating costs, $1,774 million in CO_2 reductions,[14] and $36 million in reduced NO_X emissions. In this case, the net benefit amounts to $3,558 million per year.[15] Using a 3-percent discount rate for all benefits and costs and the average SCC series, the cost of the standards proposed in today's rule is $507 million per year in increased equipment costs, while the benefits are $3,426 million per year in reduced operating costs, $1,774 million in CO_2 reductions,[16] and $61 million in reduced NO_X emissions. In this case, the net benefit amounts to $4,755 million per year.[17]

TABLE I.4—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR SMALL, LARGE, AND VERY LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT *

	Discount rate	Primary estimate	Low net benefits estimate	High net benefits estimate
		million 2013$/year		
Benefits				
Operating Cost Savings	7%	2,177	1,984	2,407
	3%	3,426	3,127	3,781
CO_2 Reduction Monetized Value ($12.0/t case) **.	5%	484	467	505
CO_2 Reduction Monetized Value ($40.5/t case) **.	3%	1,774	1,714	1,846
CO_2 Reduction Monetized Value ($62.4/t case) **.	2.5%	2,632	2,543	2,737
CO_2 Reduction Monetized Value ($119/t case) **.	3%	5,504	5,317	5,727
NO_X Reduction Monetized Value (at $2,684/ton) **.	7%	36.18	34.75	37.90
	3%	60.89	58.85	63.40
Total Benefits †	7% plus CO_2 range	2,698 to 7,718	2,486 to 7,336	2,950 to 8,172
	7%	3,988	3,733	4,291
	3% plus CO_2 range	3,972 to 8,991	3,653 to 8,503	4,349 to 9,572
	3%	5,262	4,900	5,691
Costs				
Incremental Product Costs	7%	430	350	485

[13] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2013, the year used for discounting the NPV of total customer costs and savings, for the time-series of costs and benefits using discount rates of three and seven percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table I.4. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2019 through 2048) that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

[14] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. The monetized benefits from GHG reductions would likely decrease by a comparable amount. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

[15] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

[16] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

[17] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

TABLE I.4—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR SMALL, LARGE, AND VERY LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT *—Continued

	Discount rate	Primary estimate	Low net benefits estimate	High net benefits estimate
	3%	507	433	550
Net Benefits				
Total †	7% plus CO_2 range	2,268 to 7,288	2,135 to 6,986	2,465 to 7,687
	7%	3,558	3,383	3,806
	3%	4,755	4,468	5,140
	3% plus CO_2 range	3,465 to 8,484	3,220 to 8,071	3,799 to 9,021

* This table presents the annualized costs and benefits associated with small, large, and very large air-cooled CUAC and CUHP shipped in 2019 – 2048. These results include benefits to customers 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 Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO2013* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental product costs reflect no change for projected product price trends in the Primary Estimate, an increasing trend for projected product prices in the Low Benefits Estimate, and a decreasing trend for projected product prices in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.

** The 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 incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.[18]

† Total Benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to average SCC with 3-percent discount rate. In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

DOE's analysis of the national impacts of the proposed standards is described in sections IV.H, IV.K and IV.L of this proposed rulemaking.

DOE has tentatively concluded that the proposed standards represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in the significant conservation of energy. DOE further notes that products achieving these standard levels are already commercially available for most of the equipment classes covered by this proposal. Based on the analyses described above, DOE has concluded that the benefits of the proposed standards to the Nation (energy savings, positive NPV of customer benefits, customer LCC savings, and emission reductions) would outweigh the burdens (loss of INPV for manufacturers and LCC increases for some customers).

DOE also considered more-stringent energy efficiency levels as trial standard levels, and is considering them in this rulemaking. However, DOE has concluded that the potential burdens of the more-stringent energy efficiency levels would outweigh the projected benefits. Based on consideration of the public comments DOE receives in response to this notice and related information collected and analyzed during the course of this rulemaking effort, DOE may adopt energy efficiency levels presented in this NOPR that are either higher or lower than the proposed standards, or some combination of level(s) that incorporate the proposed standards in part.

II. Introduction

The following section briefly discusses the statutory authority underlying this proposal, as well as some of the relevant historical background related to the establishment of standards for small, large, and very large air-cooled CUAC and CUHP.

A. Authority

Title III, Part C[19] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6311–6317, as codified), was added by the National Energy Conservation Policy Act (Pub. L. 95–619 (Nov. 9, 1978). That law established the Energy Conservation Program for Certain Industrial Equipment, which includes provisions covering the commercial heating and air-conditioning equipment that is the subject of this notice.[20] In general, this program addresses the energy efficiency of certain types of commercial and industrial equipment. Relevant provisions of the Act include definitions (42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6313), test procedures (42 U.S.C. 6314), labelling provisions (42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

Section 342(a) of EPCA concerns energy conservation standards for small, large, and very large, air-cooled CUAC and CUHP. (42 U.S.C. 6313(a)) This category of equipment has a rated capacity between 64,000 Btu/h and 760,000 Btu/h. It is designed to heat and cool commercial buildings and is typically located on the building's rooftop. Section 5(b) of the American Energy Manufacturing Technical Corrections Act of 2012 (Pub. L. No. 112–210 (Dec. 18, 2012) (AEMTCA) amended Section 342(a)(6) of EPCA. Among other things, AEMTCA modified the manner in which DOE must amend the energy efficiency standards for certain types of commercial and industrial equipment. DOE is typically obligated either to adopt those standards developed by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE)—or to adopt levels more stringent than the ASHRAE levels if there is clear and convincing evidence in support of doing so (42 U.S.C. 6313(a)(6)(A)). AEMTCA added to this process a requirement that DOE initiate a rulemaking to consider amending the standards for any covered equipment as to which more than 6 years has elapsed since the issuance of

[18] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. The monetized benefits from GHG reductions would likely decrease by a comparable amount. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

[19] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

[20] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act of 2012, Public Law 112–210 (Dec. 18, 2012).

the most recent final rule establishing or amending a standard for the equipment as of the date of AEMTCA's enactment, December 18, 2012. (42 U.S.C. 6313(a)(6)(C)(vi)) Under this new framework, DOE must issue either a notice of determination that the current standards do not need to be amended or a notice of proposed rulemaking (NOPR) containing proposed standards by December 31, 2013. See 42 U.S.C. 6313(a)(6)(C)(i) and (vi).[21] Today's NOPR satisfies the mandatory review process imposed by AEMTCA.

Pursuant to EPCA, DOE's energy conservation program for covered equipment consists essentially of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of covered equipment. (42 U.S.C. 6314) Manufacturers of covered equipment must use the prescribed DOE test procedure as the basis for certifying to DOE that their equipment 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 equipment. (42 U.S.C. 6314(d)) Similarly, DOE must use these test procedures to determine whether the equipment comply with standards adopted pursuant to EPCA. *Id.* The DOE test procedures for small, large, and very large air-cooled CUAC and CUHP currently appear at 10 CFR 431.96.

When setting standards for the equipment addressed by this proposed rulemaking, EPCA prescribes specific statutory criteria for DOE to consider. See generally 42 U.S.C. 6313(a)(6)(A)–(C). As indicated above, any amended standard for covered equipment must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. Moreover, DOE may not prescribe a standard for certain equipment, if (1) no test procedure has been established for the equipment, or (2) if DOE determines by rule that the proposed standard is not technologically feasible or economically justified. In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of the equipment subject to the standard;
2. The savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered equipment that are likely to result from the imposition of the standard;
3. The total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard;
4. Any lessening of the utility or the performance of the covered equipment likely to result from the imposition of the standard;
5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;
6. The need for national energy and water conservation; and
7. Other factors the Secretary of Energy (Secretary) considers relevant. (42 U.S.C. 6313(a)(6)(B))

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of covered equipment. 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 equipment 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. 6313(a)(6)(B)(iii))

Further, under EPCA's provisions for consumer products, there is a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing equipment 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. For this rulemaking, DOE considered the criteria for rebuttable presumption as part of its analysis.

Additionally, EPCA specifies requirements when promulgating a standard for a type or class of covered equipment that has two or more subcategories. DOE must specify a different standard level than that which applies generally to such type or class of equipment for any group of covered equipment that have the same function or intended use if DOE determines that equipment within such group (A) consume a different kind of energy from that consumed by other covered equipment within such type (or class); or (B) have a capacity or other performance-related feature which other equipment within such type (or class) do not have and such feature justifies a higher or lower standard. In determining whether a performance-related feature justifies a different standard for a group of equipment, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. DOE considered these criteria for this rulemaking.

Federal energy conservation requirements generally preempt State laws or regulations concerning energy conservation testing, labeling, and standards. DOE may, however, grant waivers of Federal preemption for particular State laws or regulations.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011. (76 FR 3281, Jan. 21, 2011). EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than

[21] Subparagraph (A) and subparagraph (B) refer to 42 U.S.C. 6313(a)(6).

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 (EO) 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 this NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized. Consistent with EO 13563, and the range of impacts analyzed in this rulemaking, the energy efficiency standard proposed herein by DOE achieves maximum net benefits.

B. Background

1. Current Standards

DOE most recently issued amended standards for small, large, and very large, air-cooled CUAC and CUHP on October 18, 2005, which codified both the amended standards for small and large equipment and the new standards for very large equipment set by the Energy Policy Act of 2005 (EPAct 2005), Public Law 109–58, 70 FR 60407 (Aug. 8, 2005). The current standards are set forth in Table II.1.

TABLE II.1—MINIMUM COOLING AND HEATING EFFICIENCY LEVELS FOR SMALL, LARGE, AND VERY LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT

Equipment type	Cooling capacity	Sub-category	Heating type	Efficiency level	Compliance date
Small Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥65,000 Btu/h and <135,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	EER = 11.2	1/1/2010
			All Other Types of Heating.	EER = 11.0	1/1/2010
		HP	Electric Resistance Heating or No Heating.	EER = 11.0 COP = 3.3	1/1/2010
			All Other Types of Heating.	EER = 10.8 COP = 3.3	1/1/2010
Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥135,000 Btu/h and <240,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	EER = 11.0	1/1/2010
			All Other Types of Heating.	EER = 10.8	1/1/2010
		HP	Electric Resistance Heating or No Heating.	EER = 10.6 COP = 3.2	1/1/2010
			All Other Types of Heating.	EER = 10.4 COP = 3.2	1/1/2010
Very Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥240,000 Btu/h and <760,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	EER = 10.0	1/1/2010
			All Other Types of Heating.	EER = 9.8	1/1/2010
		HP	Electric Resistance Heating or No Heating.	EER = 9.5 COP = 3.2	1/1/2010
			All Other Types of Heating.	EER = 9.3 COP = 3.2	1/1/2010

2. History of Standards Rulemaking for Small, Large, and Very Large Air-Cooled Commercial Package Air Conditioning and Heating Equipment

On October 29, 1999, the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE)/Illuminating Engineering Society of North America (IESNA) adopted Standard 90.1–1999, ''Energy Standard for Buildings Except Low-Rise Residential Building'', which included amended efficiency levels for CUAC and CUHP. On June 12, 2001, the Department published a Framework Document that described a series of analytical approaches to evaluate energy conservation standards for air-cooled CUAC and CUHP with rated capacities between 65,000 Btu/h and 240,000 Btu/h, and presented this analytical framework to stakeholders at a public workshop. On July 29, 2004, DOE issued an Advance Notice of Proposed Rulemaking (ANOPR) (hereafter referred to as the 2004 ANOPR) to solicit public comments on its preliminary analyses for this equipment. 69 FR 45460. Subsequently, Congress enacted EPAct 2005, which, among other things, established amended standards for small and large CUAC and CUHP and new standards for very large air-cooled CUAC and CUHP. As a result, EPAct 2005 displaced the rulemaking effort that DOE had already begun. DOE codified these new statutorily-prescribed standards on October 18, 2005. 70 FR 60407.

Section 5(b) of AEMTCA amended Section 342(a)(6) of EPCA by requiring DOE to initiate a rulemaking to consider amending the standards for any covered equipment as to which more than 6 years has elapsed since the issuance of the most recent final rule establishing or amending a standard for the equipment

as of the date of AEMTCA's enactment, December 18, 2012. (42 U.S.C. 6313(a)(6)(C)(vi)) Accordingly, DOE must issue either a notice of determination that the current standards for small, large, and very large, air cooled CUAC and CUHP do not need to be amended or a notice of proposed rulemaking containing proposed standards. DOE has, based on available data, chosen the latter.

On February 1, 2013, DOE published a request for information (RFI) and notice of document availability for small, large, and very large, air cooled CUAC and CUHP. 78 FR 7296. The notice sought to solicit information from the public to help DOE determine whether national standards more stringent than those that are currently in place would result in a significant amount of additional energy savings and whether those national standards would be technologically feasible and economically justified. Separately, DOE also sought information on the merits of adopting integrated energy efficiency ratio (IEER) as the energy efficiency descriptor for small, large, and very large air-cooled CUAC and CUHP (see section III.A for more details).

DOE received a number of comments from interested parties in response to the RFI. These commenters are summarized in Table II.2. DOE considered these comments in the preparation of this NOPR. Relevant comments, and DOE's responses, are provided in the appropriate sections of this proposed rulemaking.

TABLE II.2—INTERESTED PARTIES PROVIDING WRITTEN COMMENT ON THE RFI

Name	Abbreviation	Type
AAON Inc	AAON	M
Air-Conditioning, Heating and Refrigeration Institute	AHRI	IA
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, Natural Resources Defense Council.	ASAP, ACEEE, NRDC (Joint Efficiency Advocates).	EA
EBM-Papst Inc	EBM-Papst	CS
Edison Electric Institute	EEI	UR
Ingersoll Rand	Ingersoll Rand	M
Lennox International Inc	Lennox	M
Lentz Engineering Associates	Lentz	I
Modine Manufacturing Co	Modine	M
New Buildings Institute	NBI	
Northwest Energy Efficiency Alliance	NEEA	EA
Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas and Electric, Southern California Edison, Sacramento Municipal Utility District, National Grid.	PG&E, SCGC, SDG&E, SCE, SMUD, National Grid (Joint Utilities).	U
Rheem Manufacturing Co	Rheem	M
UTC Climate, Controls & Security	Carrier	M
Whole Building Systems	Whole Building Systems	I

IR: Industry Representative; M: Manufacturer; EA: Efficiency/Environmental Advocate; CS: Component Supplier; I: Individual; U: Utility; UR: Utility Representative

III. General Discussion

A. Energy Efficiency Descriptor

The current energy conservation standards for small, large, and very large air-cooled CUAC and CUHP are based on energy efficiency ratio (EER) for cooling efficiency and COP for CUHP heating efficiency. 10 CFR 431.97(b)

Cooling Efficiency Metric

In the RFI, DOE noted that it was considering whether to replace the existing efficiency descriptor, EER, with a new energy-efficiency descriptor, IEER. Unlike the EER metric, which only uses the efficiency of the equipment operating at full load, the IEER metric factors in the efficiency of operating at part-loads of 75 percent, 50 percent, and 25 percent of capacity as well as the efficiency at full load. This is accomplished by weighting the full- and part-load efficiencies with the average amount of time operating at each loading point. The IEER metric incorporates part load efficiencies measured with outside temperatures appropriate for the load levels, i.e. at lower temperatures for lower load levels. 78 FR 7296, 7299 (Feb. 1, 2013). As part of a final rule published on May 16, 2012, DOE amended the test procedure for this equipment to incorporate by reference the Air-Conditioning, Heating and Refrigeration Institute (AHRI) Standard 340/360–2007, ''Performance Rating of Commercial and Industrial Unitary Air-Conditioning and Heat Pump Equipment'' (AHRI Standard 340/360–2007). 77 FR 28928. DOE notes that AHRI Standard 340/360–2007 already includes methods and procedures for testing and rating equipment with the IEER metric.

ASHRAE, through its Standard 90.1, includes requirements based on the part-load performance metric, IEER. These IEER requirements were first established in *Addenda* from the 2008 Supplement to Standard 90.1–2007, and became effective on January 1, 2010.[22]

DOE may establish ''energy conservation standards'' that set either a single performance standard or a single design requirement—not both. (42 U.S.C. 6311(18)) As such, DOE may prescribe an energy conservation standard based either on a single performance-based standard or design requirement. In the case of small, large, and very large air-cooled CUAC and CUHP, ASHRAE Standard 90.1–2010 specifies two performance requirements: EER and IEER. In selecting a new performance-based energy conservation standard, the statute prescribes that a single standard be used—in this case, either an improved EER or a new standard using IEER. DOE did not consider altering its energy conservation standard to be based on a single design requirement because performance-based standards will provide manufacturers with more flexibility in developing equipment that meets the standard levels rather than requiring a specific design. DOE notes that a change in metrics (*i.e.,* from EER to IEER) would necessitate an initial DOE determination that the new requirement would not result in backsliding when compared to

[22] ASHRAE. ASHRAE Addenda. 2008 Supplement. *http://www.ashrae.org/File%20Library/docLib/Public/20090317_90_1_2007_supplement.pdf.*

the current standards. See 42 U.S.C. 6313(a)(6)(B)(iii)(I).

As part of the RFI, DOE conducted a review of the market to see if part-load performance is currently being used and accepted for rating CUAC and CUHP. On January 2, 2009, the Environmental Protection Agency (EPA) issued a draft ENERGY STAR specification for Light Commercial Air Conditioners and Heat Pumps equipment, *i.e.,* small and large air-cooled CUAC and CUHP, which proposed to adopt IEER as part of the minimum energy efficiency criteria.[23] The Air-Conditioning, Heating and Refrigeration Institute (AHRI) supported this change. DOE also noted in the RFI that the Consortium for Energy Efficiency (CEE), an organization for energy efficiency advocates, has adopted IEER for its Tier 0, 1, and 2 efficiencies for CUAC and CUHP, i.e., small, large, and very large air-, water-, and evaporatively-cooled air conditioners and air- and water-source heat pumps.[24] 78 FR 7296, 7299 (Feb. 1, 2013).

DOE also noted in the RFI that IEER has gained support through efforts such as DOE's Commercial Building Energy Alliance (CBEA) technology transfer program, which sponsors the High Performance Rooftop Unit Challenge (RTU Challenge). This program provides a market mechanism that reduces barriers for manufacturers to procure greater than 18–IEER 10-ton [25] equipment and encourages the private sector to commit to adopt energy-efficient equipment. A number of manufacturers are currently participating in the RTU Challenge, including Lennox, 7AC Technologies, Rheem, Carrier, and McQuay. Of these participants, both Carrier and McQuay have already begun producing AHRI-certified equipment meeting or exceeding 18 IEER. In conjunction with manufacturer support, fourteen CBEA-member private entities,[26] such as Target Corp., Macy's, Inc., McDonald's Corp., and others, have also signaled their support and indicated their strong interest in potentially purchasing high-efficiency rooftop units, a sign of their confidence in the RTU Challenge and its ability to use IEER to accurately portray the energy use of air-cooled CUAC and CUHP in the field. 78 FR 7296, 7299 (Feb. 1, 2013).

As part of the RFI, DOE conducted a market analysis to compare the two metrics based on publicly available ratings of existing equipment currently available in the market. DOE made a document available for comment that provided the methodology and results of the investigation of the relationship between IEER and EER for air-cooled CUAC and CUHP with cooling capacities between 65,000 Btu/hr and 760,000 Btu/hr (*i.e.,* 5 and 63 tons). In addition, DOE looked at the variance of heating efficiency (*i.e.,* COP) with IEER and EER.[27] In the RFI, DOE noted that if it decides to propose standards using the IEER metric, it would transition the existing Federal energy conservation standards that are based on the EER metric to the new IEER metric to determine baseline energy-efficiency levels to use in the analysis. DOE sought comments and data regarding its consideration of transitioning metrics and the analysis conducted on the currently available models. 78 FR 7296, 7299 (Feb. 1, 2013).

In response to the RFI, DOE received a number of comments from interested parties concerning which energy efficiency descriptor should be used for this equipment—i.e. EER or IEER. The Edison Electric Institute (EEI), New Buildings Institute (NBI), Northwest Energy Efficiency Alliance (NEEA), the Joint Utilities,[28] and the Joint Efficiency Advocates [29] commented that DOE should adopt standards for small, large, and very large air-cooled CUAC and CUHP using both the EER and IEER metrics. (EEI, No. 9 at p. 4; NBI, No. 12 at p. 2; NEEA, No. 15 at p. 1; Joint Utilities, No. 13 at p. 2; Joint Efficiency Advocates, No. 11 at p. 1)

EEI, NEEA, and the Joint Utilities expressed concern that if DOE eliminated the EER metric, which measures peak load efficiency, manufacturers would design their equipment to improve their IEER ratings, which could negatively impact peak load efficiency. (EEI, No. 9 at p. 5; NEEA, No. 15 at pp. 1–2; Joint Utilities, No. 13 at p. 3) NEEA commented that using only one metric leads to a bias of energy savings depending on the climate zone, with EER favoring hot-dry climates and IEER favoring milder climates. NEEA stated that maximizing EER tends to involve heat exchanger improvements, while IEER improvement involves staging of compressors, and that shifting costs between these two designs degrades either IEER or EER. NEEA noted that, based on their review of the AHRI certification database, a correlation between high IEER and high EER does not necessarily exist. NEEA noted that equipment with a high EER and high IEER exists, but may just reflect premium equipment available on the market that maximize both metrics. (NEEA, No. 15 at p. 1) EEI and the Joint Utilities commented that both the EER and IEER metrics should be used to prevent higher peak demands on utility grids and higher energy bills for customers in hot-dry climates, and to prevent equipment from being manufactured that is less efficient than the current standards. (EEI, No. 9 at p. 5; Joint Utilities, No. 13 at p. 3) NBI added that because the type of application and its emphasis on full-load versus part-load cannot be known beforehand, the cost-effectiveness of standards can only be assured by including both EER and IEER metrics. (NBI, No. 12 at pp. 1–2)

The Joint Utilities commented that the IEER metric, unlike the EER metric, accounts for potentially significant part-load energy savings from technologies such as inverter duty compressors, variable speed fans, and staged compressors. The Joint Utilities also indicated that continued growth and dependence on demand response programs is expected in California and New England, and that, during demand response events, controls may be used to restrict unit capacities and lower fan speeds. According to the Joint Utilities, if units have comparable EER values, the units with higher IEERs have the capability to use less energy when capacity is restricted and are more likely to have the capability of modifying compressor operation or reducing fan speed. (Joint Utilities, No. 13 at pp. 2–3) (Joint Utilities, No. 13 at p. 3)

The Joint Utilities commented that there is no additional testing burden associated with implementing both the IEER and EER metrics as compared to using only IEER because the EER test is

[23] ENERGY STAR. Re: EPA Proposed Draft Energy Star Specification for Light Commercial HVAC Equipment. *http://www.energystar.gov/ia/partners/prod_development/revisions/downloads/lhvac/AHRI_Comments_D1.pdf.*

[24] Consortium for Energy Efficiency. CEE Commercial Unitary AC and HP Specification. *http://www.cee1.org/files/CEE_CommHVAC_UnitarySpec2012.pdf.*

[25] Air conditioning cooling capacity may be denoted in tons. An air conditioning ton is equivalent to 12,000 Btu/h of cooling capacity (or 3.5 kilowatts of cooling capacity).

[26] U.S. Department of Energy. Building Technologies Program. High Performance Rooftop Unit Challenge Fact Sheet. *http://apps1.eere.energy.gov/buildings/publications/pdfs/alliances/techspec_rtus.pdf.*

[27] The document is available at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/77.*

[28] A joint comment was submitted by the Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SCGC), San Diego Gas and Electric (SDG&E), Southern California Edison (SCE), Sacramento Municipal Utility District (SMUD), and National Grid, which are referred to as the Joint Utilities.

[29] A Joint comment was submitted by the Appliance Standards Awareness Project (ASAP), American Council for an Energy-Efficient Economy (ACEEE), and Natural Resources Defense Council (NRDC), which are referred to as the Joint Efficiency Advocates.

part of the IEER metric. The Joint Utilities added that manufacturers have been reporting both EER and IEER values for AHRI certification since 2010. The Joint Utilities stated that, based on their review of the AHRI certification database, the nominal difference between the average IEER and EER values for each CUAC equipment class capacity range (*i.e.,* small, large, and very large) varied from 1.38 and 1.87. The Joint Utilities stated that if standards are based only on IEER and the average performance difference in IEER and EER remains the same, then equipment meeting an IEER-only standard could have EERs as low as 8.86 (which is approximately 10 percent to 21 percent lower than the current EER standards for air-cooled CUAC). (Joint Utilities, No. 13 at pp. 3–4, 6)

EEI, the Joint Utilities, and the Joint Efficiency Advocates commented that DOE has the authority to adopt two efficiency metrics. (EEI, No. 9 at p. 4; Joint Utilities, No. 13 at p. 3; Joint Efficiency Advocates, No. 11 at p. 1) EEI stated that if DOE must demonstrate that a standard measured using IEER is no less stringent than a standard measured using EER, then the two standards must have the same stringency. EEI stated that, as a result, using two different metrics does not contravene the requirement that DOE apply a single standard. (EEI, No. 9 at p. 4) EEI added that this two-metric approach is consistent with past precedent set in the direct final rule for residential split system air conditioners and packaged air conditioners (76 FR 37408 (June 27, 2011); 76 FR 67037 (Oct. 31, 2011)), which will require SEER and EER standards for equipment sold in the ''Southwest'' region of the United States. (EEI, No. 9 at p. 5) The Joint Utilities commented that, based on their understanding, DOE is considering using a multiple metric approach in other rulemakings (*e.g.,* commercial and industrial fans and blowers) and, as such, DOE should be able to do the same for this rulemaking. (Joint Utilities, No. 13 at p. 3)

According to the Joint Utilities, the intent of DOE's requirement to adopt ASHRAE or more stringent standard levels is for the ASHRAE levels to serve as the standards baseline. The Joint Utilities stated that ASHRAE Standard 90.1 has specified both IEER and EER metrics for this equipment since 2010 and that industry supports and recognizes the need for a two metric approach for their standards. The Joint Utilities stated that both metrics should be used to align with the industry standards approach. (Joint Utilities, No. 13 at p. 2)

As discussed above, EPCA requires that DOE establish energy conservation standards using either a single performance standard or a single design requirement—but not both. See 42 U.S.C. 6311(18). Consistent with this restriction, DOE is proposing an approach that would apply a single performance-based standard for manufacturers to follow. Although some commenters have suggested that DOE deviate from this requirement, none has suggested an approach that would sufficiently address the legal constraints that EPCA imposes on DOE's ability to set multiple metrics for the equipment at issue in this proposal. Accordingly, DOE is declining to adopt a multiple-metric approach for CUAC and CUHP equipment.

Modine Manufacturing Company (Modine) supported the use of the IEER metric to allow for the optimization of efficiency at part-load conditions. Modine stated that equipment designed to maximize EER at full-load conditions, which accounts for only 2 percent of cooling time, may be significantly less efficient at part-load conditions. Modine presented data showing that a unit that is optimized around EER had an EER of 12.5, but the overall IEER is only 11.46, whereas a unit optimized around IEER had an EER of 10.3, but an IEER of 12.6. Modine also presented data showing that only a 2-point improvement in IEER for a 15-ton unit and a 20- to 30-ton unit would improve the efficiency by 18 percent and 20 percent, respectively. (Modine, No. 5 at pp. 2, 7–9) The Joint Efficiency Advocates commented that if DOE concludes that they do not have the authority to adopt two metrics, DOE should replace EER with IEER to better reflect annual energy consumption and encourage the adoption of part-load technologies that can achieve significant energy savings in the field. (Joint Efficiency Advocates, No. 11 at pp. 1–2) Whole Building Systems also supported the use of the IEER metric to better reflect annual energy consumption. Whole Building Systems added that design engineers, contactors, and owners need an annual or seasonal part load performance metric to make more informed purchasing and life-cycle cost decisions. (Whole Building Systems, No. 4 at p. 1)

AAON and AHRI both recognized the benefits of using the IEER metric for representation of the equipment's overall cooling energy efficiency. However, AAON, AHRI, Carrier, Lennox and Ingersoll Rand noted the following concerns with relying solely on the IEER metric:

- DOE's definition of basic model will significantly increase the number of models that manufacturers are required to test and, in the collective view of AAON and AHRI, make the DOE test requirements impossible to achieve. (AAON, No. 8 at pp. 1–2; AHRI, No. 14 at p. 4)
- The rulemaking for the Alternative Efficiency Determination Method (AEDM) is still incomplete. The proposed requirement for the overall average of AEDM outputs is, in their view, far more stringent than the uncertainty of the AHRI Standard 340/360–2007 test method and any combined manufacturing or component tolerances. (AAON, No. 8 at p. 2; AHRI, No. 14 at p. 4)
- If the part-load IEER metric is used, then the sequence of operation of each subcomponent of the equipment has a great effect on the listed metric. This would result in many more basic models based on DOE's current definition. (AAON, No. 8 at p. 2; AHRI, No. 14 at p. 4)
- The uncertainty associated with modeling or testing (including assessment, compliance, and enforcement testing) equipment using the IEER metric is significantly greater than for the single EER test. AHRI Standard 340/360 currently has a 10 percent uncertainty allowance on the IEER metric because of the higher variability in results due to the multiple tests required, compared to a 5-percent uncertainty allowance on the single test EER metric. (AAON, No. 8 at p. 2; AHRI, No. 14 at pp. 4–5; Carrier, No. 7 at p. 1; Lennox, No. 6 at p. 1; Ingersoll Rand, No. 10 at p. 1)

AAON, AHRI, and Ingersoll Rand indicated that they would support replacing EER with IEER only if DOE resolves pending issues related to the AEDM, the basic model definition and the uncertainty in measurement testing. AAON and AHRI stated that DOE should implement the testing and rating requirements, including the uncertainty tolerances, referenced in AHRI Standard 340/360 in their entirety. AHRI added that the sampling plan in 10 CFR 429.43 will have to be revised and adjusted accordingly. (AAON, No. 8 at p. 3; AHRI, No. 14 at pp. 1, 4–5; Ingersoll Rand, No. 10 at pp. 1–2) Carrier also commented that DOE should limit the basic model definition to the base refrigeration system to avoid the requirement that equipment be tested with factory options, which may negatively impact cooling or heating rating point efficiency, but provide efficiency benefits when considered from a whole building perspective (*e.g.,* economizers and energy recovery ventilators). (Carrier, No. 7 at p. 1)

Rheem supported the use of one efficiency metric, but not multiple metrics. Rheem stated that if IEER is going to replace EER, a technical review must be conducted to highlight the advantage to the consumer versus the confusion in the market place and burden on the OEM. Rheem stated that other aspects of the energy conservation standards for this equipment are in transition and must be finalized before a constructive evaluation can be made of the benefits of a part-load efficiency metric. (Rheem, No. 17 at pp. 1–2)

Lennox commented that it has captured most of the achievable EER efficiency improvements with currently available technology, and that there are diminishing returns in requiring increasingly stringent EER levels. (Lennox, No. 6 at p. 3) However, Lennox supported the continued use of the EER metric due to the IEER test uncertainty issue discussed above. (Lennox, No. 6 at p. 1) Lennox commented that using the IEER metric now would require resolving the following issues: (1) Setting a baseline IEER for various equipment classes, (2) the ability to use the AEDMs, and (3) implementation and vetting of testing protocols. (Lennox, No. 6 at p. 2)

The Joint Utilities commented that if DOE is not willing to adopt standards using both metrics, DOE should use the current EER metric instead of IEER to provide a better approximation of heating, ventilation, and air-conditioning (HVAC) performance during peak loading conditions. According to the Joint Utilities, in California and New England, commercial air conditioning accounts for a disproportionately high fraction of seasonal peak demand as compared to commercial HVAC energy consumption as a fraction of annual energy consumption. (Joint Utilities, No. 13 at p. 4) The Joint Utilities also commented that a substantial fraction of U.S. cities have peak temperatures above 95 degrees Fahrenheit (°F) in the summer, and summer peak temperature has been increasing over time. The Joint Utilities stated that peak electricity demands have large effects on energy procurement and energy pricing, and that shifts in energy pricing rate structures, such as in California, will further increase electricity prices during peak conditions. The Joint Utilities stated that using an IEER-only metric would under-represent the condition that has the largest effect on peak energy demand and energy pricing. The Joint Utilities stated that an improved IEER metric that is representative of annual energy cost would place a heavier weighting on the 95 °F full-load test point, but absent that change the Joint Utilities would support retaining EER metric. (Joint Utilities, No. 13 at p. 4)

DOE notes that the issues related to the basic model definition and AEDM were addressed separately in DOE's Commercial Certification Working Group. DOE published a final rule on December 31, 2013, which incorporated requirements for the testing and tolerances for validation and verification of an AEDM, and also amended the basic model definition for small, large, and very large air-cooled CUAC and CUHP. 78 FR 79579. EPCA requires that test procedures be reasonably designed to produce test results that measure the energy efficiency of covered equipment during a representative average use cycle or period of use. (42 U.S.C. 6314(a)(2)) As discussed above, the IEER metric weights the efficiency of operating at different partial loads and full load based on usage patterns, which collectively provide a more representative measure of annual energy use than the EER metric. A manufacturer that was involved in the development of the IEER metric indicated that the usage pattern weights for the IEER metric were developed by analyzing equipment usage patterns of several buildings across the 17 ASHRAE Standard 90.1–2010 (appendix B) climate zones. (Docket ID: EERE–2013–BT–STD–0007–0018, Carrier, at p. 1) These usage patterns and climate zones were based on a comprehensive analysis performed by industry in assessing the manner in which CUAC and CUHP equipment operate in the field, both in terms of actual usage and the climatic conditions in which they are used. The weighting factors accounted for the hours of operation where mechanical cooling was active. *Id.* As a result, the IEER metric, as a whole, provides a more accurate representation of the annual energy use for this equipment than the EER metric, which only considers full load energy use. For these reasons, DOE is proposing energy conservation standards in this NOPR based on the IEER metric. DOE recognizes the issues regarding the uncertainty of IEER test measurements and welcomes additional data regarding the measurement uncertainties to develop appropriate sampling plans.

Because the weighting factors for the IEER metric are representative of field use and because DOE is unaware of any data indicating that changes to these weighting factors are warranted, DOE is not considering changing the weighting factors for the loading conditions specified in AHRI Standard 340/360–2007 for the IEER metric, as commented by the Joint Utilities. With regards to the Joint Utilities comment that an improved IEER metric that is representative of annual energy cost would place a heavier weighting on the full-load test point, DOE welcomes comment and data on whether the test procedure for air-cooled CUAC and CUHP should be amended to revise the weightings for the IEER metric to place a higher weighting value on the full-load efficiency.

Issue 2: DOE requests comment on whether the test procedure for air-cooled CUAC and CUHP should be amended to revise the weightings for the IEER metric to place a higher weighting value on the full-load efficiency. DOE also requests data to determine appropriate weighting factors for the full-load test condition and part-load test conditions (75 percent, 50 percent, and 25 percent of capacity).

With regards to the Joint Utilities comment that DOE should use the current EER metric instead of IEER to provide a better approximation of HVAC performance during peak loading conditions, DOE notes that, as discussed above, EPCA does not include provisions for dual metrics for this equipment. See 42 U.S.C. 6311(18). DOE also notes that because the IEER metric includes measurements at full load capacity, the metric already accounts for EER. Further, ASHRAE Standard 90.1 includes requirements for both EER and IEER. As a result, although DOE is considering energy conservation standards based on the IEER metric, utilities would still be able to evaluate EER ratings of equipment.

In response to the RFI, AHRI commented that the draft of addendum CL [30] to ASHRAE Standard 90.1–2010 (Draft Addendum CL) would amend the minimum IEER levels, but did not amend the minimum EER levels because the ASHRAE Standard 90.1 committee was unable to justify raising the full load efficiency standard. (AHRI, No. 14 at pp. 1–2) AHRI and Ingersoll Rand commented that full load efficiencies are approaching their thermodynamic limits, and that further improvements will be both very minimal and very costly. (AHRI, No. 14 at p. 2; Ingersoll Rand, No. 10 at p. 1) AHRI added that while energy efficiency gains in the 1970s were achieved at relatively low cost, the efficiency improvements realized recently resulted in significant increase in equipment cost. AHRI stated

[30] ASHRAE periodically updates specifications in its Standard 90.1 through a public review process. The latest of these proposed changes is contained in Draft Addendum CL, which was made available for public review in October 2012. ''CL'' refers to the revision number.

that the industry is entering a phase where efficiency of equipment is becoming closer to the Carnot efficiency (i.e., the thermodynamic limit) and full load efficiency gains in the future will be minimal but very costly. (AHRI, No. 14 at p. 2) AHRI noted that the ASHRAE Standard 90.1 committee has recognized the increasing full load minimum efficiency standards for CUAC and CUHP has reached a point of diminishing returns in terms of energy savings, and instead focused efforts on other areas to reduce the energy consumption of this equipment, including the following design requirements:

- Mandatory use of economizers on equipment ≥54,000 Btu/h of cooling capacity in all climate zones at the exception of zones 1a and 1b,
- Modulation of economizer outdoor and return air dampers to provide up to 100 percent of the design supply air quantity as outdoor air for cooling,
- More stringent damper leakage requirements
- Additional requirements for supply air temperature reset and static pressure reset on variable air volume systems,
- Integrated economizer control and direct expansion (*i.e.,* the evaporator is in direct contact with the air stream) unit capacity staging requirements which necessitate two speed fans and two stages of mechanical cooling for constant volume systems or three or more stages for variable air volume systems, and
- Fan controls for both constant air volume and variable air volume units including extending the indoor fan part load power requirements down to ¼ horsepower. (AHRI, No. 14 at pp. 2–3)

AHRI stated that although these requirements significantly reduce the energy consumption of CUAC, most of the energy savings resulting from their implementation is not captured by the test procedure and cannot be translated in an EER improvement. AHRI stated that DOE should consider other factors beyond EER and/or COP when conducting its analysis and that by appropriately modeling this equipment, DOE will conclude that increasing the EER and COP is not a cost-effective way of improving the CUAC/CUHP efficiency. (AHRI, No. 14 at p. 3)

As discussed above, DOE determined that the IEER metric provides a more accurate representation of the annual energy use for this equipment than the EER metric, and is proposing standards based on IEER. DOE recognizes that raising the stringency of EER may not be a cost-effective way of improving the efficiency of this equipment. DOE reached this tentative conclusion based on the preliminary determination by the ASHRAE Standard 90.1 committee for Draft Addendum CL that raising the full load efficiency standard would not be cost-effective. DOE also takes note of the comments from interested parties that manufacturers are already reaching the thermodynamic limits with respect to full load efficiency for CUAC and CUHP equipment, which is limiting the potential for further full load efficiency improvements for these HVAC equipment. For these reasons, DOE is not considering standards based on the EER metric. Based on energy modeling of design changes consistent with equipment available on the market (by analyzing the efficiency at each loading condition, including full-load EER), as discussed in sections IV.A through IV.C, DOE notes that the proposed IEER-based standard levels presented in section I would not result in an EER rating less than the current standard levels. DOE discusses the use of the COP metric in the following section.

Heating Efficiency Metric

The current energy conservation standards for small, large, and very large air-cooled CUHP heating efficiency are based on the COP metric.[31] 10 CFR 431.97(b)

In response to the RFI, Ingersoll Rand commented that a performance metric does not exist that simulates part load performance in heating. (Ingersoll Rand, No. 6 at p. 4) Modine commented that DOE could consider creating a new metric for CUHP, an integrated COP that is based on heating weather bin data, to provide a more representative measure of energy efficiency during the heating mode. (Modine, No. 5 at p. 2)

DOE is not aware of any test procedures that have been developed that measure part load performance in heating mode for small, large, and very large air-cooled CUHP. In addition, DOE notes that Modine did not provide any data, nor is DOE aware of any data, regarding the annual usage for CUHP under part-load heating conditions to determine whether part-load heating hours are significant and would warrant the development of a part-load heating metric. As discussed in section IV.C.3, one manufacturer noted that CUHPs typically operate in full load heating mode and cycle the auxiliary heat on and off because heat pump capacity alone is inadequate to meet the building load. In addition, DOE is unaware of data regarding usage patterns for CUHP to determine appropriate test conditions under part-load heating conditions. Because DOE is unaware of any test procedures or usage data regarding part-load performance in heating mode for CUHP that shows that part-load heating hours are significant, DOE is not considering amendments to the test procedure to measure part-load heating efficiency at this time. For this NOPR, DOE is proposing standards for the heating efficiency based on the COP metric.

Regional Standards

In response to the RFI, NEEA and NBI stated that DOE should consider regional standards for small, large, and very large air-cooled CUAC and CUHP. (NEEA, No. 15 at p. 2; NBI, No. 12 at p. 2) NEEA commented that AHRI Standard 340/360 tends to favor certain climate zones and exclude or decrease savings by only having one efficiency value to characterize the 8 climate zones in the United States. NEEA also stated that the test procedure tends to under value fan energy as external static pressure values are optimistically low. According to NEEA and NBI, the use of regional efficiency standards would increase energy savings and reflect the equipment selection options for design engineers in selecting equipment for varying climatic zones. NEEA added that regional standards would increase and bolster technological development of air conditioning equipment for varying climate zones. NBI stated that, in particular, DOE should investigate regional standards for ''hot-dry'' climates to recognize the significant research and field experience that allows packaged air conditioners to cost-effectively achieve higher efficiencies in these climates. NBI stated that DOE has developed regional standards for other residential HVAC equipment (10 CFR 430.32(c)(5). NBI commented that DOE should consider adopting CCE Tier 2 ratings for ''hot-dry'' regional standards. (NEEA, No. 15 at p. 2; NBI, No. 12 at p. 2)

EPCA requires that any amended standard for small, large, and very large air-cooled CUAC and CUHP must be a uniform national standard. (42 U.S.C. 6313(a)(6)(A)) EPCA does not provide DOE with the authority to set regional standards for CUAC and CUHP equipment. As a result, DOE is not considering regional standards for small, large, and very large air-cooled CUAC and CUHP.

Issue 1: DOE requests comment on the use of IEER as the cooling efficiency metric and COP as the heating efficiency metric (for CUHP) for the proposed energy conservation standards, including additional data and input

[31] COP is defined as the ratio of the produced heating effect to its net work input.

regarding the uncertainty of IEER test measurements.

B. 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 equipment 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 equipment 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). Section IV.B of this proposed rulemaking discusses the results of the screening analysis for small, large, and very large air-cooled CUAC and CUHP, particularly the designs DOE considered, those it screened out, and those that are the basis for the TSLs in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the NOPR Technical Support Document (TSD).

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt an amended standard for a type or class of covered equipment, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such equipment. Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for small, large, and very large air-cooled CUAC and CUHP, using the design parameters for the most efficient equipment available on the market or in working prototypes. (See chapter 5 of the NOPR TSD.) The max-tech levels that DOE determined for this rulemaking are described in section IV.C.3 of this proposed rule.

C. Energy Savings

1. Determination of Savings

For each TSL, DOE projected energy savings from the products that are the subject of this rulemaking purchased in the 30-year period that begins in the year of compliance with amended standards (2019–2048). The savings are measured over the entire lifetime of products purchased in the 30-year analysis period.[32] DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. The base case represents a projection of energy consumption in the absence of amended mandatory efficiency standards, and it considers market forces and policies that affect demand for more efficient products.

DOE used its national impact analysis (NIA) spreadsheet model to estimate energy savings from amended standards for the products that are the subject of this rulemaking. The NIA spreadsheet model (described in section IV.H of this proposed rule) calculates energy savings in site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports national energy savings in terms of the savings in the energy that is used to generate and transmit the site electricity. To calculate this quantity, DOE derives annual conversion factors from the model used to prepare the Energy Information Administration's (EIA) most recent *Annual Energy Outlook* (*AEO*).

DOE has begun to also estimate full-fuel-cycle energy savings, as discussed in DOE's statement of policy and notice of policy amendment. 76 FR 51281 (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.[33] The NAS report discusses that the FFC metric was primarily intended for energy efficiency standards rulemakings where multiple fuels may be used by a particular product. In the case of this rulemaking, only a single fuel—electricity—is consumed by the equipment. DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered equipment. Although the addition of FFC energy savings in the rulemakings is consistent with the recommendations, the methodology for estimating FFC does not project how fuel markets would respond to this particular standard rulemaking. The FFC methodology simply estimates how much additional energy, and in turn how many tons of emissions, may be displaced if the estimated quantity of energy was not consumed by the equipment covered in this rulemaking. It is also important to note that inclusion of FFC savings does not affect DOE's choice of proposed standards.

For more information on FFC energy savings, see section IV.H.2.

2. Significance of Savings

To adopt national standards more stringent than the amended ASHRAE/IES Standard 90.1 for small, large, and very large air-cooled CUAC and CUHP, DOE must determine that such action would result in significant additional conservation of energy. (42 U.S.C. 6313(a)(6)(A)(ii)) Although the term ''significant'' is not defined in the Act, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), indicated that Congress intended ''significant'' energy savings in the context of EPCA to be savings that were not ''genuinely trivial.'' The energy savings for today's proposed standards (presented in section V.B) are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

D. Economic Justification

1. Specific Criteria

EPCA provides seven factors to be evaluated in determining whether a more stringent standard for small, large, and very large air-cooled CUAC and CUHP is economically justified. (42 U.S.C. 6313(a)(6)(B)(ii)) The following sections discuss how DOE has

[32] In the past DOE presented energy savings results for only the 30-year period that begins in the year of compliance. In the calculation of economic impacts, however, DOE considered operating cost savings measured over the entire lifetime of products purchased in the 30-year period. DOE has chosen to modify its presentation of national energy savings to be consistent with the approach used for its national economic analysis.

[33] ''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.*

addressed each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of a potential amended standard on manufacturers, DOE conducts a manufacturer impact analysis (MIA), as discussed in section IV.J. DOE first uses an annual cash-flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include industry net present value (INPV), which values the industry on the basis of expected future cash flows; cash flows by year; changes in revenue and income; and other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in life-cycle cost (LCC) and payback period (PBP) associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the economic impacts applicable to a particular rulemaking. DOE also evaluates the LCC impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a national standard.

b. Savings in Operating Costs Compared to Increase in Price

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of the covered product that are likely to result from the imposition of the standard. (42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of a product (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the product. To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value. For its analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with amended standards.

The LCC savings and the PBP for the considered efficiency levels are calculated relative to a base case that reflects projected market trends in the absence of amended standards. DOE identifies the percentage of consumers estimated to receive LCC savings or experience an LCC increase, in addition to the average LCC savings associated with a particular standard level. DOE's LCC and PBP analysis is discussed in further detail in section IV.F.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6313(a)(6)(B)(ii)(III)) As discussed in section IV.H, DOE uses the NIA spreadsheet to project national energy savings.

d. Lessening of Utility or Performance of Products

In establishing classes of products, and in evaluating design options and the impact of potential standard levels, DOE evaluates standards that would not lessen the utility or performance of the considered products. (42 U.S.C. 6313(a)(6)(B)(ii)(IV)) Based on data available to DOE, the standards proposed in this document would not reduce the utility or performance of the products under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from a proposed standard. (42 U.S.C. 6313(a)(6)(B)(ii)(V)) It also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2) (B)(ii)) DOE will transmit a copy of today's proposed rule to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue. DOE will address the Attorney General's determination in the final rule.

f. Need for National Energy Conservation

In evaluating the need for national energy conservation, DOE expects that the energy savings from the proposed standards are likely to provide improvements to the security and reliability of the nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the nation's needed power generation capacity.

The proposed standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with energy production. DOE reports the emissions impacts from the proposed standards, and from each TSL it considered, in section V.B.6 of this proposed rulemaking. DOE also reports estimates of the economic value of emissions reductions resulting from the considered TSLs, as discussed in section IV.L.

g. Other Factors

EPCA allows the Secretary of Energy, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6313(a)(6)(B)(ii)(VII))

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii), EPCA creates a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values used to calculate the effects that proposed energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic

analysis that considers the full range of impacts to consumers, manufacturers, the nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section IV.F.12 of this proposed rule.

IV. Methodology and Discussion of Related Comments

DOE used four analytical tools to estimate the impact of today's proposed standards. The first tool is a spreadsheet that calculates LCCs and PBPs of potential new energy conservation standards. The second tool is a model that provides shipments forecasts, and the third tool is a spreadsheet that calculates national energy savings and net present value resulting from potential amended energy conservation standards. The fourth spreadsheet tool, the Government Regulatory Impact Model (GRIM), helped DOE to assess manufacturer impacts.

Additionally, DOE estimated the impacts of energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment on utilities and the environment. DOE used a version of EIA's National Energy Modeling System (NEMS) for the utility and environmental analyses. The NEMS model simulates the energy sector of the U.S. economy. EIA uses NEMS to prepare its *Annual Energy Outlook* (*AEO),* a widely known energy forecast for the United States. The version of NEMS used for appliance standards analysis is called NEMS–BT [34] and is based on the *AEO* version with minor modifications.[35] The NEMS–BT model offers a sophisticated picture of the effect of standards, because it accounts for the interactions between the various energy supply and demand sectors and the economy as a whole.

As discussed below, specifically in section IV.D on the markups analysis and section IV.E on the energy use analysis, DOE utilized methods developed for the 2004 ANOPR to conduct these analyses. In the case of the markups analysis, DOE utilized the same distribution channels as the 2004 ANOPR to characterize how small, large, and very large air-cooled CUAC equipment is distributed from the manufacturer to the end-user. In the case of the energy use analysis, building simulations performed for the 2004 ANOPR laid the basis for estimating the annual energy consumption of small, large, and very large air-cooled CUAC equipment. However, DOE incorporated several modifications to the simulations themselves as well as detailed performance data from the Engineering Analysis to estimate the energy consumption of equipment at the specific energy efficient levels evaluated in today's NOPR. DOE also notes that inputs to the LCC and PBP analysis, including the installation and maintenance costs, used the same data source as the 2004 ANOPR, but DOE updated the data to reflect the most recent version of the data source.

A. Market and Technology Assessment

1. General

For the market and technology assessment, DOE develops information that provides an overall picture of the market for the equipment concerned, including the purpose of the equipment, the industry structure, and market characteristics. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment for this rulemaking include scope of coverage, equipment classes, types of equipment sold and offered for sale, and technology options that could improve the energy efficiency of the equipment under examination. Chapter 3 of the NOPR TSD contains additional discussion of the market and technology assessment.

2. Scope of Coverage and Equipment Classes

The proposed energy conservation standards in today's NOPR cover small, large, and very large, air-cooled CUAC and CUHP under section 342(a) of EPCA. (42 U.S.C. 6313(a)) This category of equipment has a rated capacity between 65,000 Btu/h and 760,000 Btu/h. It is designed to heat and cool commercial buildings. In the case of single-package units, which house all of the components (i.e., compressor, condenser and evaporator coils and fans, and associated operating and control devices) within a single cabinet, these units are typically located on the building's rooftop. In the case of split-system units, the compressor and condenser coil and fan (or in the case of CUHP, the outdoor coil and fan) are housed in a cabinet typically located on the outside of the building, and the evaporator coil and fan (or in the case of CUHP, the indoor coil and fan) are housed in a cabinet typically located inside the building.

When evaluating and establishing energy conservation standards, DOE divides covered equipment into equipment classes by the type of energy used or by capacity or other performance-related features that would justify a different standard. In determining whether a performance-related feature would justify a different standard, DOE considers such factors as the utility to the consumer of the feature and other factors DOE determines are appropriate.

The current equipment classes that EPAct 2005 established for small, large, and very large air-cooled CUAC and CUHP divide this equipment into twelve classes characterized by rated cooling capacity, equipment type (air conditioner versus heat pump), and heating type. Table IV.1 shows the current equipment class structure.

TABLE IV.1—PROPOSED EQUIPMENT CLASSES

Equipment class	Equipment type	Cooling capacity	Sub-category	Heating type
1	Small Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥65,000 Btu/h and <135,000 Btu/h.	AC	Electric Resistance Heating or No Heating.
2				All Other Types of Heating.
3			HP	Electric Resistance Heating or No Heating.

[34] BT stands for DOE's Building Technologies Program.

[35] The EIA allows the use of the name ''NEMS'' to describe only an AEO version of the model without any modification to code or data. Because the present analysis entails some minor code modifications and runs the model under various policy scenarios that deviate from AEO assumptions, the name ''NEMS–BT'' refers to the model as used here. For more information on NEMS, refer to The National Energy Modeling System: An Overview, DOE/EIA–0581 (98) (Feb.1998), available at: *http://tonto.eia.doe.gov/FTPROOT/forecasting/058198.pdf.*

TABLE IV.1—PROPOSED EQUIPMENT CLASSES—Continued

Equipment class	Equipment type	Cooling capacity	Sub-category	Heating type
4				All Other Types of Heating.
5	Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥135,000 Btu/h and <240,000 Btu/h.	AC	Electric Resistance Heating or No Heating.
6				All Other Types of Heating.
7			HP	Electric Resistance Heating or No Heating.
8				All Other Types of Heating.
9	Very Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥240,000 Btu/h and <760,000 Btu/h.	AC	Electric Resistance Heating or No Heating.
10				All Other Types of Heating.
11			HP	Electric Resistance Heating or No Heating.
12				All Other Types of Heating.

AC = Air conditioner; HP = Heat pump.

In the RFI, DOE stated that it planned to continue using these classes, which are also provided in Table 1 of 10 CFR 431.97. DOE requested feedback on the current equipment classes and sought information regarding other equipment classes it should consider for inclusion in its analysis 78 FR 7296, 7300 (Feb. 1, 2013).

Modine, Carrier, and AAON supported the equipment class structures presented in the RFI. (Modine, No. 5 at p. 1; Carrier, No. 7 at p. 2; AAON, No. 8 at p. 3) AHRI disagreed with DOE's determination that every equipment category for which there is a minimum energy conservation standard is an equipment class. AHRI stated that equipment classes should be delineated based on cooling capacity and on whether the unit is an air conditioner or a heat pump. AHRI commented that the same equipment class could have two different efficiency levels (*e.g.,* one for equipment with electric resistance heat (or none) and the other for equipment with all other types of heating element). (AHRI, No. 14 at p. 5)

As discussed above, EPCA specifies the criteria for separation into different equipment classes: (1) Type of energy used, or (2) capacity or other performance-related features such as those that provide utility to the consumer or others the Secretary determines are appropriate that would justify the establishment of a separate energy conservation standard. DOE notes that considering two different efficiency levels for different equipment types, as asserted by AHRI, would create two separate equipment classes because a performance-related feature (*e.g.,* type of heating) inherently affects the efficiency and warrants establishing a separate energy conservation standard. For these reasons, DOE is proposing energy conservation standards in this NOPR based on the existing equipment class structure provided in Table 1 of 10 CFR 431.97, as shown in Table IV.1.

United CoolAir Corporation (UCA) submitted a request for exemption for a specific type of air conditioning equipment (''double-duct air-cooled air conditioner''). See UCA, EERE–2013–BT–STD–0007–0020. These units are designed for indoor installation in constrained spaces using ducting to an outside wall for the supply and discharge of condenser air to the condensing unit. The sizing of these units is constrained both by the space available in the installation location and the available openings in the building through which the unit's sections must be moved to reach the final installation location. These size constraints, coupled with the higher power required by the condenser fan to provide sufficient pressure to move the condenser air through the supply and return ducts, affect the energy efficiency of these types of systems. More conventional designs that use outdoor units or condenser sections of packaged commercial air conditioners do not require this more complex ductwork and can more easily move condenser air using direct-driven propeller fans.

Currently, double-ducted air conditioners are tested and rated under the same test conditions as single-duct air conditioners, without any ducting connected to, or an external static pressure applied on, the condenser side. This would provide more favorable conditions for testing and rating equipment efficiency in terms of IEER than typically experienced in the field. UCA has asserted that the double-duct design provides customer utility in that it allows interior field installations in existing buildings in circumstances where spacing constraints make an outdoor unit impractical to use. Id. DOE recognizes that the design features associated with the described dual-duct designs may affect energy use while providing justifiable customer utility. However, DOE also questions how much of an efficiency impact, in terms of IEER, the dual-duct design may provide when tested under the current test conditions discussed above compared to single-duct air conditioners and welcomes additional data regarding the impact on the measured IEER.

Issue 3: DOE requests comments on whether separate equipment classes should be considered for dual-duct air-conditioners. DOE further requests detailed comments regarding the definition of such equipment, and any detailed information, such as test data, test conditions, key component design details, fan power consumption, as well as other relevant information that may help DOE evaluate potential alternative equipment class standard levels.

3. Technology Options

As part of the market and technology assessment, DOE uses information about existing and past technology options and prototype designs to help identify technologies that manufacturers could use to improve energy efficiency. Initially, these technologies encompass all those that DOE believes are technologically feasible. Chapter 3 of the NOPR TSD includes the detailed list and descriptions of all technology options identified for this equipment.

In the RFI, DOE stated that it planned to consider the specific technology options presented in Table IV.2. 78 FR 7296, 7300 (Feb. 1, 2013).

TABLE IV.2—RFI TECHNOLOGY OPTIONS

Heat transfer improvements:
• Electro-hydrodynamic enhancement.
Alternative refrigerants.
Condenser and evaporator fan and fan motor improvements:
• Larger fan diameters.
• More efficient fan blades (e.g., air foil centrifugal evaporator fans, backward-cured centrifugal evaporator fans, high efficiency propeller condenser fans).
• High efficiency motors (e.g., copper rotor motor, high efficiency induction, permanent magnet, electronically commutated).
Larger heat exchangers.
Microchannel heat exchangers.
Reduce air leakage paths within the unit.
Low-pressure-loss filters.
Compressor Improvements:
• High efficiency compressors.
• Multiple compressors.
Thermostatic expansion valves.
Electronic expansion valves.
High-side solenoid valve or discharge line check-valve to minimize pressure equalization.
Heat-pipes (for high latent loads).
Sub-coolers.
Reduced indoor fan belt loss:
• Synchronous (toothed) belts.
• Direct-drive fans.
Demand-control ventilation strategy.

The RFI sought comment from interested parties on these, as well as other options that DOE had not listed. Carrier commented that, in general, many of the technologies presented by DOE in the RFI are already used in equipment. (Carrier, No. 7 at p. 2) DOE agrees that many of the technologies are used in equipment currently available on the market. As a result, DOE continued to consider such technologies for improving the efficiency above the baseline level for this NOPR. DOE also notes that for the majority of the identified technology options, DOE considered designs in its analyses that are generally consistent with existing equipment on the market (*e.g.,* heat exchanger sizes, fan and fan motor types, controls, air flow).

The following sections discuss comments from interested parties on specific technology options.

Heat Exchanger Size

Increasing the heat transfer surface area of the heat exchangers can be achieved by increasing their width, height, or depth. These measures can improve heat transfer effectiveness, which can reduce the condensing temperature and increase the evaporating temperature needed to transfer the cooling (or heating) load. Such temperature adjustments reduce the compressor's compression ratio and hence its required power input. Lennox indicated that evaporator coil area is already near the maximum for optimum efficiency and latent heat removal. Lennox stated that increasing the coil area leads to higher evaporating temperatures, lessening the ability of the coil to remove moisture from the air, which could lead to humidity control problems in hot humid regions. (Lennox, No. 6 at p. 2) Lennox also commented that adding coil rows increases costs proportional to the number of rows, but provides less than proportional efficiency gain. (Lennox, No. 6 at p. 2)

DOE agrees with Lennox that increasing the evaporator size may lead to a decrease in latent heat removal. Based on a review of currently available equipment literature and DOE's energy modeling analyses, DOE determined that, for a given capacity, the heat exchanger sizes varied significantly, with larger coil sizes generally correlating to higher IEER levels (see chapter 5 of the NOPR TSD for additional information).[36] As part of the engineering analysis, the design options DOE considered for different IEER levels include the variation of evaporator coil size, and DOE's analysis considered evaporator coil sizes consistent with equipment available on the market.

Fans and Fan Motors

As stated above, DOE proposed several improvements to the indoor and outdoor fan motors, including copper rotor motors, higher efficiency motors, and direct-drive fans, and synchronous belts.

Manufacturing more efficient copper rotor motors requires using copper instead of aluminum for critical components of an induction motor's rotor (*e.g.,* conductor bars and end rings). By using copper in these motor components, the efficiency of the motor can improve significantly because the electrical conductivity of this material, relative to other materials commonly used in rotor construction (*e.g.* aluminum) is much higher (*i.e.,* lower electrical resistance). With this higher level of conductivity, the electrical losses that might otherwise present themselves during operation in a given motor are significantly reduced. However, using a copper-cast rotor in an electric motor presents a variety of production challenges. For example, copper melts at higher temperatures than aluminum, so the casting process becomes more difficult (*due to* higher thermal stress on the die mold) and is likely to increase both production time and cost for manufacturing a motor. EBM-Papst Inc. (EBM-Papst) commented that copper rotor motors provide marginally increased efficiency

[36] The following are examples of the equipment literature DOE reviewed:

(1) United Technologies Corporation. ''Carrier 50TC Cooling Only/Electric Heat, Packaged Rooftop, 3 to 15 Nominal Tons: Product Data.'' Available online at: *http://www.docs.hvacpartners.com/idc/groups/public/documents/techlit/50tc-19pd.pdf* (Accessed on Sept. 12, 2013).

(2) Lennox International Inc. ''Lennox Packaged Electric/Electric LCH Energence® Rooftop Units: Product Specifications.'' Available online at: *http://tech.lennoxintl.com/C03e7o14l/3rEplb5d/ehb_lch_bbox_1306_210556_020.pdf* (Accessed on Sept. 12, 2013).

(3) Ingersoll Rand. ''Trane Product Catalog: Packaged Rooftop Air Conditioners, Voyager™ Cooling and Gas/Electric, 12½–25 Tons, 60Hz'' Available online at: *http://www.trane.com/CPS/Uploads/UserFiles/DXUnitarySystems/Light%20Rooftops/RT-PRC028-EN_08022013.pdf* (Accessed on Sept. 12, 2013).

over aluminum and aluminum alloy rotor motors. EBM-Papst noted that the torque characteristic of copper rotor motors is very stiff, so that copper rotor motors cannot control speed based on voltage and, as a result, variable speed copper rotor motors would require variable frequency drives. EBM-Papst also indicated that casting of copper requires very high temperatures and very specialized tools. (EBM-Papst, No. 16, p. 1)

DOE agrees with EBP-Papst that copper rotor motors are more difficult to manufacture than aluminum rotor motors due to the high temperatures required for casting. However, as part of the previous rulemaking for this equipment, DOE noted that in the case of motor rotors for similar horsepower motors, copper rotors can reduce the electric motor total energy losses by between 15 percent and 23 percent as compared to aluminum rotors.[37] DOE also notes that, based on a review of equipment literature, equipment is available on the market that offers variable speed indoor fan motors using variable frequency drives. As a result, DOE considered copper rotor motors as a technology option.

High-efficiency electric motors that drive evaporator and condenser fans can increase efficiency and reduce overall energy use in air-cooled CUAC and CUHP. EBM-Papst stated that high-efficiency permanent magnet motors are available with ferrite magnets. EBM-Papst indicated that external rotor permanent magnet motors with completely integrated drive electronics are available up to a 6 kilowatt (kW) (8 horsepower) electrical input. EBM-Papst stated that versions with 7.5 kW and 12 kW (10 horsepower and 15 horsepower), which DOE notes may be applicable for very large air-cooled CUAC and CUHP indoor fan motors, will become available in 2013 and 2014, respectively. In light of EBM-Papst's information, DOE decided to consider higher efficiency permanent magnet motors as part of its list of technology options because they may reduce the energy consumption compared to motors currently used by manufacturers for CUAC and CUHP equipment. As discussed above, DOE's analysis considered fan motors consistent with equipment available on the market.

Direct-drive fans connect the fan blade/wheel directly to the motor shaft, thereby eliminating drive belt energy loss. EBM-Papst also commented that direct-drive fans prevent friction power losses that can be found in fans with mechanical transmission components even when these components are perfectly aligned with properly-tightened high-quality belts. (EBM-Papst, No. 16 at p. 2) DOE notes that certain air-cooled CUAC and CUHP currently available on the market already incorporate direct-drive fans in higher efficiency equipment. As a result, DOE proposes to keep direct-drive fans on the list of technologies.

Another option to improve efficiency would be to increase the diameter of the outdoor fan, which reduces the discharge velocity of the air leaving the condenser fan. The energy associated with the discharge velocity is dissipated and cannot be recovered, hence, a lower discharge velocity reduces this loss and reduces fan power input. Regarding increasing the outdoor fan diameter, EBM-Papst commented that fan efficiency varies significantly with the fan's duty point. EBM-Papst noted that many fans are selected with the operating point very far to the right of the point of peak efficiency (*i.e.,* fans are designed for higher flow rates and are sized smaller than is optimal for efficiency) and that such selections yield lower first cost and smaller equipment size. EBM-Papst stated that fan selections that match the duty point closer with the fan's peak efficiency are usually larger. Moreover, EBM-Papst commented that despite the potential increase in operational fan efficiency, a larger fan—while operating at lower rotational speed—can require a slightly higher motor torque, which results in the need for a larger motor frame size. (EBM-Papst, No. 16, p. 2) (Larger frame-sized motors provide higher horsepower and torque levels.) Lennox also commented that fan efficiency increases with fan diameter, but that cabinet size and shipping dimensions constrain the ability of manufacturers to increase fan diameters much beyond the current sizes. (Lennox, No. 6 at p. 2)

With respect to these comments, DOE recognizes that fan efficiency can play a role in improving CUAC/CUHP efficiency. DOE also realizes that fan diameter size is limited by cabinet sizes and shipping dimensions. DOE has incorporated fan diameter and motor sizes consistent with existing equipment available on the market to ensure that components are appropriately sized.

EBM-Papst suggested that DOE consider that company's HyBlade® axial fan and AxiTop diffuser for axial fans as technology options for improving condenser fan efficiency. (EBM-Papst, No. 16 at p. 3) EBM-Papst stated that the HyBlade® axial fan uses a blade with a metal core for structural strength and motor heat dissipation, while using injection molded blade surfaces for advanced geometries that allow for optimized aerodynamic shape, resulting in increased efficiency compared to conventional fan blades. (EBM-Papst, No. 16 Appendix 4 at p. 2) According to EBM-Papst, the Axitop diffuser reduces discharge losses due to stripping and back-flow of air and, as a result, boosts the pressure increase of the fan. This increases the efficiency of the fan and allows the fan speed to be reduced (*i.e.,* fan motors may run at lower power) while producing the same air volume, resulting in a decrease in energy use of the overall system. EBM-Papst noted that in one customer application (at constant air volume), energy consumption was reduced by 27 percent using this technology. (EBM-Papst, No. 16 Appendix 3 at pp. 1–2) DOE notes that both of these technologies are patented by EBM-Papst. DOE does not intend to consider energy conservation standards that would necessitate the use of any proprietary designs or patented technologies, which could allow a single manufacturer to monopolize the market. As a result, DOE is not considering EBM-Papst's HyBlade® axial fan and AxiTop diffuser as technology options in this NOPR. However, DOE notes that the proposed energy conservation standards would not prohibit the use of these technologies.

EBM-Papst made several comments regarding indoor fan energy use and available design options to improve their efficiency—which, by extension, would improve overall CUAC/CUHP efficiency. EBM-Papst commented that unnecessary electrical consumption by indoor fans impacts the energy efficiency doubly, because of the additional heat load on the conditioned space. DOE recognizes that the heat load caused by the indoor motor may result in added energy consumption to cool the air heated by the motor. DOE notes that the energy modeling tool used in the engineering analyses is already designed to account for the heat load caused by the indoor fan motor as part of the overall system performance.

An airfoil centrifugal fan is a type of fan that has blades shaped like air foils that are inclined such that the blade trailing edge is angled away from the rotation direction. The best airfoil fans can operate at efficiencies near 90 percent.[38] Utilizing this type of fan for

[37] See chapter 4 of the TSD for the July 2004 ANOPR, available online at: *http://www.regulations.gov/#!documentDetail;D=EERE-2006-STD-0103-0078.*

[38] United States Army. December 9, 2005. Maintenance of Mechanical and Electrical Equipment At Command, Control,

indoor fan applications can improve the efficiency of the CUAC/CUHP system. Regarding specific indoor fan types, EBM-Papst stated that airfoil centrifugal fans are known for low sound. Additionally, EBM-Papst stated that the efficiency benefits of airfoil impellers over backward curved impellers (which have the tips of its blades inclined away from the direction of the airflow, enabling it to move air at higher pressures) should be examined closely. (EBM-Papst, No. 16 at p. 2) Although EBM-Papst did not provide details regarding the low sound feature, DOE recognizes that the airfoil centrifugal fan has less friction losses during operation, which produces less noise, and also results in lower power consumption.

DOE acknowledges that manufacturers may offer features that are beneficial to consumers, like low sound fans, but do not impact efficiency. A number of manufacturers indicated that airfoil centrifugal fans and backward curved centrifugal fans (i.e., similar to airfoil fans, but they have simpler blades and cannot attain comparable efficiencies) may improve IEER due to lower fan power consumption. As a result, DOE proposes to include these fan types on the list of technology options. As discussed above, DOE considered technology options and designs that are generally consistent with existing equipment on the market. Additionally, as part of the reverse engineering analysis (see section IV.C.1), DOE considered fan curves and test data to account for the performance of the fans as part of the air-cooled CUAC and CUHP.

EBM-Papst also provided the following comments on other fan and fan motor efficiency improving technologies:

- Lower air-speed results in lower fan energy losses and EBM-Papst recommended imposing an upper limit for air speed inside of the commercial package equipment, referenced to air inlet area, the air outlet area, and/or air filter area. Air-speed of less than 2.5 meters/second would be ideal.
- Optimize the air path in the unit to minimize airflow impedance.
- Optimize the fan selection in terms of fan diameter, and fan type (axial, centrifugal forward curved, centrifugal backward curved, cross flow, mixed flow) so that the fan duty point of its peak efficiency is: (1) Close to the actual fan duty point required by the commercial package equipment, and (2) that the chosen fan type enhances the air path in the unit.
- Fine-tune the fan design (blade angle, number of blades, impeller width) so that the fan's operational efficiency in the unit matches the fan peak efficiency exactly.
- Some electronic motor speed controllers can cause structure-borne noise. A better controller potentially avoids the need for sound attenuation, which in turn, frees up the air path for increased air-side efficiency.
- Improve the combination of fans with motors and speed controllers. A regulation harmonized with EN 13053:2006+A1 would limit the maximum permitted electrical power consumption of the motorized fan. Equation (6) in EN 13053 determines a reference power input based on fan static pressure and on airflow. The resulting product is compared against a table which categorizes the equipment in class P1 (best) through class P7 (worst). (EBM-Papst, No. 16 at p. 3)

DOE agrees that reducing the air speed can reduce fan power consumption and included variable or staged air flow as a technology option. DOE also recognizes that optimizing fan type and fan design may decrease the fan power consumption and thus improve the efficiency of the air-cooled CUAC and CUHP. As a result, DOE is including these designs on the list of technology options. DOE also agrees that appropriately matching the fan with the fan motor improves efficiency. However, DOE proposes to evaluate air-cooled CUAC and CUHP as a whole and does not propose to set separate performance requirements for the fan assembly. With regards to EBM-Papst's comments concerning optimizing air paths and better motor controllers, DOE's analyses considered air flow paths and control systems consistent with existing equipment available on the market.

Electronic Expansion Valves

Expansion valves are refrigerant metering devices that control the amount of refrigerant flowing to the evaporator coil, decreasing the temperature and pressure of the refrigerant, which creates the driving force to move heat out of the conditioned space and into the evaporator. Electronic expansion valves use an electronic control system and sensors that measure suction line temperature and pressure to maintain more precise control of superheat over a wide range of operating conditions and, as a result, may increase energy efficiency under varying load conditions when paired with modulating systems.

Lennox stated that electronic expansion valves are very costly and not economically justified because they provide little full load benefit. (Lennox, No. 6 at p. 2) As explained in section III.A, DOE proposes to transition to IEER, a part load efficiency metric, and electronic expansion valves are beneficial for partial loads because they can precisely control the expansion process which leads to lower power consumption, and therefore, a higher IEER. DOE recognizes that that electronic expansion valves may be more expensive that other expansion devices, like capillary tubes or thermostatic expansion valves, but DOE already considers the costs of design options separately as part of the engineering analyses, which means that these devices may be screened out once costs are factored into the analysis. As a result, DOE is continuing to consider electronic expansion valves as a technology option for purposes of its engineering analysis.

Part-Load Technology Options

Variable-capacity or multiple-tandem compressors provide the ability to modulate the cooling capacity, allowing equipment to better match the cooling load than single speed compressors that can only operate by cycling on and off. The effectiveness of the heat exchangers is greater during operation with reduced mass flow at part load, thus reducing the condensing temperature and increasing the evaporating temperature required to transfer the load—this in turn reduces the compressor's operating pressure ratio and its power input. As a result, using variable capacity or multiple-tandem compressors may improve the overall system efficiency by matching part-load operating conditions (and reducing energy consumption) more closely than units using single speed compressors. Variable speed fans/motors can also improve CUAC and CUHP efficiency by varying fan speed to reduce air flow rate at part load. If the indoor/outdoor heat exchangers of a unit are served by a variable-capacity compressor or by a tandem compressor set, less air flow is needed to transfer the load. Overall system efficiency can be improved by reducing the indoor or outdoor air flow and reducing indoor/outdoor fan power.

DOE's consideration of a shift to an IEER-based standard generated a number of comments. Ingersoll Rand commented that moving to an IEER metric will require manufacturers to optimize around part load performance, likely in the form of improved heat

Communications, Computers, Intelligence, Surveillance, and Reconnaissance (C4isr) Facilities, HQUSACE/OCE Army Technical Manuals [Online Report]. DOE documented this report in the rulemaking docket as docket ID EERE–2013–BT–STD–0007–0019.

transfer and airflow. (Ingersoll Rand, No. 10 at p. 3) Whole Building Systems, LLC, commented that DOE should include variable-capacity compressors, along with variable speed condenser and evaporator fans. It noted that these technologies are already being adopted by manufacturers. (Whole Building Systems, No. 4 at p. 1) Carrier added that compressor staging (multiple or variable capacity-compressors) and indoor and outdoor fan speed control would increase IEER efficiency, but would not impact EER. (Carrier, No. 7 at p. 2)

DOE agrees with Whole Building Systems, Carrier, and Ingersoll Rand that variable-capacity compressors, compressor staging, and variable speed fans improve IEER because they provide the ability to modulate the cooling capacity and reduce the overall system power consumption under part-load conditions. Based on DOE's review of manufacturer equipment literature, these design elements are already being used in equipment currently available on the market. Accordingly, DOE included these design elements in the list of technology options considered for this NOPR.

Modine commented that DOE should also consider the intelligent interactive modulation head pressure control, a technology option developed by Airedale International Air Conditioning (Airedale) to improve off peak load efficiencies. (Modine, No. 5 at pp. 1–2) DOE notes that Modine did not provide any details regarding this technology or the associated efficiency improvement. DOE also notes that Airedale was acquired by Modine in 2005. DOE does not consider proprietary technologies as part of its analyses and, as a result, did not consider the intelligent interactive modulation head pressure control developed by Airedale as a separate technology option. However, DOE recognizes that different equipment manufacturers may take different approaches for part-load operation control strategies.

Technology Options That Do Not Impact IEER

DOE laid out a number of technology options for comment that have no impact on IEER but that could have an overall impact on energy usage that would not be fully captured by the use of this proposed metric. Demand-control ventilation strategies monitor the indoor space occupancy and conditions (*e.g.,* using CO_2 sensors) to deliver the required ventilation as needed (based on building air quality requirements). In contrast, conventional systems that do not employ these strategies may provide fixed amounts of ventilated air based on assumed conditions. By comparison, demand-control ventilation strategies would more accurately control the amount of outdoor air required for ventilation that needs to be conditioned by the equipment.

Lennox and Ingersoll Rand commented that demand-control ventilation strategy does not benefit either EER or IEER ratings. (Lennox, No. 6 at p. 3; Ingersoll Rand, No. 10 at p. 3) Carrier also commented that many units on the market have capabilities for demand management, and with the development of smart meters and the smart grid, there are more effective ways to control peak power for this class of equipment than the technology options identified by DOE. Carrier stated that these features are not captured in EER or IEER metrics. (Carrier, No. 7 at p. 2) Lentz Engineering Associates, Inc. commented that DOE should consider a technology option where the primary function of the air handling systems is to efficiently process or manage ventilation and where the primary heating and cooling plants rely on recovered energy instead of expending new energy assets. Lentz Engineering stated that this can result in energy use reductions in HVAC systems on the order of 85 to 90 percent. (Lentz, No. 3 at p. 1)

DOE also considered the implementation of a high-side solenoid valve. A high-side solenoid valve (*i.e.,* a solenoid valve located in the high-pressure-refrigerant line) and a discharge line check valve (*i.e.,* a check valve located in the compressor discharge line) can be installed in a refrigeration system to minimize pressure equalization between the high-pressure and low-pressure sides. Lennox commented that these valves do not benefit either EER or IEER ratings, but no further details were provided in their comments. (Lennox, No. 6 at p. 3)

Another option could also be used. Heat pipes are used in hot humid climates to increase dehumidification. Refrigerant inside the heat pipe pre-cools incoming supply air by absorbing the heat from it. The evaporator cools the supply air further, and is able to extract more water vapor than a conventional evaporator would. After the refrigerant in the tubes changes into a vapor, it flows to the condensing section at the other end of the system, releasing its heat and flowing back to the evaporator end of the pipe to begin the cycle again. Lennox also commented that heat-pipes for high latent loads do not benefit either EER or IEER ratings. (Lennox, No. 6 at p. 3)

In addition to the items describe above, AAON noted several other technologies that DOE did not initially consider that can improve efficiency. These technologies include capacity modulation (*i.e.,* modulate system capacity output for part load conditions by various means to reduce overall energy consumption), economizers (*i.e.,* an automatic system that enables a cooling system to supply outdoor air to reduce or eliminate the need for mechanical cooling during mild or cold weather), heat recovery (*i.e.,* a process that preconditions outdoor air entering the equipment through direct or indirect thermal and/or moisture exchange with the exhaust air) and energy efficient control sequences (*e.g.,* single zone variable-air-volume) are outside the scope of AHRI Standard 340/360–2007 and beyond the lab facilities capabilities to test. AAON added that although energy can be saved annually by using any one of these options, the full load EER ratings would be decreased due to the higher pressure drop incurred with many of these features. AAON stated that rating system modifications exist to account for the energy savings of some of these technologies, such as those contained in AHRI Guideline V for energy recovery systems. (AAON, No. 8 at p. 3)

DOE recognizes that technologies such as demand-control strategies, economizers, energy recovery, high-side solenoid valves or discharge line check-valves and heat pipes may result in annual building energy savings. However, DOE is not aware of any data showing that these technologies improve IEER based on the current DOE test procedure. As a result, DOE is not proposing to include these technologies in its analyses. However, DOE notes that the IEER metric for this equipment already accounts for both capacity modulation and energy efficient control sequences. In addition, based on a review of equipment literature, DOE notes that both capacity modulation and energy efficient control sequences are used to improve part-load performance for this equipment. As a result, DOE included these technology options as part of the analyses.

Based on manufacturer comments and DOE's review of equipment literature, DOE is declining to include low pressure drop filters and air leakage paths within the unit from the list of technology options. Comments from several manufacturers during manufacturer interviews and public meetings held as part of the Commercial HVAC, Water Heating, and Refrigeration Certification Working Group (Commercial Certification Working

Group), indicated that most manufacturers test their systems without filters installed or use disposable filters that produce minimal pressure drops when used. Additionally, the filter type used in a system is a feature specified by the customer based on the needs of the installation. For example, a unit installed in a hospital will require filters with a high Minimum Efficiency Reporting Value (MERV) rating,[39] which may cause an increase in pressure drop depending on the density of the filter material and an accompanying increase in fan power and energy use of the unit. DOE proposes to remove air leakage paths from the list of technology options because several manufacturers indicated during interviews that air leakage paths are already eliminated during design of air-cooled CUAC and CUHP.

Based on these assertions and supplemental follow-up work performed, DOE considered the following technology options listed in Table IV.3 in formulating its proposed standards:

TABLE IV.3—PROPOSED TECHNOLOGY OPTIONS

Heat transfer improvements:
• Electro-hydrodynamic enhancement.
Alternative refrigerants.
Condenser and evaporator fan and fan motor improvements:
• Larger fan diameters.
• More efficient fan blades (e.g., air foil centrifugal evaporator fans, backward-cured centrifugal evaporator fans, high efficiency propeller condenser fans).
• High efficiency motors (e.g., copper rotor motor, high efficiency induction, permanent magnet, electronically commutated).
• Variable speed fans/motors.
Larger heat exchangers.
Microchannel heat exchangers.
Compressor Improvements:
• High efficiency compressors.
• Multiple compressor staging.
• Multiple-tandem or variable-capacity compressors.
Thermostatic expansion valves.
Electronic expansion valves.
Subcoolers.
Reduced indoor fan belt loss:
• Synchronous (toothed) belts.
• Direct-drive fans.

Issue 4: DOE requests comment and data regarding additional design options or variants of the considered design options that can increase the range of considered efficiency improvements, including design options that may not yet be found on the market.

B. Screening Analysis

After DOE identified the technologies that might improve the energy efficiency of electric motors, DOE conducted a screening analysis. The purpose of the screening analysis is to determine which options to consider further and which to screen out. DOE consulted with industry, technical experts, and other interested parties in developing a list of design options. DOE then applied the following set of screening criteria to determine which design options are unsuitable for further consideration in the rulemaking:

• *Technological Feasibility:* DOE will consider only those technologies incorporated in commercial equipment or in working prototypes to be technologically feasible.

• *Practicability to Manufacture, Install, and Service:* If mass production of a technology in commercial equipment and reliable installation and servicing of the technology could be achieved on the scale necessary to serve the relevant market at the time of the effective date of the standard, then DOE will consider that technology practicable to manufacture, install, and service.

• *Adverse Impacts on Equipment Utility or Equipment Availability:* DOE will not further consider a technology if DOE determines it will have a significant adverse impact on the utility of the equipment to significant subgroups of customers. DOE will also not further consider a technology that will result in the unavailability of any covered equipment type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as equipment generally available in the United States at the time.

• *Adverse Impacts on Health or Safety:* DOE will not further consider a technology if DOE determines that the technology will have significant adverse impacts on health or safety.

Technologies that pass through the screening analysis are referred to as ''design options'' in the engineering analysis. Details of the screening analysis are in chapter 4 of the NOPR TSD. In view of the above factors, DOE screened out the following design options.

Electro-Hydrodynamic Enhanced Heat Transfer

Electro-hydrodynamic enhancement of heat transfer increases the net heat transfer coefficient by applying a high-voltage electrostatic potential field across a heat transfer fluid to destabilize the thermal boundary layer and incite fluid mixing. The improved heat transfer of the evaporator and condenser coils may improve a given system's overall efficiency. DOE notes, however, that this technology is still in the research stage. In response to the RFI, Lennox commented that locating an electrode between each of the hundreds/thousands of heat exchanger fins (which would be the likely method for applying this option) has not been adequately demonstrated for commercial deployment. (Lennox, No. 6 at p. 2)

Although the technique has been shown to improve heat transfer in laboratory testing, DOE is not aware of any commercially available equipment

[39] ASHRAE Standard 52.2–2007, ''Method of Testing General Ventilation Air-Cleaning Devices for Removal Efficiency by Particle Size,'' establishes the MERV rating, which is the standard comparison of the efficiency of an air filter, ranging from 1 (least efficient) to 16 (most efficient), and measures a filter's ability to remove particles from 0.3 to 10 microns in size.

or working prototypes that use electro-hydrodynamic heat transfer. As a result, DOE does not believe at this time that this option meets the screening criterion of technological feasibility. In addition, DOE agrees with Lennox that this technology has not been adequately demonstrated for commercial deployment and, as a result, does not meet the criterion of practicability to install and service on a scale necessary to serve the relevant market at the time of the compliance date of a new standard. For these reasons, DOE did not consider electro-hydrodynamic heat transfer further in the NOPR analyses.

Alternative Refrigerants

DOE considered ammonia, carbon dioxide, and various hydrocarbons (such as propane and isobutane) as alternative refrigerants to those that are currently in use, such as R–410A. In response to the February 2013 RFI, Lennox stated that virtually all equipment is designed with R–410A as the refrigerant, and that because of the lengthy qualification process to develop a new refrigerant and the components that would need to be redesigned to use it, it is not reasonable to expect a new refrigerant in the timeframe for new energy conservation standards. (Lennox, No. 6 at p. 2) DOE notes that safety concerns need to be taken into consideration when using ammonia and hydrocarbons in air-conditioning systems. EPA created the Significant New Alternatives Policy (SNAP) Program to evaluate alternatives to ozone-depleting substances. Substitutes are reviewed on the basis of ozone depletion potential, global warming potential, toxicity, flammability, and exposure potential. DOE notes that ammonia (in vapor compression cycles), carbon dioxide, and hydrocarbons have been approved or are being considered under SNAP for certain uses, but these or other low GWP alternatives are not yet listed as acceptable substitutes for this equipment.[40] DOE is also not aware of any other more efficient refrigerant options that are SNAP-approved. Because these alternative refrigerants have not yet been approved for this equipment, DOE did not consider alternate refrigerants for further analysis.

Sub-Coolers

A sub-cooler is a device located between the condenser coil outlet and the expansion device inlet used to further cool the refrigerant exiting the condenser in order to achieve a higher cooling/heating capacity for a unit. In response to the RFI, Lennox added that sub-coolers do not provide a benefit at comfort air conditioning operating conditions. (Lennox, No. 6 at p. 3) DOE notes that air-cooled CUAC and CUHP units typically sub-cool the refrigerant in the condensing coil (by further decreasing the temperature of the refrigerant). DOE also notes that additional mechanical sub-cooling from smaller, secondary vapor-compression circuits has not been incorporated in commercial equipment or in working prototypes. As a result, DOE does not believe sub-cooling meets the criterion of technological feasibility and did not consider it for further analysis.

Based on the screening analysis, DOE considered the design options listed in Table IV.4.

TABLE IV.4—DESIGN OPTIONS RETAINED FOR ENGINEERING ANALYSIS

Condenser and evaporator fan and fan motor improvements:
• Larger fan diameters.
• More efficient fan blades (e.g., air foil centrifugal evaporator fans, backward-cured centrifugal evaporator fans, high efficiency propeller condenser fans).
• High efficiency motors (e.g., copper rotor motor, high efficiency induction, permanent magnet, electronically commutated).
• Variable speed fans/motors.
Larger heat exchangers.
Microchannel heat exchangers.
Compressor Improvements:
• High efficiency compressors.
• Multiple compressor staging.
• Multiple- or variable-capacity compressors.
Thermostatic expansion valves.
Electronic expansion valves.
Reduced indoor fan belt loss:
• Synchronous (toothed) belts.
• Direct-drive fans.

C. Engineering Analysis

The engineering analysis estimates the cost-efficiency relationship of equipment at different levels of increased energy efficiency. This relationship serves as the basis for the cost-benefit calculations for commercial customers, manufacturers, and the Nation. In determining the cost-efficiency relationship, DOE estimates the increase in manufacturer cost associated with increasing the efficiency of equipment above the baseline up to the maximum technologically feasible (''max-tech'') efficiency level for each equipment class.

1. Methodology

DOE has identified three basic methods for generating manufacturing costs: (1) The design-option approach, which provides the incremental costs of adding design options to a baseline model that will improve its efficiency (*i.e.,* lower its energy use); (2) the efficiency-level approach, which provides the incremental costs of moving to higher energy efficiency levels, without regard to the particular design option(s) used to achieve such increases; and (3) the reverse-engineering (or cost-assessment) approach, which provides ''bottom-up'' manufacturing cost assessments for achieving various levels of increased efficiency, based on teardown analyses (or physical teardowns) providing detailed data on costs for parts and material, labor, shipping/packaging, and investment for models that operate at particular efficiency levels. A supplementary method called a catalog

[40] On July 9, 2014, EPA proposed to list certain hydrocarbons and R–32 for residential self-contained A/C appliances as acceptable subject to use conditions to address safety concerns (See 79 FR 38811). EPA is also evaluating new refrigerants for other A/C applications, including commercial A/C. Additional information regarding EPA's SNAP Program is available online at: *http://www.epa.gov/ozone/snap/.*

teardown uses published manufacturer catalogs and supplementary component data to estimate the major physical differences between a piece of equipment that has been physically disassembled and another piece of similar equipment for which catalog data are available to determine the cost of the latter equipment.

In the RFI, DOE stated that in order to create the cost-efficiency relationship, it anticipated having to structure its engineering analysis using the reverse-engineering approach, including physical and catalog teardowns. DOE requested comments on using a reverse engineering approach supplemented with catalog teardowns and comments on what the appropriate representative capacities would be for each equipment class. 78 FR 7300.

AAON commented that it is inappropriate and unethical for DOE to use proprietary information and trade secrets provided during manufacturer interviews to reverse engineer equipment supplemented by the catalog teardowns. AAON stated that disclosing trade secrets in a public forum, accessible worldwide, undermines U.S. manufacturing and damages the free enterprise system. (AAON, No. 8 at p. 4) DOE notes that it does not publicly disclose proprietary information obtained from individual manufacturers. Instead, as part of the manufacturer interviews, DOE aggregates all manufacturer responses to prevent disclosing of proprietary information and trade secrets.

AAON commented that DOE's methodology is flawed because all models are weighted equally. AAON indicated that models with higher efficiency and cost are sold in much lower quantities than models with lower efficiency and cost. AAON added that models with higher efficiency and cost may not be economically justified and are only sold to consumers that want the highest efficiency regardless of economic justification. (AAON, No. 8 at p. 3) DOE intends to conduct a full analysis to determine the economic justification of higher efficiency levels, including developing incremental manufacturing costs for higher efficiency equipment based on energy modeling, reverse engineering analyses, and catalog teardowns. Although manufacturers may currently sell higher efficiency models at lower quantities, DOE's analysis considers the incremental manufacturing costs if energy conservation standards are set at a particular efficiency level and assumes that market share will shift to the new standard level.

Carrier commented that reverse engineering of a few selected samples will not provide an accurate picture of manufacturing costs, which depend on volume, tooling approach (dedicated versus flexible) and assembly processes and procedures for which reverse engineering will not provide insight. Carrier recommended that DOE should work with AHRI and industry to obtain costs using a blind survey, with each manufacturer providing estimates for the cost increases related to the proposed standards. (Carrier, No. 7 at p. 3) DOE notes that it supplemented its reverse engineering analyses with manufacturer interviews and solicited feedback on the volume, tooling, and processes used to manufacture equipment and the manufacturing costs required to meet each efficiency level for each equipment class. As a result, DOE believes that the manufacturing cost-efficiency results from the engineering analyses are sufficiently representative of the manufacturing processes used for this equipment.

Ingersoll Rand commented that DOE should analyze the following categories to adequately represent variation in equipment types: (1) 7.5-ton cooling and heat pump, (2) 15-ton cooling and heat pump, (3) 40-ton cooling only. (Ingersoll Rand, No. 10 at p. 3) Lennox added that DOE should select equipment from manufacturers that have equipment with baseline and higher efficiency in the same platform. (Lennox, No. 6 at p. 3)

For this NOPR, DOE conducted the engineering analyses using the reverse-engineering approach and analyzed three specific capacities to represent each of the three cooling capacity categories (*i.e.,* small, large, and very large). Based on a review of manufacturer equipment offerings and information obtained from manufacturer interviews, DOE selected representative capacities of 90,000 Btu/h (7.5 tons) for the ≥65,000 to <135,000 Btu/h capacity range, 180,000 Btu/h (15 tons) for the ≥135,000 to <240,000 Btu/h capacity range, and 360,000 Btu/h (30 tons) for the ≥240,000 to <760,000 Btu/h capacity range. DOE noted in the 2004 ANOPR that 7.5 tons and 15 tons represent volume shipment points in their respective capacity range. 69 FR 45469. These capacities are near the center of their respective equipment class capacity ranges. Additionally, DOE interviewed several equipment manufacturers as part of the current rulemaking and found that the majority of manufacturers interviewed agreed that the 7.5-ton, 15-ton, and 30-ton capacities adequately represent the three equipment class capacity ranges.

Where feasible, DOE selected models for reverse engineering with low and high efficiencies from a given manufacturer that are built on the same platform. DOE also supplemented the teardown analysis by conducting catalog teardowns for equipment spanning the full range of capacities and efficiencies from all manufacturers selling equipment in the United States.

2. Baseline Efficiency Levels

The baseline model is used as a reference point for each equipment class in the engineering analysis and the life-cycle cost and payback-period analyses. Typically, DOE would consider equipment that just meets the minimum energy conservation standard as baseline equipment. However, as discussed in section III.A, DOE is proposing to replace the current cooling performance energy efficiency descriptor, EER, with IEER, and a single EER level can correspond to a range of IEERs. As a result, DOE must establish a baseline IEER for each equipment class. As part of the RFI, DOE requested comment on approaches that it should consider when determining a baseline IEER as well as an appropriate baseline IEER for each equipment class. 78 FR 7300–7301 (Feb. 1, 2013).

Modine commented that DOE should continue to use ASHRAE Standard 90.1 and ASHRAE Standard 189.1, ''Standard for the Design of High-Performance Green Buildings,'' (ASHRAE Standard 189.1) [41] for establishing baseline IEER levels because current technology makes it readily possible to achieve the ASHRAE Standard 189.1 minimum IEER standards. (Modine, No. 5 at p. 2) The IEER levels specified in ASHRAE Standard 189.1 are 0.2 to 1.1 IEER higher than the ASHRAE Standard 90.1 levels.

As discussed in section II.A, DOE is typically obligated either to adopt those standards developed by ASHRAE or to adopt levels more stringent than the ASHRAE levels if there is clear and convincing evidence in support of doing so. (42 U.S.C. 6313(a)(6)(A)) DOE notes that ASHRAE Standard 90.1–2010 specifies minimum efficiency requirements using both the EER and IEER metrics. As discussed in the RFI, DOE evaluated the relationship between EER and IEER by considering models that are rated at the current DOE standard levels based on the EER metric

[41] ASHRAE Standard 189.1 provides minimum requirements for the siting, design, construction, and plan for operation of high-performance green buildings. Available online at: *https://www.ashrae.org/resources-publications/bookstore/standard-189-1.*

for each equipment class (as presented in section II.B.1). DOE then analyzed the distribution of corresponding rated IEER values for each equipment class. DOE notes that the lowest IEER values associated with the current DOE standards for EER generally correspond with the ASHRAE Standard 90.1–2010 minimum efficiency requirements. 78 FR 7296, 7299 (Feb. 1, 2013); EERE–2013–BT–STD–0007–0001. Based on this evaluation, because DOE is considering energy conservation standards based on the IEER metric, DOE proposes to use the ASHRAE Standard 90.1–2010 minimum IEER requirements to characterize the baseline cooling efficiency for each equipment class. DOE also notes that equipment is available on the market that is at or near the ASHRAE Standard 90.1–2010 minimum IEER requirements. As a result, DOE is not considering higher IEER levels for the baseline.

For CUHP, DOE is considering heating efficiency standards based on the COP metric. As discussed in section II.B.1, EPAct 2005 established minimum COP levels for small, large, and very large air-cooled CUHP, which DOE codified in a final rule on October 18, 2005. 70 FR 60407. DOE proposes to use these current COP standard levels to characterize the baseline heating efficiency for each equipment class.

The baseline efficiency levels for each equipment class are presented below in Table IV.5.

TABLE IV.5—BASELINE EFFICIENCY LEVELS

Equipment type		Heating type	Baseline efficiency level
Small Commercial Packaged AC and HP (Air-Cooled)—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating	11.4 IEER.
		All Other Types of Heating	11.2 IEER.
	HP	Electric Resistance Heating or No Heating	11.2 IEER, 3.3 COP.
		All Other Types of Heating	11.0 IEER, 3.3 COP.
Large Commercial Packaged AC and HP (Air-Cooled)—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating	11.2 IEER.
		All Other Types of Heating	11.0 IEER.
	HP	Electric Resistance Heating or No Heating	10.7 IEER, 3.2 COP.
		All Other Types of Heating	10.5 IEER, 3.2 COP.
Very Large Commercial Packaged AC and HP (Air-Cooled)—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating	10.1 IEER.
		All Other Types of Heating	9.9 IEER.
	HP	Electric Resistance Heating or No Heating	9.6 IEER, 3.2 COP.
		All Other Types of Heating	9.4 IEER, 3.2 COP.

3. Incremental Efficiency Levels

For each equipment class, DOE analyzes several efficiency levels and determines the incremental cost at each of these levels. For this NOPR, DOE developed efficiency levels based on a review of industry standards and available equipment. For efficiency level 1, DOE used the IEER levels specified in Draft Addendum CL.[42] For the higher efficiency levels, DOE initially determined the levels for CUAC equipment classes with electric resistance heating or no heating based on the range of efficiency levels associated with equipment listed in the AHRI certification database and the California Energy Commission's (CEC) database. DOE evaluated the full range of capacities for the small, large, and very large equipment classes with a specific focus on 7.5-ton, 15-ton, and 30-ton as the representative cooling capacities. DOE chose efficiency levels for CUAC with all other types of heating equal to the efficiency levels for equipment with electric resistance heating or no heating, minus the differences in the IEER specifications for these pairs of equipment classes prescribed in the Draft Addendum CL. DOE believes these decreases in IEER appropriately reflect the additional power required for furnace pressure drop.

Similarly, for the CUHP equipment classes, DOE developed cooling mode efficiency levels equal to the CUAC efficiency levels minus the difference in IEER specifications for these two equipment types prescribed in the Draft Addendum CL. DOE believes that these decreases in IEER are representative of the efficiency differences that occur due to losses from the reversing valve and coil circuitry required in heat pumps for both heating and cooling operation.

As part of the RFI, DOE requested information on the max-tech efficiency levels achievable in the market. 78 FR 7301. The Joint Efficiency Advocates commented that, based on models in the AHRI certification database, the maximum-available IEER levels are 25 to 82 percent higher than the ASHRAE Standard 90.1–2010 levels depending on equipment category. The Joint Efficiency Advocates stated that the maximum-available efficiency levels may not represent the maximum technologically feasible levels since there may be technology options that can improve efficiency that have not been employed in the most-efficient models currently available. (Joint Efficiency Advocates, No. 11 at p. 2) AAON commented that the max-tech efficiency levels can be assumed to be slightly above the current CEE Tier 2 levels.[43] (AAON, No. 8 at p. 4)

[42] The Draft Addendum CL was the latest available version at the time DOE conducted the analyses for today's NOPR. DOE notes that ASHRAE has more recently finalized Addendum CL, with minor modifications to the IEER levels for large air-cooled CUAC and CUHP (*i.e.,* cooling capacity of >=135,000 Btu/h and <240,000 Btu/h).

[43] The CEE Commercial Unitary Air Conditioner and Heat Pump Specification can be found online at: *http://library.cee1.org/content/cee-commercial-unitary-ac-and-hp-specification-0.* DOE notes that the CEE Tier 2 levels represent an 18-percent to 23-percent increase in IEER over the proposed baseline levels.

DOE notes that its maximum-available efficiency levels rely on the performance of recently introduced models. DOE evaluated available equipment literature and energy use information on these maximum-available efficiency models and conducted energy modeling to determine the feasibility of achieving these efficiency levels. For the ≥65,000 Btu/h and <135,000 Btu/h capacity CUAC with electric resistance heating or no heating equipment classes, DOE noted, based on its review of the AHRI certification and CEC equipment databases, that the maximum-available unit was rated at 20.9 IEER. However, sufficient information allowing correlation of incremental efficiency gains with specific design options and incremental manufacturing costs was not available to properly evaluate this unit. DOE also notes that a different manufacturer currently offers a 7.5-ton model rated at 19.9 IEER and a 10-ton model rated at 20.8 IEER. DOE notes that there is also uncertainty regarding the way the design differences contribute to the added efficiency of the 10-ton model, making it difficult to accurately estimate the incremental cost associated with this efficiency gain. As a result, DOE is proposing to use 19.9 IEER as the maximum-available efficiency level representative of this equipment class. DOE is not aware of data showing that energy efficiency can be increased beyond these levels. As a result, DOE is proposing to use the maximum-available efficiency levels as the max-tech levels for the NOPR analyses.

For the CUHP equipment classes, DOE is proposing heating efficiency levels based on a variation of COP with IEER. In the 2004 ANOPR, DOE proposed to address the energy efficiency of air-cooled CUHP by developing functions relating COP to EER. 69 FR 45468. DOE also noted that this method was also used by industry to establish minimum performance requirements for ASHRAE Standard 90.1–1999. *Id.* AHRI supplied the ASHRAE Standard 90.1–1999 committee with curves relating the COP as a function of EER. Using this information, the committee then set the minimum COP levels to the COP corresponding to the selected minimum EER level. *Id.* DOE stated in the February 2013 RFI that since this method was generally accepted by industry and interested parties involved in the development of ASHRAE Standard 90.1–1999, it was considering a similar approach for this rulemaking. DOE indicated that if it transitions to IEER as the cooling mode energy efficiency descriptor, DOE may establish minimum COP levels based on the variation of COP with IEER. As part of the RFI, DOE requested information on issues related to using IEER as the cooling performance metric when developing a correlation between COP and IEER. 78 FR 7301.

AAON, Carrier, Ingersoll Rand, and Lennox commented that there is no direct correlation between the part-load metric, IEER, and the full load metric, COP. (AAON, No. 8 at p. 4; Carrier, No. 7 at p. 4; Ingersoll Rand, No. 6 at p. 4; Lennox, No. 6 at p. 3) Lennox indicated that in commercial applications, CUHP's typically operate in full load heating mode and cycle the auxiliary heat on and off because heat pump capacity alone is inadequate to meet the building load. Lennox stated that a higher IEER does not translate to a higher COP because design techniques that improve part load IEER performance do not improve COP. (Lennox, No. 6 at p. 3) Carrier noted that, based on information from the AHRI certification database, units with the same COP have significantly different IEER values. Carrier added that heating efficiency is much less a factor for overall energy usage than cooling efficiency because commercial equipment operates for many more hours in cooling mode than heating mode, indicating that internal building loads lead to high cooling loads and cooling energy use and significantly less heating energy use. Carrier stated that a separate analysis should be used for developing heating COP levels and that this process be completed through a consensus process working with AHRI and the manufacturers. (Carrier, No. 7 at pp. 3–4)

To determine COP efficiency levels, DOE evaluated AHRI and CEC data for small, large, and very large air-cooled CUHP units with electric resistance heat or no heat to analyze the relationship between COP and both IEER and EER. DOE's review of data showed that the correlations between COP and IEER using linear regressions are no less strong than the correlations between COP and EER for each cooling capacity range. Details of this evaluation can be found in chapter 5 of the NOPR TSD. Based on this evaluation, DOE is proposing to use the functions relating COP to IEER based on AHRI and CEC data to establish COP efficiency levels. For each CUHP equipment class, DOE selected COP levels corresponding to each incremental IEER level.

The efficiency levels for each equipment class that DOE considered for the NOPR analyses are presented in Table IV.6.

TABLE IV.6—INCREMENTAL EFFICIENCY LEVELS

Equipment type		Efficiency levels					
		Heating type	Baseline	EL1	EL2	EL3	EL4 (Max-Tech)
Small Commercial Packaged AC and HP (Air-Cooled)—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating.	11.4 IEER	12.9 IEER	14 IEER	14.8 IEER	19.9 IEER.
		All Other Types of Heating.	11.2 IEER	12.7 IEER	13.8 IEER	14.6 IEER	19.7 IEER.
	HP	Electric Resistance Heating or No Heating.	11.2 IEER, 3.3 COP	12.2 IEER, 3.3 COP	13.3 IEER, 3.4 COP	14.1 IEER, 3.5 COP	19.2 IEER, 3.7 COP.
		All Other Types of Heating.	11.0 IEER, 3.3 COP	12 IEER, 3.3 COP	13.1 IEER, 3.4 COP	13.9 IEER, 3.4 COP	19.0 IEER, 3.6 COP.
Large Commercial Packaged AC and HP (Air-Cooled)—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating.	11.2 IEER	12.2 IEER	13.2 IEER	14.2 IEER	18.4 IEER.

TABLE IV.6—INCREMENTAL EFFICIENCY LEVELS—Continued

		All Other Types of Heating.	11.0 IEER	12.0 IEER	13.0 IEER	14.0 IEER	18.2 IEER.
	HP	Electric Resistance Heating or No Heating.	10.7 IEER, ... 3.2 COP	11.4 IEER, ... 3.2 COP	12.4 IEER, ... 3.3 COP	13.4 IEER, ... 3.3 COP	17.6 IEER, 3.3 COP.
		All Other Types of Heating.	10.5 IEER, ... 3.2 COP	11.2 IEER, ... 3.2 COP	12.2 IEER, ... 3.3 COP	13.2 IEER, ... 3.3 COP	17.4 IEER, 3.3 COP.
Very Large Commercial Packaged AC and HP (Air-Cooled)—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating.	10.1 IEER	11.6 IEER	12.5 IEER	13.5 IEER	15.5 IEER.
		All Other Types of Heating.	9.9 IEER	11.4 IEER	12.3 IEER	13.3 IEER	15.3 IEER.
	HP	Electric Resistance Heating or No Heating.	9.6 IEER, ... 3.2 COP	10.6 IEER, ... 3.2 COP	11.5 IEER, ... 3.2 COP	12.5 IEER, ... 3.2 COP	14.5 IEER, 3.2 COP.
		All Other Types of Heating.	9.4 IEER, ... 3.2 COP	10.4 IEER, ... 3.2 COP	11.3 IEER, ... 3.2 COP	12.3 IEER, ... 3.2 COP	14.3 IEER, 3.2 COP.

Issue 5: DOE seeks comment on the incremental and max-tech efficiency levels identified for the analyses, including whether the efficiency levels identified by DOE can be achieved using the technologies screened-in during the screening analysis (see section IV.B), and whether higher efficiencies are achievable using technologies that were screened-in during the screening analysis. Also, DOE seeks comment on the approach of extrapolating the efficiency levels from the small, large, and very large CUAC with electric resistance heating or no heating equipment classes to the remaining equipment classes using the IEER differentials in ASHRAE Standard 90.1–2010 draft addendum CL. In addition, input and data on the approach for determining the COP levels for the heat pump equipment classes using the relationship between IEER and COP.

4. Equipment Testing, Reverse Engineering, Energy Modeling, and Cost-Efficiency Results

As discussed above, for the engineering analysis, DOE specifically analyzed representative capacities of 7.5 tons, 15 tons, and 30 tons to develop incremental cost-efficiency relationships. DOE selected four 7.5-ton, two 15-ton, and one 30-ton air-cooled CUAC models. The models were selected to develop a representative sample of the market at different efficiency levels. DOE based the selection of units for testing and reverse engineering on the efficiency data available in the AHRI certification database and the CEC equipment database. DOE also selected one 7.5-ton CUHP model to evaluate the design differences between CUAC units and CUHP units. Details of the key features of the tested units are presented in chapter 5 of the NOPR TSD.

Because DOE is considering adopting energy conservation standards based on the IEER metric, DOE conducted testing on each unit according to the IEER test method specified in AHRI Standard 340/360–2007. DOE then conducted physical teardowns on each test unit to develop a manufacturing cost model and to evaluate key design features (e.g., heat exchangers, compressors, fan/fan motors, control strategies, etc.). Because DOE was only able to conduct testing and physical teardowns on a limited sample of equipment, DOE supplemented these data by conducting catalog teardowns on 346 models spanning the full range of capacities from all manufacturers selling equipment in the United States. DOE based the catalog teardowns on information provided in equipment literature and experience from the physical teardowns.

For air-cooled CUAC, DOE conducted energy modeling using the modeling tools developed by the Center for Environmental Energy Engineering from the University of Maryland at College Park. The tools include a detailed heat exchanger modeling program and a refrigeration cycle modeling program. The refrigeration cycle modeling program can integrate the heat exchanger and compressor models to perform a refrigeration cycle model. If a CUAC/CUHP unit was tested, system control power (*i.e.,* control circuit power and any auxiliary loads), indoor and outdoor fan power were obtained from actual laboratory testing. If a unit was not tested, fan power energy usage was estimated from manufacturer specification sheets at the rated air flow rates and static pressures. The system control power is estimated from other tested units with similar capacities and system configurations.

Applying the key design features identified during physical equipment teardowns, DOE used the energy modeling tool to generate detailed performance data (e.g. capacity and EER) and validated them against the results obtained from laboratory testing at each IEER capacity level (25, 50, 75, and 100 percent), or with the published performance data. With the validated energy models, DOE expanded the modeling tasks with various system design options and identified the key design features (consistent with equipment available on the market) required for 7.5-ton, 15-ton, and 30-ton air-cooled CUAC units with electric resistance heating or no heating to achieve each efficiency level. Details of the design features for each efficiency level are presented in chapter 5 of the NOPR TSD. DOE also generated energy use profiles for air-cooled CUAC, which included wattage inputs for key components (*i.e.,* compressor, indoor and outdoor fan motors, and controls) at each operating load level measured for the IEER test method, for each efficiency level to serve as inputs for the energy use analysis (discussed in section IV.E). DOE then used these design features developed by the energy modeling to determine the incremental manufacturing costs for each efficiency level for 7.5-ton, 15-ton and 30-ton air-cooled CUAC units.

Issue 6: DOE requests comments, information, and data that would inform adjustment of energy modeling input and/or results that would allow more accurate representation of the energy use impacts of design options using the modeling tools developed by the Center for Environmental Energy Engineering from the University of Maryland at College Park.

DOE did not, however, conduct similar modeling for CUHP units. DOE notes that CUHP shipments represent a very small portion of industry shipments compared to CUAC

shipments (9 percent versus 91 percent). In addition, because CUHP represent a small portion of shipments, DOE noted, based on equipment teardowns and review of equipment literature, that manufacturers use the same basic design/platform for equivalent CUAC and CUHP models. DOE observed that equivalent CUAC and CUHP models used the same package size, core heat exchangers (the same face area and depth, but different circuiting), and indoor/outdoor fan systems (along with other elements), but used additional components to allow for heat pump operation (*e.g.,* reversing valves, refrigerant accumulators, refrigerant circuiting). As a result, DOE believes that the proposed approach of adjusting between the cooling efficiencies of CUAC and CUHP to reflect the drop in efficiency resulting from the CUHP design (as discussed above in section IV.C.3) is consistent with the market. For these same reasons, DOE believes that it is appropriate to set heating efficiencies for CUHP based on the relationship between cooling efficiency and heating efficiency rather than conduct a full separate analysis of heating efficiency. For these reasons, DOE focused energy modeling solely on CUAC equipment. Although not considered in the engineering and LCC and PBP analyses, DOE did analyze CUHP equipment in the NIA. From this analysis, DOE believes the energy modeling conducted for CUAC equipment provides a good estimate of CUHP cooling performance and provides the necessary information to estimate the magnitude of the national energy savings from increases in CUHP equipment efficiency.

Based on the analyses discussed above, DOE developed the cost-efficiency results shown in Table IV.7 through Table IV.9 for each cooling capacity range. DOE notes that the incremental manufacturing production and shipping costs would be equivalent for each of the equipment classes within a given cooling capacity range (*i.e.,* CUAC units with electric resistance heating or no heat, CUAC units with all other types of heating, CUHP units with electric resistance heating or no heat, CUHP units with all other types of heating). Details of the cost-efficiency analysis, including descriptions of the technologies DOE analyzed for each efficiency level to develop incremental costs, are presented in chapter 5 of the NOPR TSD.

TABLE IV.7—SMALL AIR-COOLED CUAC AND CUHP COST-EFFICIENCY RELATIONSHIPS

Efficiency level	Incremental manufacturing production cost	Incremental shipping cost
Baseline	.....	.....
EL1	$115.93	.....
EL2	583.47	.....
EL3	788.88	.....
EL4 (Max-Tech)	1,277.04	$102.86

TABLE IV.8—LARGE AIR-COOLED CUAC AND CUHP COST-EFFICIENCY RELATIONSHIPS

Efficiency level	Incremental manufacturing production cost	Incremental shipping cost
Baseline	.....	.....
EL1	$419.16	.....
EL2	792.76	$192.86
EL3	1,236.98	192.86
EL4 (Max-Tech)	1,554.26	192.86

TABLE IV.9—VERY LARGE AIR-COOLED CUAC AND CUHP COST-EFFICIENCY RELATIONSHIPS

Efficiency level	Incremental manufacturing production cost	Incremental shipping cost
Baseline	.....	.....
EL1	$542.65	.....
EL2	1,296.41	.....
EL3	1,834.67	.....
EL4 (Max-Tech)	2,753.32	$444.00

Issue 7: DOE requests input and data on the estimated incremental manufacturing costs, including the extrapolation of incremental costs for equipment classes not fully analyzed, in particular for heat pump equipment classes.

D. Markups Analysis

The markups analysis develops appropriate markups in the distribution chain to convert the estimates of manufacturer selling price derived in the engineering analysis to customer prices. (''Customer'' refers to purchasers of the equipment being regulated.) DOE calculates overall baseline and incremental markups based on the equipment markups at each step in the distribution chain. The incremental markup relates the change in the manufacturer sales price of higher efficiency models (the incremental cost increase) to the change in the customer price.

In its 2004 ANOPR, DOE used three types of distribution channels to describe how the equipment passes from the manufacturer to the customer. See, e.g. 69 FR 45460, 45476 (describing distribution channels used as part of DOE's prior CUAC/CUHP standards rulemaking effort). In the new construction market, the manufacturer sells the equipment to a wholesaler. The wholesaler sells the equipment to a mechanical contractor, who sells it to a general contractor, who in turn sells the equipment to the customer or end user as part of the building. In the replacement market, the manufacturer sells to a wholesaler, who sells to a mechanical contractor, who in turn sells the equipment to the customer or end user. In the third distribution channel, used in both the new construction and replacement markets, the manufacturer sells the equipment directly to the customer through a national account.

In the RFI, DOE requested input from stakeholders on whether the distribution channels described above remain relevant for small and large CUAC/CUHP and whether they are also relevant for very large air-cooled equipment. Carrier stated that the distribution channels outlined in the NOPR are relevant for all products, including very large air-cooled equipment. (Carrier, No. 7 at p. 4) It added that, for very large air-cooled equipment, there is an additional channel that consists of factory employees selling directly to end customers and mechanical contractors. Ingersoll Rand stated that the selling process, as described, is still relevant for these product classes. (Ingersoll Rand, No. 10 at p. 4) Modine stated that there are distribution paths in addition to those listed in the RFI, namely, manufacturer to distributor to mechanical contractor to end user, manufacturer to mechanical contractor to general contractor to end user, and manufacturer to mechanical contractor to end user. (Modine, No. 5 at p. 3)

For today's NOPR, DOE used the three distribution channels described previously, which were used in the 2004 ANOPR. Although it was not listed in the RFI, DOE did include a channel of manufacturer to distributor to mechanical contractor to end user (for replacement applications). As for the channels without a distributor cited by Modine, DOE was not able to determine whether these channels account for a meaningful share of shipments. Modine provide no supporting data indicating that these non-distributor channels accounted for a significant share of

shipments. Because other parties commented that the three distribution channels described in the RFI are still relevant, DOE retained the channels included in the RFI but decline to include the non-distributor channels suggested by Modine for the NOPR analysis.

For the 2004 ANOPR, based on information that equipment manufacturers provided, commercial customers were estimated to purchase 50 percent of the covered equipment through small mechanical contractors, 32.5 percent through large mechanical contractors, and the remaining 17.5 percent through national accounts. According to the Air Conditioning Contractors of America's financial analysis of the heating, ventilation, air-conditioning, and refrigeration (HVACR) contracting industry, markups used by small contractors tend to be larger than those used by large contractors. See 69 FR 45476.

In the RFI, DOE requested input on the percentage of equipment being distributed through the various types of distribution channels and whether the share of equipment shipped through each channel varies based on equipment capacity. Ingersoll Rand stated that, while the percentages differ among the equipment capacities, the relative levels are as suggested by DOE. (Ingersoll Rand, No. 10 at p. 4) Based on this feedback, for this NOPR, DOE is continuing to use the same percentages that were used in its ANOPR analysis.

DOE had also previously utilized several sources in preparation of its ANOPR to help develop markups for the parties involved in the distribution of the equipment, including: (1) The Air-conditioning & Refrigeration Wholesalers Association's 1998 wholesaler profit survey report to develop wholesaler markups; (2) the Air Conditioning Contractors of America's (ACCA) financial analysis for the HVACR contracting industry to develop mechanical contractor markups; and (3) U.S. Census Bureau economic data for the commercial and institutional building construction industry to develop general contractor markups.

Carrier recommended that DOE conduct a blind survey through AHRI to determine the markups for all parties in the channel. As an alternative to this approach, DOE utilized updated versions of the sources mentioned previously, namely: (1) The Heating, Air Conditioning & Refrigeration Distributors International *2010 Profit Report* to develop wholesaler markups; (2) the Air Conditioning Contractors of America's (ACCA) *2005 Financial Analysis for the HVACR Contracting Industry* to develop mechanical contractor markups; and (3) U.S. Census Bureau economic data for the commercial and institutional building construction industry to develop general contractor markups.[44] By following this alternative approach, DOE obtained updated data that enabled it to develop a more accurate picture of the markups currently being used by the various parties involved in the distribution channel.

Chapter 6 of the NOPR TSD provides further detail on the estimation of markups.

E. Energy Use Analysis

The energy use analysis provides estimates of the annual energy consumption of small, large, and very large air-cooled CUAC equipment at the considered efficiency levels. DOE uses these values in the LCC and PBP analyses and in the NIA. DOE did not analyze CUHP equipment because the energy modeling discussed in section IV.C.4 was performed only for CUAC equipment.

DOE developed energy consumption estimates only for the CUAC equipment classes that have electric resistance heating or no heating. For equipment classes with all other types of heating, the incremental change in IEER for each efficiency level is identical to that for the equipment classes with electric resistance heating or no heating. Therefore, DOE estimated that the energy savings for any efficiency level relative to the baseline would be identical for both sets of equipment classes. In turn, the energy savings estimates for the efficiency levels associated with the equipment classes that have electric resistance heating or no heating (see Table IV.1) were used by DOE in the LCC and PBP analysis and the NIA to represent both sets of equipment classes.

The energy use analysis for this NOPR consists of two related parts. In the first part, DOE calculated energy savings for small, large, and very large air-cooled CUAC at the considered efficiency levels based on modifications to the energy use simulations conducted for the 2004 ANOPR. These building simulation data are based on the 1995 Commercial Building Energy Consumption Survey (CBECS). Because the simulation data reflect the building stock in 1995 that uses air-cooled CUAC equipment, in the second part, DOE developed a ''generalized building sample'' to represent the current installation conditions for the equipment covered in this rulemaking. This part involved making adjustments to update the building simulation data to reflect the building stock that uses air-cooled CUAC equipment in 2011.

1. Energy Use Simulations

The simulation database from the 2004 ANOPR includes hourly profiles for more than 1,000 commercial buildings, which were based on building characteristics from the 1995 CBECS for the subset of buildings that uses air-cooled CUAC equipment. Each building was assigned to a specific location along with a typical meteorological year (TMY) hourly weather file (referred to as TMY2) to represent local weather. The simulations capture variability in cooling loads due to factors such as building activity, schedule, occupancy, local weather, and shell characteristics.

DOE received comments on the RFI regarding how best to model equipment performance. AAON stated that full building and equipment modeling are required to get a credible estimate for a given building, equipment set, and control sequence. (AAON, No. 8 at p. 6) Carrier noted that EER alone cannot be used to determine energy use at part-load conditions, as it is a measure of full-load efficiency and is tied more closely to the peak kilowatt (kW). (Carrier, No. 7 at p. 4) DOE's simulation modeling approach is based on full building and equipment modeling, and takes into account equipment performance at part-load conditions to establish the annual energy use.

For the NOPR, DOE modified the energy use simulations conducted for the 2004 ANOPR to improve the modeling of equipment performance. The modifications that DOE performed included changes to the ventilation rates and economizer usage assumptions, the default part-load performance curve, and the minimum saturated condensing temperature limit.

Although ventilation rates and economizer usage do not affect equipment performance per se, they do impact how often the equipment needs to operate, whether at full or part load. The building simulations for the 2004 ANOPR used ventilation rates based on ASHRAE Standard 62–1999.[45] Because a report prepared by the National Institute for Standards and Testing

[44] U.S. Census Bureau, 2007 Economic Census, Construction Industry Series and Wholesale Trade Subject Series. *http://www.census.gov/econ/census07/*.

[45] American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. *ANSI/ASHRAE Standard 62–1999 Ventilation for Acceptable Indoor Air Quality,* 1999. Atlanta, Georgia.

(NIST) on field measurements indicated that these ventilation rates were too high,[46] DOE reduced the rates as part of the modified energy use simulations. In the case of economizer usage, the building simulations for the 2004 ANOPR assumed all economizers operated without fault. Various field studies have demonstrated that economizer usage is far from perfect, so in the modified simulations DOE assigned a 30-percent probability to each building modeled that the economizer would be non-operational. With regard to changes made to how the equipment was modeled, DOE developed a modified part-load performance curve for the direct-expansion condenser unit model so that the overall performance would be more representative of a multi-compressor system. In addition, DOE lowered a parameter representing the minimum saturated condensing temperature allowed for the refrigerant. Both of these parameters affect the system performance under part-load and off-design conditions. A more detailed description of the simulation model modifications can be found in appendix 7–A of the NOPR TSD.

DOE used a two-step process to represent the performance of equipment at baseline and higher efficiency levels. First, DOE calculated the hourly cooling loads and hourly fan operation for each building from the compressor and fan energy consumption results that were generated from the modified building simulations based on CUAC equipment at efficiency of 11 EER. It was estimated that these simulated cooling loads had to be met by the CUAC equipment for every hour of the year that the equipment operates. Then DOE coupled the hourly cooling loads and fan operation with equipment performance data, developed from laboratory and modeled IEER testing conducted according to AHRI Standard 340/360–2007, to generate the hourly energy consumption of baseline and more efficient CUAC equipment.

DOE received additional comments on the RFI regarding how to scale equipment energy use as a function of capacity for a given cooling load. Carrier stated that capacity is highly dependent on differences in product design for performance at full- and part-load conditions, control strategies, air distribution method, and applications. (Carrier, No. 7 at p. 5) AAON stated that full modeling is required to determine how equipment energy use scales as a function of capacity. (AAON, No. 8 at p. 6)

DOE's use of the laboratory and modeled IEER test data allowed it to specifically address how capacity and control strategies vary with outdoor temperature and building load. The laboratory and modeled IEER test data were used to calculate the compressor efficiency (COP) and capacity at varying outdoor temperatures (see section IV.4 of this NOPR for further discussion.) The IEER rating test consists of measuring the net capacity, compressor power, condenser fan power, indoor fan power, and control power at three to five different rating conditions. The number of rated conditions the equipment is tested at is determined by the capabilities of and the control strategies used by the equipment. The net capacity and COP of the compressor(s) as a linear function of outdoor temperature was calculated from those test results. If the indoor or outdoor fan was variable speed, its power consumption was also calculated as a linear function of outdoor temperature. The power for controls is a constant, but may vary by staging.

The COP and capacity of the equipment for each hour of the year was calculated based on the outdoor temperature for the simulated buildings. The cooling capacity was calculated such that it met the simulated building cooling load for each hour. For multi-stage equipment, the staging for each hour was selected to ensure the equipment could meet the simulated building cooling load. When the cooling capacity exceeded the simulated building cooling load, the efficiency was adjusted for cyclic performance using the degradation coefficient and load factor as calculated according to section 6.2, Part-Load Rating, of AHRI 340/360, using the above described IEER rating test data. The analysis accounted for the fact that the building cooling load includes the heat generated by the fan. The total amount of cooling the compressor must provide varies as the fan efficiency improves with different efficiency levels.

The hourly fan run time was set equal to the indoor fan run time of the simulated building for each hour of the year. Energy use was calculated separately for the compressor, condenser fan, indoor fan, and controls for each hour of the year for the simulated building. Compressor and condenser fan energy were summed to reflect cooling energy use. Indoor fan and control energy were combined into a single category to represent indoor fan energy use.

The calculations provided the annual hourly cooling and fan energy use profiles for each building. The incremental energy savings between the baseline equipment and the equipment at higher efficiency levels was calculated for every hour for each of the 1,033 simulated buildings.

The RFI requested comment on whether the building simulations developed for small and large air-conditioning equipment are applicable to very large equipment (i.e., equipment with capacities between 240,000 Btu/h and 760,000 Btu/h). AAON stated that the simulation model should be applicable regardless of equipment size. (AAON, No. 8 at p. 6) Carrier stated that building models appropriate to the equipment size should be used. It noted that special equipment models will be needed to properly model the part-load intensive equipment and changes in IEER. It suggested that DOE should work with the AHRI Unitary Large Equipment Section to define the modeling approach and obtain the equipment models for the various IEER and EER levels as considerable work has already been done. (Carrier, No. 7 at p. 5)

As described above, DOE used the simulations to obtain hourly building cooling loads, fan operating hours, and associated outdoor temperatures and applied the IEER rating test data to determine the hourly performance of the equipment. Because DOE relied on the IEER rating test data to come up with the hourly performance of the equipment, it believes that this method provides a good representation of very large equipment performance as well as small and large equipment performance. Therefore, additional building simulation modeling for very large units does not appear necessary.

Issue 8: DOE requests comments, information, and data that could be used to modify the proposed method for using laboratory and modeled IEER test data, which were developed in accordance to AHRI Standard 340/360–2007, to calculate the performance of CUAC equipment at part-load conditions.

2. Generalized Building Sample

The NOPR analysis used a ''generalized building sample'' (GBS) to represent the installation conditions for the equipment covered in this rulemaking. The GBS was developed based on data from the 2003 CBECS[47] and from the Commercial Demand Module of the National Energy

[46] Persily, A. and J. Gorfain. 2004. ''Analysis of Ventilation Data from the U.S. Environmental Protection Agency Building Assessment Survey and Evaluation (BASE) Study''. NISTIR 7145.

[47] CBECS 2012 is currently in development but will not be available in time for this rulemaking.

Modeling System version distributed with *AEO2013.*

Only floor space cooled by the covered equipment is included in the sample. Conceptually, the main difference between the GBS and the sample of specific commercial buildings compiled in CBECS is that the GBS aggregates all building floor space associated with a particular set of building characteristics into a single category. The set of characteristics that is used to define a category includes all building features that are expected to influence either (1) the cooling load and energy use or (2) the energy costs. The set of building characteristics, and the specific values these characteristics can take, are listed in Table IV.10.

TABLE IV.10—LIST OF CHARACTERISTICS AND THE ASSOCIATED VALUES USED TO DEFINE THE GENERALIZED BUILDING SAMPLE

Characteristic	Number of values	Range of values
Region	10	9 census divisions with Pacific sub-divided into north and south.
Building Activity	7	assembly, education, food service, small office, large office, mercantile, warehouse.
Size (based on annual energy consumption).	3	small: <100,000 kWh. medium: 100,000 to 1,000,000 kWh. large: >1,000,000 kWh.
Vintage	3	category 1: before 1950. category 2: 1950–1979. category 3: 1980 and later.

The region in which the building is located affects both the cooling loads (through the weather) and the cost of electricity. The building activity affects building schedules and occupancy, which in turn influence the demand for cooling. The building activity categories are the same as those used in the NEMS commercial building energy demand module, limited to those building types that use the equipment covered in this rule. The building size influences the cost of electricity, because larger facilities tend to have lower marginal prices. The building vintage may influence shell characteristics that can affect the cooling loads. The combination of 10 regions, 7 building types, 3 sizes, and 3 vintages leads to a set of 630 independent categories in the GBS.

The amount of floor space allocated to each category for buildings built in or before 2003 was taken from the 2003 CBECS. To update the building floor space to 2013, the commercial building data included with the 2013 version of NEMS were used. This dataset includes a historical component, starting in 2004, and provides both existing floor space and new floor space additions by year, census division, and building activity. The floor space additions between 2004 and 2013 were added to the floor space in vintage category 3.

Load profiles for each of the 630 generalized buildings were developed from the simulation data just described. For each equipment class, a subset of the 1,033 buildings was used to develop the cooling energy use profiles. The subset included all buildings with a capacity requirement equal to or greater than 90 percent of the capacity of the particular representative unit. For each GBS type, a weighted average energy use profile, along with energy savings from the considered efficiency levels, was compiled from the simulated building subset. The average was taken over all buildings in the subset that have the same region, building type, size, and vintage category as the GBS category. This average was weighted by the number of units required to meet each building's cooling load. For some of the GBS categories, no simulation data were available. In these cases, the weighted-average energy use profile for the same building type and a nearby region or vintage were used.

Updating the sample to 2013 required some additional adjustments to the energy use data. The 1,033 building simulations used TMY2 weather data. The TMY2 weather data files were updated to TMY3 in 2008. A comparison of the two datasets showed that total annual cooling degree-days (CDD) increased by 5 percent at all locations used in this analysis. This is accounted for by increasing the energy use (for all efficiency levels) by 5 percent at all locations.

Changes to building shell characteristics and internal loads in recent construction can lead to a change in the energy required to meet a given cooling load. The NEMS commercial demand module accounts for these trends by adjusting the cooling energy use with a factor that is a function of region and building activity. In the GBS, these same factors were used to adjust the cooling energy use for floor space constructed after 1999.

Issue 9: DOE requests comments on the use of a ''generalized building sample'' to characterize the energy consumption of CUAC equipment in the commercial building stock. Specifically, whether there are any data or information that could improve the method for translating the results from the 1,033 simulated buildings to the generalized building sample.

F. Life-Cycle Cost and Payback Period Analysis

The purpose of the LCC and PBP analysis is to analyze the effects of potential amended energy conservation standards on customers of small, large, and very large air-cooled commercial package air conditioning and heating equipment by determining how a potential amended standard affects their operating expenses (usually decreased) and their total installed costs (usually increased).

The LCC is the total customer expense over the life of the equipment, consisting of equipment and installation costs plus operating costs over the lifetime of the equipment (expenses for energy use, maintenance, and repair). DOE discounts future operating costs to the time of purchase using customer discount rates. The PBP is the estimated amount of time (in years) it takes customers to recover the increased total installed cost (including equipment and installation costs) of a more efficient type of equipment through lower operating costs. DOE calculates the PBP by dividing the change in total installed cost (normally higher) due to a standard by the change in annual operating cost (normally lower) that results from the standard.

For any given efficiency level, DOE measures the PBP and the change in LCC relative to an estimate of the base-case efficiency level. The base-case estimate reflects the market in the absence of amended energy conservation standards, including the

market for equipment that exceeds the current energy conservation standards.

The RFI described how DOE would analyze the potential for variability and uncertainty by performing the LCC and PBP calculations on a representative sample of individual commercial buildings. The approach utilizes the sample of buildings developed for the energy use analysis and the corresponding simulations results. Within a given building, one or more air-conditioning units may serve the building's space-conditioning needs, depending on the cooling load requirements of the building. As a result, DOE would express the LCC and PBP results as the number of units experiencing economic impacts of different magnitudes. DOE models both the uncertainty and the variability in the inputs to the LCC and PBP analysis using Monte Carlo simulation and probability distributions.[48] As a result, the LCC and PBP results are displayed as distributions of impacts compared to the base case conditions.

The RFI requested comment from stakeholders on the overall method for conducting the LCC and PBP analysis. Carrier stated that DOE should use the procedures as developed by the ASHRAE 90.1 committee and PNNL for evaluating changes to the ASHRAE 90.1 standard. (Carrier, No. 7 at p. 5) The procedures referred to by Carrier, while potentially appropriate in other circumstances, such as in the development of building codes for new construction, are not ideal in the context of analyzing the potential impacts that would be likely to result from the imposition of new energy conservation standards. DOE's LCC and PBP analysis, rather than focusing solely on the impacts on new buildings (as would Carrier's suggested approach would do), seeks to evaluate the impacts of potential standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment for all affected customers. Such an evaluation requires a broader framework than the more narrow approach suggested by Carrier.

DOE conducted an LCC and PBP analysis for the CUAC equipment classes. As mentioned in section IV.E, the energy savings estimates for the efficiency levels associated with the equipment classes that have electric resistance heating or no heating were used in the LCC and PBP analysis to represent the equipment classes with all other types of heating. DOE did not perform an LCC and PBP analysis for the CUHP equipment for the reasons discussed in section IV.C.4.

Inputs to the LCC and PBP analysis are categorized as: (1) Inputs for establishing the total installed cost and (2) inputs for calculating the operating expense. The following sections contain brief discussions of comments on the inputs and key assumptions of DOE's LCC and PBP analysis and explain how DOE took these comments into consideration.

1. Equipment Costs

In the LCC and PBP analysis, the equipment costs faced by small, large, and very large air-cooled commercial package air conditioning and heating equipment purchasers are derived from the MSPs estimated in the engineering analysis and the overall markups estimated in the markups analysis.

To develop an equipment price trend for the NOPR, DOE derived an inflation-adjusted index of the producer price index (PPI) for ''unitary air-conditioners, except air source heat pumps'' from 1978 to 2013.[49] Although the PPI index shows a long-term declining trend, data for the last decade have shown a flat-to-slightly rising trend. Given the uncertainty as to which of the trends will prevail in coming years, DOE chose to apply a constant price trend (2013 levels) for the NOPR. For the NIA, DOE also analyzed the sensitivity of results to alternative price forecasts.

2. Installation Costs

In the RFI, DOE discussed developing installation costs for the current rulemaking using the most recent RS Means data available. AAON agreed that it is appropriate to use RS Means. (AAON, No. 8 at p. 6)

For today's NOPR, DOE derived installation costs for CUAC equipment from current RS Means data.[50] Based on these data, DOE tentatively concluded that data for 7.5-ton, 15-ton, and 30-ton rooftop air conditioners would be sufficiently representative of the installation costs for the ≥65,000 Btu/h to <135,000 Btu/h, ≥135,000 Btu/h to <240,000 Btu/h, and ≥240,000 Btu/h to <760,000 Btu/h air-conditioning equipment classes, respectively. Because labor rates vary significantly in each region of the country, DOE used RS Means data to identify how installation costs vary among regions and incorporated these costs into the analysis.

For the 2004 ANOPR, DOE varied installation cost as a function of equipment weight. Because weight tends to increase with equipment efficiency, installation cost increased with equipment efficiency. 69 FR 45481. In the RFI, DOE envisioned using a similar approach for this rulemaking. Carrier recommended that RS Means Mechanical Cost Data be used to estimate installed cost based on unit tonnage rather than unit weight. (Carrier, No. 7 at p. 5)

For this NOPR, DOE is using a specific cost from RS Means for each of the tonnage classes listed previously. Within a given capacity (equipment class), DOE chose to vary installation costs in direct proportion to the physical weight of the equipment. The weight of the equipment in each class and efficiency level was determined through the engineering analysis.

3. Unit Energy Consumption

The calculation of annual per-unit energy consumption at each considered efficiency level is described in section IV.E.

4. Electricity Prices and Electricity Price Trends

For the 2004 ANOPR, DOE determined electricity prices based on tariffs from a representative sample of electric utilities. 69 FR 45481–45482. This approach calculates energy expenses based on actual electricity prices that customers are paying. The RFI discussed retaining the tariff-based approach and plans to update electricity prices based on recent or current tariffs. Carrier agreed with the tariff-based approach and that the most recent price data should be used. (Carrier, No. 7 at p. 6) Similarly, the Joint Efficiency Advocates asserted that the tariff-based approach was appropriate for capturing actual electricity prices paid by customers. (Joint Efficiency Advocates, No. 11 at p. 2)

For this NOPR, the tariff data used for the ANOPR were used to develop marginal and average prices for each member of the GBS, which were then scaled to approximate 2013 prices. The approach uses tariff data that have been processed into commercial building marginal and average electricity prices.[51]

[48] The Monte Carlo process statistically captures input variability and distribution without testing all possible input combinations. Therefore, while some atypical situations may not be captured in the analysis, DOE believes the analysis captures an adequate range of situations in which small, large, and very large air-cooled commercial package air conditioning and heating equipment operate.

[49] The PPP index for heat pumps covered too short a time period to provide a useful picture of pricing trends for this equipment.

[50] *http://www.rsmeansonline.com;* Accessed March 27, 2013.

[51] Coughlin, K., C. Bolduc, R. Van Buskirk, G. Rosenquist and J. E. McMahon. Tariff-based

Continued

The CBECS 1992 and CBECS 1995 surveys provide monthly electricity consumption and demand for a large sample of buildings. DOE used these values to help develop usage patterns associated with various building types. Using these monthly values in conjunction with the tariff data, DOE calculated monthly electricity bills for each building. The average price of electricity is defined as the total electricity bill divided by total electricity consumption. Two marginal prices are defined, one for electricity demand (in $/kW) and one for electricity consumption (in $/kWh). These marginal prices are calculated by applying a 5 percent decrement to the CBECS demand or consumption data and recalculating the electricity bill.

Using the prices derived from the above method, an average price and a marginal price were assigned to each building in the GBS. For each member of the GBS, these prices were calculated as the average, weighted by floor space and survey sample weight, of all buildings in the CBECS 1992 and 1995 data meeting the set of characteristics defining the generalized building (i.e., region, vintage, building activity, and building energy consumption). As most tariffs are seasonal, average and marginal prices are calculated separately for summer (May–September) and winter.

The average summer or winter electricity price multiplied by the baseline summer or winter electricity consumption for equipment of a given capacity defines the baseline LCC. For each efficiency level, the operating cost savings are calculated by multiplying the electricity consumption savings (relative to the baseline) by the marginal consumption price and the electricity demand reduction by the marginal demand price. The consumer's electricity bill is only affected by the electricity demand reduction that is coincident with the building's monthly peak load. Air-conditioning loads are strongly, but not perfectly, peak-coincident. Divergences between the building peak and the air-conditioning peak were accounted for by multiplying the electricity demand reduction by a random factor drawn from a triangular distribution centered at 0.9 +/− 0.1.

The tariff-based prices were updated to 2013 using the commercial electricity price index published in the *AEO* (editions 2009 through 2012). An examination of data published by the Edison Electric Institute [52] indicates that the rate of increase of marginal and average prices is not significantly different, so the same factor was used for both pricing estimates. DOE projected future electricity prices using trends in average commercial electricity price from *AEO 2013.*

For further discussion of electricity prices, see chapter 8 of the NOPR TSD.

5. Maintenance Costs

Maintenance costs are costs associated with general maintenance of the equipment (e.g., checking and maintaining refrigerant charge levels and cleaning heat-exchanger coils). For the 2004 ANOPR, DOE developed maintenance costs from RS Means data, and DOE estimated that maintenance costs do not vary with equipment efficiency. 69 FR 45485. The RFI discussed developing maintenance costs for the current rulemaking using the most recent RS Means data available, and using the same assumption that maintenance costs do not vary with equipment efficiency. AAON stated that it is appropriate to use RS Means. (AAON, No. 8 at p. 6)

Carrier stated that RS Means might serve as a reasonable guide to assist in developing maintenance costs, but it expects that maintenance costs vary with efficiency due to the higher replacement cost of new, more complex components, and the technology required to achieve the higher efficiency levels. (Carrier, No. 7 at p. 6) Repair or replacement of components that have failed is considered a repair cost. DOE is not aware of information on why general maintenance would be higher as a result of the technology used to achieve higher efficiency levels. Thus, DOE retained the assumption that maintenance costs do not vary with equipment efficiency.

For this NOPR, DOE derived annualized maintenance costs for commercial air conditioners from RS Means data.[53] These data provided estimates of person-hours, labor rates, and materials required to maintain commercial air-conditioning equipment. The estimated annualized maintenance cost is $298 for a commercial unitary air conditioner rated between 36,000 Btu/h and 288,000 Btu/h, and $408 for a unit rated between 288,000 Btu/h and 600,000 Btu/h.

6. Repair Costs

Repair costs are associated with repairing or replacing components that have failed. For the 2004 ANOPR, DOE estimated that repair costs vary as function of equipment price. 69 FR 45485. In the RFI, DOE requested comment as to whether repair costs vary as a function of equipment price, as well as any data or information on developing repair costs. AAON stated that it is appropriate to estimate repair costs as a function of equipment costs. (AAON, No. 8 at p. 7) Carrier stated that while it does not see repair costs increasing as a direct result of higher equipment prices, the higher material and component costs necessary to achieve higher efficiency levels (which result in higher equipment prices) may also drive higher repair costs. (Carrier, No. 7 at p. 6)

For this NOPR, DOE assumed that any routine or minor repairs are included in the annualized maintenance costs. As a result, repair costs are not explicitly modeled in the LCC and PBP analysis. Instead, DOE incorporated a one-time cost for major repair (compressor replacement) as a primary input to the repair/replace customer choice model in the shipments analysis, which models the decision between repairing a broken unit and replacing it (see section IV.G). In the repair/replace customer choice model, DOE used repair costs that vary in direct proportion with the price of the equipment, which approximates the relationship between repair costs and efficiency described by Carrier.

Issue 10: DOE requests comments on whether using RS Means cost data to develop maintenance, repair, and installation costs for CUAC and CUHP equipment is appropriate, and if not, what data should be used.

7. Lifetime

Equipment lifetime is the age at which the equipment is retired from service. For the 2004 ANOPR, DOE based equipment lifetime on a retirement function, which was based on the use of a Weibull probability distribution, with a resulting median lifetime of 15 years. 69 FR 45486. In the RFI, DOE sought comment on how it characterized equipment lifetime. DOE also requested any data or information regarding the accuracy of its 15-year lifetime and whether equipment lifetime varies based on equipment class.

The Joint Efficiency Advocates encouraged DOE to reevaluate the estimated lifetime of commercial air-cooled air conditioners and heat pumps for this rulemaking. They noted that ASHRAE maintains a public database

Analysis of Commercial Building Electricity Prices. 2008. Lawrence Berkeley National Laboratory: Berkeley, CA. Report No. LBNL–55551.

[52] Edison Electric Institute. EEI Typical Bills and Average Rates Report (bi-annual, 2007–2012). Washington, DC.

[53] *http://www.rsmeansonline.com;* Accessed March 26, 2013.

that provides information on the service life of HVAC equipment. Although the ASHRAE database does not currently contain a separate category for commercial package air conditioners and heat pumps, it does contain information on ''other cooling equipment.'' In this category, there are data on 365 units that were in service at the time of the data collection. Of these 365 units, the median equipment age was 20 years. (Joint Efficiency Advocates, No. 11 at p. 3) NEEA also encouraged DOE to review actual equipment lifetime for determining the life-cycle cost of equipment. (NEEA, No. 15 at p. 2) AAON stated that equipment lifetime should not be impacted by equipment class. (AAON, No. 8 at p. 7)

DOE reviewed the ASHRAE database and determined that the data support an increase in lifetime relative to what DOE used for the ANOPR. In the category ''Packaged DX unit, rooftop'' (which corresponds to CUAC), of the 215 units in service, the mean age is 15.6 years and the median is 16 years.[54] The five units that had been replaced had a median age of 22 years. These data strongly suggest that the median lifetime of 15 years used in the ANOPR is too short. For this NOPR, DOE updated its CUAC lifetime to a median of 18.7 years and a mean of 18.4 years.

The category ''heat pump, air-to-air'' (which corresponds to CUHP) in the ASHRAE database has 1,296 units (and only one that had been retired) with a median age of 14 years. These data suggest that the 15-year lifetime used in the 2004 ANOPR remains reasonable. For the NOPR, DOE used a slightly updated CUHP lifetime with a median of 15.4 years and a mean of 15.2 years.

DOE used the same lifetime distribution for each set of CUAC and CUHP equipment classes.

Issue 11: DOE requests comments, information and data on the equipment lifetimes developed for CUAC and CUHP equipment; specifically, any information that would indicate whether the retirement functions yielding median lifetimes of 18.7 years and 15.4 years for CUAC and CUHP equipment, respectively, are reasonable.

8. Discount Rate

The discount rate is the rate at which future expenditures are discounted to estimate their present value. The cost of capital commonly is used to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so the cost of capital is the weighted-average cost to the firm of equity and debt financing. DOE uses the capital asset pricing model (CAPM) to calculate the equity capital component, and financial data sources to calculate the cost of debt financing.

For the 2004 ANOPR, DOE derived the discount rates by estimating the cost of capital of companies that purchase air-cooled air-conditioning equipment. 69 FR 45486–45487. For the current rulemaking, DOE updated its data sources for calculating this cost. More details regarding DOE's estimates of customer discount rates are provided in chapter 8 of the NOPR TSD.

9. Base Case Market Efficiency Distribution

For the LCC analysis, DOE analyzes the considered efficiency levels relative to a base case (i.e., the case without amended energy efficiency standards). This analysis requires an estimate of the distribution of product efficiencies in the base case (i.e., what consumers would have purchased in the compliance year in the absence of amended standards). DOE refers to this distribution of product energy efficiencies as the base case efficiency distribution.

The RFI requested data on current small, large, and very large air-cooled commercial package air conditioning and heating equipment efficiency market shares (of shipments) by equipment class, and also similar historical data. DOE also requested information on expected trends in efficiency over the next five years. Carrier stated that these data is not readily available for the industry as a whole, but a joint industry, AHRI and DOE working group should be able to develop an estimate based on a collection of individual manufacturer's data. (Carrier, No. 7 at p. 6)

Given the statutory deadlines described earlier, the formation of a working group as suggested by Carrier was not feasible. The only available data showing air-cooled commercial package air conditioning and heating equipment efficiency market shares are from 1999–2001 and may not be representative of current market shares or the shares expected in the near future. Rather than rely solely on these older data, for this NOPR, DOE used a consumer choice model to estimate efficiency market shares in the expected compliance year (assumed to be 2019, as discussed below). The consumer choice model considers customer sensitivity to total installation cost and annual operating cost. DOE used the efficiency market share data for 1999–2001 to develop the parameters of the consumer choice model in the shipments analysis, as discussed in section IV.G.1. Using the parameters, the model estimates the shipments at each IEER level based on the installed cost and operating cost at each efficiency level. Table IV.11 presents the estimated base case efficiency market shares for each air-cooled CUAC equipment class.

TABLE IV.11—BASE CASE EFFICIENCY MARKET SHARES IN 2019 FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT

Small commercial packaged AC (Air-Cooled)—≥65,000 Btu/h and <135,000 Btu/h cooling capacity		Large commercial packaged AC (Air-Cooled)—≥135,000 Btu/h and <240,000 Btu/h cooling capacity		Very large commercial packaged AC (Air-Cooled)—≥240,000 Btu/h and <760,000 Btu/h cooling capacity	
IEER	Market share (%)	IEER	Market share (%)	IEER	Market share (%)
11.4	61	11.2	78	10.1	63
12.9	39	12.2	20	11.6	24
14.0	0	13.2	2	12.5	7
14.8	1	14.2	0	13.5	4
19.9	0	18.4	0	15.5	1

[54] See *http://xp20.ashrae.org/publicdatabase/system_service_life.asp?c_region=0&state=NA&building_function=NA&c_size=0&c_age=0&c_height=0&c_class=0&c_location=0&selected_system_type=1&c_equipment_type=NA*

Issue 12: DOE requests comments, information and data on the base case efficiency distributions of CUAC equipment. Given that historical market share efficiency data from 1999–2001 were used to inform a consumer choice model in the shipments analysis to develop estimated base case efficiency distributions in the compliance year (2019), DOE seeks more recent historical market share efficiency data would be useful for validating the estimated base case efficiency distributions.

10. Compliance Date

DOE calculated the LCC and PBP for all customers as if each were to purchase new equipment in the year that compliance with amended standards is required. EPCA directs DOE to publish a final rule amending the standard for the products covered by this NOPR not later than 2 years after a notice of proposed rulemaking is issued. (42 U.S.C. 6313(a)(6)(C)(iii)) At the time of preparation of the NOPR analysis, the expected issuance date was December 2013, leading to a final rule publication in December 2015. EPCA also states that amended standards prescribed under this subsection shall apply to products manufactured after a date that is the later of—(I) the date that is 3 years after publication of the final rule establishing a new standard; or (II) the date that is 6 years after the effective date of the current standard for a covered product. (42 U.S.C. 6313(a)(6)(C)(iv)) The date under clause (I), currently projected to be December 2018, is later than the date under clause (II). For purposes of its analysis, DOE used 2019 as the first year of compliance with amended standards.

11. Payback Period Inputs

The payback period is the amount of time it takes the consumer to recover the additional installed cost of more efficient equipment, compared to baseline equipment, through energy cost savings. Payback periods are expressed in years. Payback periods that exceed the life of the product mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation are the total installed cost of the product to the customer for each efficiency level and the average annual operating expenditures for each efficiency level. The PBP calculation uses the same inputs as the LCC analysis, except that discount rates are not needed.

12. Rebuttable-Presumption Payback Period

EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy (and, as applicable, water) savings during the first year that the consumer will receive as a result of the standard, as calculated under the test procedure in place for that standard. For each considered efficiency level, DOE determines the value of the first year's energy savings by calculating the quantity of those savings in accordance with the applicable DOE test procedure, and multiplying that amount by the average energy price forecast for the year in which compliance with the amended standards would be required.

G. Shipments Analysis

DOE uses projections of product shipments to calculate the national impacts of standards on energy use, NPV, and future manufacturer cash flows. DOE develops shipment projections based on historical data and an analysis of key market drivers for each product. Historical shipments data are used to build up an equipment stock and also to calibrate the shipments model.

The RFI requested comment on DOE's approach in developing the shipments model and forecasts. Carrier recommended forming a working group with AHRI to discuss shipment forecast modeling techniques for this rulemaking. (Carrier, No. 7 at p. 7) As indicated earlier, this option was not feasible in light of the statutory time constraints. Instead, DOE developed a shipments model that includes three market segments: (1) Existing buildings replacing broken equipment, (2) new commercial buildings acquiring equipment, and (3) existing buildings acquiring new equipment for the first time.

1. Shipments by Market Segment

For existing buildings replacing broken equipment, the shipments model uses a stock accounting framework. Given the equipment entering the stock in each year and a retirement function based on the lifetime distribution developed in the LCC analysis, the model predicts how many units reach the end of their lifetime in each year. DOE typically refers to new shipments intended to replace retired units as ''replacement'' shipments. Such shipments are usually the largest part of total shipments.

For CUAC and CUHP, end of lifetime is generally associated with compressor failure. Installing a new compressor, while possible, is costly. This fact leads customers to typically replace the entire CUAC/CUHP unit rather than simply replace the compressor. A new unit is more expensive than compressor replacement, but it may be more energy-efficient than the existing unit, which means it would have lower operating costs. If standards significantly increase the cost of new equipment, one would expect that the repair option would become more attractive.

For the small and large CUAC and CUHP equipment classes, DOE modeled the repair vs. replacement decision, as described below. If the unit is repaired (*i.e.,* with a new compressor), its life is extended by another lifetime, based on the retirement function. If a unit encounters a second failure within the analysis period, the model assumes that the customer replaces the unit with a new one. For the very large CUAC and CUHP equipment classes, DOE assumed that all customers repair the unit at the first failure because the total installed cost of a new unit is very high relative to the cost of repair. If a unit encounters a second failure within the analysis period, DOE assumed that the customer replaces the unit with a new one, as further repair of very old equipment is not likely to occur.

To model the repair vs. replacement decision, DOE developed a consumer choice model that estimates customer sensitivity to total installation cost. A sensitivity parameter was calculated using efficiency market share data for years 1999–2001, along with estimates of equipment prices and installation costs by efficiency level (the data sources are described below). DOE applied this sensitivity to the difference between the total installed cost of a new unit and the repair cost of the existing unit.

The replacement cost at each efficiency level is the total installed cost derived in the LCC analysis. For repair cost, DOE developed its own estimates of the material costs for compressors. (DOE examined RS Means material costs for compressors and concluded that they were inaccurate for all size classes, as several of the estimates exceeded the costs for an entire new unit.) For labor and non-compressor material costs, DOE used data in RS Means *Facilities Maintenance & Repair Cost Data, 2013.*[55] Within each equipment class, DOE used repair costs that increase in direct proportion with the price of the equipment and with IEER level.

DOE recognizes that the decision to repair or replace equipment is not solely

[55] RS Means Facilities Maintenance & Repair Cost Data 2013. *http://www.rsmeansonline.com.*

a function of the difference between the total installed cost of a new unit and the repair cost of the existing unit. The difference in operating costs may also play a role, as may general economic conditions and other factors. DOE did not have sufficient information to incorporate these factors explicitly into its model, so it developed an alternative approach that assumes that the factors influencing the repair or replace decision will be similar in the future as they were in the past. DOE estimated an historical average repair rate by minimizing the difference between actual historical shipments and model-predicted shipments in a ''no-repairs'' scenario. DOE developed a time series for historical shipments using data provided by AHRI in 2001 for the small and large CUAC and CUHP equipment classes for the years 1980 to 2001, combined with Census data on manufacturer shipments [56] as the basis for shipments in earlier and later years, and for very large CUAC and CUHP. Chapter 9 of the NOPR TSD discusses in more detail the AHRI and Census data and its use by DOE.

The repair/replace model is a binary choice model with two parameters, ''alpha'' and ''gamma.'' ''Alpha'' represents customer sensitivity to the efficiency-weighted average cost difference between total installed cost of replacement and repair costs. DOE assumed that the ''alpha'' is equal to the parameter used in the customer choice model to represent customer sensitivity to total installed cost. (The customer choice model is described in section IV.G.1.) ''Gamma'' is a scenario parameter that limits the number of repairs and can be thought of as representing ''unknown replacements.'' Since ''alpha'' is assumed to be known, DOE estimated ''gamma'' by minimizing the difference between the historical average repair rate and the repair probability predicted by the repair/replace model. This approach ensures that the estimated repair rate in each forecast year in the base case is close to the historical average rate. In the standards cases, which have higher installed costs, the repair rate is higher. Chapter 9 of the NOPR TSD describes the repair/replace decision model in more detail.

For existing buildings acquiring new equipment for the first time, DOE first estimated saturation values (percentages of total floor space served by different cooling capacities or types of equipment) for the stock. CBECS provides overall CUAC and CUHP saturation values. To derive percentages of floor space served by different cooling capacities or types of equipment, DOE used shipments data from the Census. DOE derived the approximate historical floor space saturations for each of the CUAC and CUHP equipment classes by multiplying the CUAC and CUHP saturation values from CBECS by the shipment shares from the Census. DOE used a logistic regression procedure to fit the CBECS historical stock saturations to produce a smooth time series of saturation estimates for the analysis period.

Shipments for existing buildings acquiring new equipment for the first time in each future year are estimated by multiplying the difference in projected stock saturation values between the future year and the previous year with the estimated floor space without CUAC and CUHP equipment in the previous year. In other words, the shipments account for the incremental increase in stock saturation.

For new commercial buildings acquiring equipment, shipments are estimated by multiplying new construction floor space in each future year by saturation values (percentages of new floor space served by different cooling capacities or types of equipment). The shipments model relies on *AEO 2013* for forecasts of new construction floor space. It assumes that the saturation value in new commercial buildings is the same as the stock-average saturation for each year.

Issue 13: DOE requests comments, information and data on the methods and key assumptions used to model the repair vs. replacement decision, which is based on estimates of the cost of repair vs. the cost of new equipment. Field data for repair costs and how they vary with equipment first cost and age would allow DOE to refine its shipments forecasting by more precisely modeling the repair vs. replace decision sensitivity to the difference in repair and replacement equipment costs.

Issue 14: DOE requests comments, information and data regarding the lifetime of repaired equipment. DOE's analysis considered major repair consisting of replacement of the compressor and miscellaneous materials associated with the compressor; DOE estimated that repaired equipment would last as long as new replacement equipment. Information is requested to determine whether this estimate is reasonable.

Issue 15: DOE requests comments, information, and data on the repair of CUACs and CUHPs in the ≥240,000 Btu/h and <760,000 Btu/h equipment classes. For this equipment, the shipments analysis estimated that any equipment experiencing their first failure would be repaired rather than replaced. Information is requested to determine whether this estimate is reasonable.

2. Shipment Market Shares by Efficiency Level

The approach described in the preceding section provides total shipments in each equipment class for each year. To estimate the market shares of the considered efficiency levels in future shipments, DOE developed a customer choice model. The model was calibrated by estimating values for two parameters, representing customer sensitivity to total installation cost and annual operating cost. To calibrate the model, DOE used EER market share data for small and large CUAC equipment classes provided by AHRI for the previous rulemaking. These market shares are for 1999–2001. DOE used the equipment prices by EER level from the 2004 ANOPR to assign equipment prices to each EER bin, along with the installation costs and maintenance costs developed for this NOPR. DOE derived unit energy consumption (UEC) values for each of the EER bins using the UEC to EER relationships presented in the 2004 ANOPR TSD, and then applied historic electricity prices to calculate annual energy costs.

To estimate values for the parameters, DOE used a non-linear regression approach that minimized the sum of the squared difference between historical market shares and the predicted values at each efficiency level for the small and large CUAC equipment classes. Starting in 2013, application of the parameters, along with data on the installed cost and operating cost at each efficiency level under consideration, determines the market shares of each efficiency level. The same parameters were used to estimate market shares for each equipment class. The details of this approach can be found in chapter 9 of the NOPR TSD.

H. National Impact Analysis

The NIA assesses the national energy savings (NES) and the national NPV of total customer costs and savings that would be expected to result from amended standards at specific efficiency levels.

To make the analysis more accessible and transparent to all interested parties, DOE used an MS Excel spreadsheet model to calculate the energy savings and the national customer costs and

[56] U.S.Census Bureau. Current Industrial Reports for Refrigeration, Air Conditioning, and Warm Air Heating Equipment, MA333M. Note that the current industrial reports were discontinued in 2010, so more recent data are not available.

savings from each TSL.[57] The NIA calculations are based on the annual energy consumption and total installed cost data from the energy use analysis and the LCC analysis. DOE forecasted the lifetime energy savings, energy cost savings, equipment costs, and NPV of customer benefits for each equipment class for equipment sold from 2019 through 2048.

DOE evaluated the impacts of potential new and amended standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment by comparing base-case projections with standards-case projections. The base-case projections characterize energy use and customer costs for each equipment class in the absence of new and amended energy conservation standards. DOE compared these projections with those characterizing the market for each equipment class if DOE were to adopt amended standards at specific energy efficiency levels (i.e., the standards cases) for that class.

TABLE IV.12—INPUTS FOR THE NATIONAL IMPACT ANALYSIS

Input	Description
Shipments	Annual shipments from shipments model.
Compliance date of standard	January 1, 2019.
Base case efficiencies	Estimated by customer choice model.
Standards case efficiencies	Estimated by customer choice model.
Annual energy consumption per unit.	Calculated for each efficiency level and equipment class based on inputs from the energy use analysis.
Total installed cost per unit	Calculated equipment prices by efficiency level using manufacturer selling prices and weighted-average overall markup values. Installation costs vary in direct proportion to the weight of the equipment.
Electricity expense per unit	Annual energy use for each equipment class is multiplied by the corresponding average energy price.
Escalation of electricity prices	*AEO 2013* forecasts (to 2040) and extrapolation beyond 2040.
Electricity site-to-primary energy conversion.	A time series conversion factor; includes electric generation, transmission, and distribution losses.
Discount rates	3% and 7% real.
Present year	2013.

1. Efficiency Trends

A key component of DOE's estimates of NES and NPV are the equipment energy efficiencies forecasted over time for the base case and for each of the standards cases. For the 2004 ANOPR, DOE used a combination of historical commercial and residential equipment efficiency data to forecast efficiencies for the base case. To estimate the impact that standards would have in the year compliance becomes required, DOE used a ''roll-up'' scenario, which assumes that equipment efficiencies in the base case that do not meet the standard level under consideration would ''roll up'' to meet the new standard level and equipment shipments at efficiencies above the standard level under consideration are not affected. 69 FR 45489–45490.

The Joint Efficiency Advocates encouraged DOE to consider a ''shift'' scenario (one in which efficiencies above the standard level under consideration are affected in a standards case) for the national impact analysis. (Joint Efficiency Advocates, No. 11 at p. 3) DOE did not have sufficient data on current efficiency market shares or information on market behavior to be able to develop a ''shift'' scenario.

The RFI requested information on expected trends in efficiency over the long run, but DOE did not receive comments. For this NOPR, DOE used the customer choice model in the shipments analysis to estimate efficiency market shares in each year of the shipments projection period. For each standards case, the efficiency levels that are below the standard are removed from the possible choices available to customers. The base case shows a slight increasing trend for small CUAC, but the shares are fairly constant for large and very large CUAC. The estimated efficiency trends in the base case and standards cases are described in chapter 9 of the NOPR TSD.

2. National Energy Savings

For each year in the forecast period, DOE calculates the national energy savings for each standard level by multiplying the shipments of small, large, and very large air-cooled CUAC and CUHP by the per-unit annual energy savings. Cumulative energy savings are the sum of the annual energy savings over the lifetime of all equipment shipped during 2019–2048.

For small, large, and very large air-cooled CUAC, the per-unit annual energy savings for each considered efficiency level come from the energy use analysis, which estimated energy consumption for 2019. For later years, DOE adjusted the per-unit annual site energy use to account for changes in climate based on projections in *AEO 2013*.

For small, large, and very large air-cooled CUHP, DOE did not conduct an energy use analysis. Because the cooling-side performance of CUHP is nearly identical to that of CUAC, DOE used the energy consumption estimates developed for CUACs to characterize the cooling-side performance of CUHP of the same size. To characterize the heating-side performance, DOE analyzed CBECS 2003 data to develop a national-average annual energy use per square foot for buildings that use CUHPs. DOE assumed that the average COP of the CUHP was 2.9.[58] DOE converted the energy use per square foot value to annual energy use per ton using a ton per square foot relationship derived from the energy use analysis for CUAC. This value is different for each equipment class. Because equipment energy use is a function of efficiency, DOE assumed that the annual heating energy consumption of a unit scales proportionally with its heating COP efficiency level. Finally, to determine

[57] DOE understands that MS Excel is the most widely used spreadsheet calculation tool in the United States and there is general familiarity with its basic features. Thus, DOE's use of MS Excel as the basis for the spreadsheet models provides interested parties with access to the models within a familiar context. In addition, the TSD and other documentation that DOE provides during the rulemaking help explain the models and how to use them, and interested parties can review DOE's analyses by changing various input quantities within the spreadsheet.

[58] A heating efficiency of 2.9 COP corresponds to the existing minimum heating efficiency standard for CUHP, a value which the Department believes is representative of the heat pump stock characterized by CBECS.

the COPs of units with given IEERs, DOE correlated COP to IEER based on the AHRI Certified Equipment Database.[59] Thus, for any given cooling efficiency of a CUHP unit, DOE was able to establish the corresponding heating efficiency, and, in turn, the associated annual heating energy consumption.

For CUAC and CUHP, DOE did not adjust its estimate of energy savings to account for a rebound effect. A direct rebound effect occurs when an increase in efficiency is accompanied by more intensive use of the equipment. DOE is not aware of any evidence to support the notion that commercial customers would run more efficient equipment longer or more frequently. The operation of CUAC and CUHP is generally matched to the indoor comfort needs of the building, regardless of the equipment efficiency.

Issue 16: DOE requests comments on its decision to not include a rebound effect for more-efficient CUAC and CUHP.

DOE calculates the total annual site energy savings for a given standards case by subtracting total energy use in the standards case from total energy use in the base case. Part of the reduction in a standards case is due to decreasing shipments resulting from customers choosing to repair than replace broken equipment. The NES calculation also includes the estimated energy use of units that are repaired rather than replaced. The units repaired in each year are from a number of different vintages (year built). For each vintage, DOE estimated an average efficiency based on an estimated historical trend, and estimated the average energy use by scaling the energy use for baseline units in 2013 according to the estimated efficiency in each year. The average energy use of units that are repaired in each year is weighted by the number of units in each vintage.

DOE converted the site electricity consumption and savings to primary energy (power sector energy consumption) using annual conversion factors derived from the *AEO 2013* version of the NEMS. Cumulative energy savings are the sum of the NES for each year in which equipment shipped during 2019–2048 continue to operate.

DOE has historically presented NES in terms of primary energy savings. In response to the recommendations of a committee on ''Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards'' appointed by the National Academy of Science, DOE announced its intention to use full-fuel-cycle (FFC) measures of energy use and greenhouse gas and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (August 18, 2011). While DOE stated in that notice that it intended to use the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) model to conduct the analysis, it also said it would review alternative methods, including the use of EIA's National Energy Modeling System (NEMS). After evaluating both models and the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in the **Federal Register** in which DOE explained its determination that NEMS is a more appropriate tool for this specific use. 77 FR 49701 (August 17, 2012). Therefore, DOE is using NEMS to conduct FFC analyses. The approach used for this NOPR, and the FFC multipliers that were applied, are described in appendix 10–A of the NOPR TSD.

3. Net Present Value of Customer Benefit

The inputs for determining the NPV of the total costs and benefits experienced by customers of the considered equipment are: (1) Total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor. DOE calculates the lifetime net savings for equipment shipped each year as the difference between the base case and each standards case in total lifetime savings in lifetime operating costs and total lifetime increases in installed costs. DOE calculates lifetime operating cost savings over the life of each small, large, and very large air-cooled commercial package air conditioning and heating equipment shipped during the forecast period.

a. Total Annual Installed Cost

The total installed cost includes both the equipment price and the installation cost. For each equipment class, DOE calculated equipment prices by efficiency level using manufacturer selling prices and weighted-average overall markup values (weights based on shares of the distribution channels used). Installation costs vary in direct proportion to the weight of the equipment. Because DOE calculated the total installed cost as a function of equipment efficiency, it was able to determine annual total installed costs based on the annual shipment-weighted efficiency levels determined in the shipments model.

For small, large, and very large air-cooled CUHPs, to estimate the cost at higher efficiency levels, DOE applied the same incremental equipment costs that were developed for the comparable CUAC efficiency levels for each equipment class (see section IV.C.4).

As noted in section IV.F.1, DOE assumed no change in small, large, and very large air-cooled CUAC and CUHP prices over the analysis period. However, DOE conducted sensitivity analyses using alternative price trends: one in which prices decline after 2013, and one in which prices rise. These price trends, and the NPV results from the associated sensitivity cases, are described in appendix 10–B of the NOPR TSD.

The NPV calculation includes the repair cost of units that are repaired rather than replaced. The approach used to estimate such costs is described in section IV.G.

b. Total Annual Operating Cost Savings

DOE calculates the total annual operating cost savings for a given standards case relative to operating costs in the base case. Part of the operating cost savings in a standards case is due to a decrease in shipments resulting from customers choosing to repair than replace broken equipment. The NPV calculation includes the estimated operating costs of units that are repaired rather than replaced. These costs were estimated based on the average energy use of such units and the average electricity price in each year.

The per-unit energy savings were derived as described in section IV.H.2. To calculate future electricity prices, DOE applied the projected trend in national-average commercial electricity price from the *AEO 2013* Reference case, which extends to 2040, to the tariff-based prices derived in the LCC and PBP analysis. DOE used the trend from 2030 to 2040 to extrapolate beyond 2040. In addition, DOE analyzed scenarios that used the trends in the *AEO 2013* Low Economic Growth and High Economic Growth cases. These cases have higher and lower energy price trends compared to the Reference case. These price trends, and the NPV results from the associated cases, are described in appendix 10–C of the NOPR TSD.

DOE estimated that annual maintenance costs (including minor repairs) do not vary with efficiency within each equipment class, so they do not figure into the annual operating cost savings for a given standards case. In addition, as noted previously, DOE included major repair costs in its shipments model rather than developing

[59] *http://www.ahridirectory.org/ahridirectory/pages/homeM.aspx.*

annualized repair costs. As a result, repair costs do not factor directly into the determination of total operating cost savings for shipments.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine their present value. DOE estimates the NPV using both a 3-percent and a 7-percent real discount rate, in accordance with guidance provided by the Office of Management and Budget (OMB) to Federal agencies on the development of regulatory analysis.[60] The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''social rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.

I. Customer Subgroup Analysis

In analyzing the potential impacts of new or amended standards, DOE evaluates impacts on identifiable groups (i.e., subgroups) of customers that may be disproportionately affected by a national standard. For the NOPR, DOE evaluated impacts on a small business subgroup using the LCC spreadsheet model. The customer subgroup analysis is discussed in detail in chapter 11 of the NOPR TSD.

J. Manufacturer Impact Analysis

1. Overview

DOE performed an MIA to determine the financial impact of amended energy conservation standards on manufacturers of CUAC and to estimate 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, equipment 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 NOPR TSD.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE prepared a profile of the CUAC and CUHP industry that includes a top-down manufacturer 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,[61] corporate annual reports, the U.S. Census Bureau's Economic Census,[62] and Hoover's reports.[63]

In Phase 2 of the MIA, DOE prepared an industry cash-flow analysis to quantify the potential impacts of an amended 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. See section IV.J.2 for a description of the key issues manufacturers raised during the interviews.

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 CUAC and CUHP manufacturer and its affiliates may employ a maximum of 750 employees. The 750-employee threshold includes all employees in a business's parent company and any other subsidiaries. Based on this classification, DOE identified at least two manufacturers that qualify as small businesses. The small manufacturer subgroup is discussed in section VI.B of this notice and in chapter 12 of the NOPR TSD.

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 models changes in costs, distribution of shipments, investments, and manufacturer margins that could result from an amended energy conservation standard. The GRIM spreadsheet uses the inputs to arrive at a series of annual cash flows, beginning in 2014 (the base year of the analysis) and continuing to 2048. DOE calculated INPVs by summing the stream of annual discounted cash flows during this period. For CUAC and CUHP manufacturers, DOE used a real discount rate of 6.2 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 amended 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

[60] OMB Circular A–4, section E (Sept. 17, 2003). Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4.*

[61] U.S. Securities and Exchange Commission. Annual 10–K Reports. Various Years. *http://sec.gov.*

[62] U.S. Census Bureau, Annual Survey of Manufacturers: General Statistics: Statistics for Industry Groups and Industries. *http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t.*

[63] Hoovers Inc. Company Profiles. Various Companies. *http://www.hoovers.com.*

section V.B.2. Additional details about the GRIM, the discount rate, and other financial parameters can be found in chapter 12 of the NOPR TSD.

a. Government Regulatory Impact Model Key Inputs

Manufacturer Production Costs

Manufacturing higher-efficiency equipment is typically more expensive than manufacturing baseline equipment due to the use of more complex components, which are typically more costly than baseline components. The changes in the manufacturer production costs (MPCs) of the analyzed equipment can affect the revenues, gross margins, and cash flow of the industry, making these equipment 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.3 and further detailed in chapter 5 of the NOPR 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 Forecasts

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). The NIA shipments forecasts are, in part, based on a consumer choice model that estimates customer sensitivity to total installed cost as well as operating costs. See section IV.G. above and chapter 9 of the NOPR TSD for additional details.

Product and Capital Conversion Costs

An amended energy conservation standard 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 equipment class. For the MIA, DOE classified these conversion costs into two major groups: (1) Capital conversion costs; and (2) product conversion costs. Capital conversion costs are one-time investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new compliant equipment designs can be fabricated and assembled. 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 amended energy conservation standard. These expenditures are made between the announcement year of the standard and the effective date of the standard.

To evaluate the level of capital conversion expenditures manufacturers would likely incur to comply with amended energy conservation standards, DOE used manufacturer interviews to gather data on the anticipated level of capital investment that would be required at each efficiency level. DOE supplemented manufacturer comments with 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 estimate product conversion costs and validated those numbers against engineering estimates of redesign efforts. Additionally, DOE incorporated estimates of the incremental Certification, Compliance & Enforcement (CC&E) testing costs that would result from the proposed test procedure change. This results in product conversion costs which occur even at the baseline because manufacturers would need to re-rate all existing basic models.

The testing costs that occur at baseline total $12.7M for the industry. This value is based the 6,366 product listings found in the AHRI database at the time of analysis. DOE assumed that the 29 brands in the industry would each need to run 2 validation tests for each of the 12 equipment classes, resulting in 696 physical tests at an average cost of $10,000 per test, which includes the cost of the test units. Additionally, the industry would likely use AEDMs to determine the IEER rating of all remaining basic models. While simulation times ranged from 6 to 24 hours of engineering time, depending on the size and complexity of the equipment being modeled, DOE estimated the average AEDM calculation required 13.8 hrs of engineering time to complete. The cost of physically testing 696 units totaled $6.96M and the cost of using AEDMs to determine the rating of the 6,366 product listings would total $5.76M.

Issue 17: DOE requests comments, information, and data that would inform adjustment of the DOE's estimate of $12.7M in conversion costs that occurs in the base case.

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 conversion cost figures used in the GRIM can be found in section V.B.2.a of this notice. For additional information on the estimated product and capital conversion costs, see chapter 12 of the NOPR TSD.

b. Government Regulatory Impact Model Scenarios

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 equipment 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 amended 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 an equipment 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 small, large, and very large air-cooled CUAC and CUHP as well as comments from manufacturer interviews, DOE assumed the average non-production cost markup—which includes SG&A expenses, R&D expenses, interest, and profit—to be the following for each CUAC and CUHP equipment class:

TABLE IV.13—BASE CASE MARKUPS

Equipment	Markup
Small Commercial Packaged Air-Conditioners (Air-Cooled)—≥65,000 Btu/h and <135,000 Btu/h	1.3
Small Commercial Packaged Heat Pumps (Air-Cooled)—≥65,000 Btu/h and <135,000 Btu/h	1.3
Large Commercial Packaged Air-Conditioners (Air-Cooled)—≥135,000 Btu/h and <240,000 Btu/h	1.34
Large Commercial Packaged Heat Pumps (Air-Cooled)—≥135,000 Btu/h and <240,000 Btu/h	1.34
Very Large Commercial Packaged Air-Conditioners (Air-Cooled)—≥240,000 Btu/h and <760,000 Btu/h	1.41
Very Large Commercial Packaged Heat Pumps (Air-Cooled)—≥240,000 Btu/h and <760,000 Btu/h	1.41

Because this markup scenario assumes that manufacturers would be able to maintain their gross margin percentage markups as production costs increase in response to an amended energy conservation standard, 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 amended 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 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 an amended energy conservation standard.

c. Manufacturer Interviews

DOE interviewed manufacturers representing approximately 97 percent of the market by revenue. The information gathered during these interviews enabled DOE to tailor the GRIM to reflect the unique financial characteristics of the small, large, and very large air-cooled CUAC and CUHP industry. In interviews, DOE asked manufacturers to describe their major concerns with potential rulemaking involving CUAC and CUHP equipment. The following sections highlight manufacturers' statements that helped shape DOEs understanding of potential impacts of an amended standard on the industry. Manufacturers raised a range of general issues for DOE to consider, including CC&E, repair and replacement rates, and alignment with ASHRAE standards. Below, DOE summarizes these issues, which were informally raised in manufacturer interviews, in order to obtain public comment and related data.

Certification, Compliance, and Enforcement

Nearly all manufacturers expressed concern over certification, compliance, and enforcement (CC&E) costs. In particular, confusion over the definition of ''basic model,'' ''equipment class,'' and the still-pending implementation of alternative efficiency determination methods (AEDMs) has made it difficult for some manufacturers to anticipate their total testing needs and total testing costs. These issues, depending on how they are addressed by DOE, will impact the number of models to require testing.

Additionally, manufacturers noted that the replacement of the current EER standard with the proposed IEER standard would introduce additional testing complications. IEER testing necessitates four data points, at 25%, 50%, 75%, and 100% capacity, which introduces additional cumulative uncertainty. Accordingly, manufacturers expressed the need for additional increases in the testing tolerance. Manufacturers noted that the confidence limits currently required by the CC&E regulations at 10 CFR 429.43 are more stringent than current laboratory capabilities as well as current industry standard practice.

Repair and Replacement Rates

During interviews, most manufacturers expressed concerns that an increase in standards may make customers more likely to repair an old unit rather than replace it with a new one. Manufacturers noted that more efficient units tend to be larger, and customers may need to make significant alterations to roofs in existing buildings in order to accommodate larger equipment. The high cost of redesigning, reconstructing, or possibly replacing a roof to hold a new unit could deter customers from purchasing one. According to manufacturers, another reason an amended standard may lead to a drop in shipments is the price sensitivity of end users. More efficient units tend to be more expensive. The lower cost of fixing an old unit, versus purchasing a new unit, may be a more attractive option for some customers. Furthermore, manufacturers indicated that there could be a reduction in energy savings from a higher standard due to the increase in the number of older, less efficient units that are repaired rather than replaced with newer, more efficient units. Manufacturers expressed concern over a potential contraction in market size resulting from amended standards.

Alignment With ASHRAE Standards

Several manufacturers suggested during interviews that DOE standards should be aligned with other industry standards set by ASHRAE and AHRI. A few standards, such as ASHRAE 37, ASHRAE 41, and AHRI 340/360 are currently being revised, and manufacturers believe that a coordination of standards between DOE and industry organizations would be a practical way to reduce the amount of time they need to spend on redesigning products and meeting multiple regulations.

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 small, large, and very large air-cooled commercial package air conditioning

and heating equipment. In addition, DOE estimates emissions impacts in production activities (extracting, processing, and transporting fuels) that provide the energy inputs to power plants. These are referred to as ''upstream'' emissions. Together, these emissions account for the full-fuel-cycle (FFC). In accordance with DOE's FFC Statement of Policy (76 FR 51282 (Aug. 18, 2011)), the FFC analysis includes impacts on emissions of methane (CH_4) and nitrous oxide (N_2O), both of which are recognized as greenhouse gases.

DOE conducted the emissions analysis using emissions factors that were derived from data in the Energy Information Agency's (EIA's) *Annual Energy Outlook 2013* (*AEO 2013*), supplemented by data from other sources.[64] DOE developed separate emissions factors for power sector emissions and upstream emissions. The method that DOE used to derive emissions factors is described in chapter 13 of the NOPR TSD.

For CH_4 and N_2O, DOE calculated emissions reduction in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying by the gas' global warming potential (GWP) over a 100-year time horizon. Based on the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,[65] DOE used GWP values of 25 for CH_4 and 298 for N_2O.

EIA prepares the *Annual Energy Outlook* using the National Energy Modeling System (NEMS). Each annual version of NEMS incorporates the projected impacts of existing air quality regulations on emissions. *AEO 2013* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of December 31, 2012.

SO_2 emissions from affected electric generating units (EGUs) are subject to nationwide and regional emissions cap-and-trade programs. Title IV of the Clean Air Act sets an annual emissions cap on SO_2 for affected EGUs in the 48 contiguous States and the District of Columbia (D.C.). SO_2 emissions from 28 eastern states and D.C. were also limited under the Clean Air Interstate Rule (CAIR; 70 FR 25162 (May 12, 2005)), which created an allowance-based trading program that operates along with the Title IV program. CAIR was remanded to the U.S. Environmental Protection Agency (EPA) by the U.S. Court of Appeals for the District of Columbia Circuit but it remained in effect. See *North Carolina* v. *EPA,* 550 F.3d 1176 (D.C. Cir. 2008); *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008). On July 6, 2011 EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (August 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR. See EME Homer City Generation, LP v. EPA, No. 11–1302, 2012 WL 3570721 at *24 (D.C. Cir. Aug. 21, 2012). The court ordered EPA to continue administering CAIR. The *AEO 2013* emissions factors used for this NOPR assumes that CAIR remains a binding regulation through 2040.

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Under existing EPA regulations, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the adoption of an efficiency standard could be used to permit offsetting increases in SO_2 emissions by any regulated EGU. In past rulemakings, DOE recognized that there was uncertainty about the effects of efficiency standards on SO_2 emissions covered by the existing cap-and-trade system, but it concluded that negligible reductions in power sector SO_2 emissions would occur as a result of standards.

Beginning in 2015, however, SO_2 emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants, which were announced by EPA on December 21, 2011. 77 FR 9304 (Feb. 16, 2012). In the final MATS rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (HAP), and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions will be reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. *AEO 2013* assumes that, in order to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed by 2015. Both technologies, which are used to reduce acid gas emissions, also reduce SO_2 emissions. Under the MATS, NEMS shows a reduction in SO_2 emissions when electricity demand decreases (e.g., as a result of energy efficiency standards). Emissions will be far below the cap established by CAIR, so it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by any regulated EGU. Therefore, DOE believes that efficiency standards will reduce SO_2 emissions in 2015 and beyond.

CAIR established a cap on NO_X emissions in 28 eastern States and the District of Columbia. Energy conservation standards are expected to have little effect on NO_X emissions in those States covered by CAIR because excess NO_X emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in NO_X emissions. However, standards would be expected to reduce NO_X emissions in the States not affected by the caps, so DOE estimated NO_X emissions reductions from the standards considered in this NOPR for these States.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO 2013,* which incorporates the MATS.

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this proposed rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation similar to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of equipment shipped in the forecast period for each TSL. This section

[64] Emissions factors based on the Annual Energy Outlook 2014 (AEO 2014), which became available too late for incorporation into this analysis, indicate that a significant decrease in the cumulative emission reductions of carbon dioxide, methane, nitrous oxide, sulfur dioxide, nitrogen oxides and mercury from the proposed standards can be expected if the projections of power plant utilization assumed in AEO 2014 are realized. For example, the estimated amount of cumulative emission reductions of CO2 are expected to decrease by 36% from DOE's current estimate (from 1,085 Mt to 697Mt) based on the projections in AEO 2014 relative to AEO 2013. The monetized benefits from GHG reductions would likely decrease by a comparable amount. DOE plans to use emissions factors based on the most recent AEO available for the next phase of this rulemaking, which may or may not be AEO 2014, depending on the timing of the issuance of the next rulemaking document.

[65] 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.

summarizes the basis for the monetary values used for each of these emissions and presents the values considered in this rulemaking.

For this NOPR, DOE is relying on a set of values for the social cost of carbon (SCC) that was developed by an interagency process. A summary of the basis for these values is provided below, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the NOPR TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of carbon dioxide. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in carbon dioxide emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b)(6) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), agencies must, to the extent permitted by law, assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions. The estimates are presented with an acknowledgement of the many uncertainties involved and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed the SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of carbon dioxide emissions, the analyst faces a number of challenges. A recent report from the National Research Council points out that any assessment will suffer from uncertainty, speculation, and lack of information about: (1) Future emissions of greenhouse gases; (2) the effects of past and future emissions on the climate system; (3) the impact of changes in climate on the physical and biological environment; and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise questions of science, economics, and ethics and should be viewed as provisional.

Despite the limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing carbon dioxide emissions. The agency can estimate the benefits from reduced emissions in any future year by multiplying the change in emissions in that year by the SCC value appropriate for that year. The net present value of the benefits can then be calculated by multiplying the future benefits by an appropriate discount factor and summing across all affected years.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

b. Development of Social Cost of Carbon Values

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing carbon dioxide emissions. To ensure consistency in how benefits are evaluated across agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced CO_2 emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim values: Global SCC estimates for 2007 (in 2006$) of $55, $33, $19, $10, and $5 per metric ton of CO_2. These interim values represented the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules.

c. Current Approach and Key Assumptions

After the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specifically, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: The FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change (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.

In 2010, the interagency group selected four sets of SCC values for use in regulatory analyses.[66] Three sets of values are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent,

[66] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government, February 2010. *http://www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf.*

3 percent, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from climate change further out in the tails of the SCC distribution. The values grow in real terms over time. Additionally, the interagency group determined that a range of values from 7 percent to 23 percent should be used to adjust the global SCC to calculate domestic effects, although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table IV.14 presents the values in the 2010 interagency group report, which is reproduced in appendix 14–A of the NOPR TSD.

TABLE IV.14—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th percentile
2010	4.7	21.4	35.1	64.9
2015	5.7	23.8	38.4	72.8
2020	6.8	26.3	41.7	80.7
2025	8.2	29.6	45.9	90.4
2030	9.7	32.8	50.0	100.0
2035	11.2	36.0	54.2	109.7
2040	12.7	39.2	58.4	119.3
2045	14.2	42.1	61.7	127.8
2050	15.7	44.9	65.0	136.2

The SCC values used for this NOPR were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[67] Table IV.15 shows the updated sets of SCC estimates from the 2013 interagency update in five-year increments from 2010 to 2050. Appendix 14–B of the NOPR TSD provides the full set of values and a discussion of the revisions made in 2013. The central value that emerges is the average SCC across models at 3-percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE IV.15—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th percentile
2010	11	32	51	89
2015	11	37	57	109
2020	12	43	64	128
2025	14	47	69	143
2030	16	52	75	159
2035	19	56	80	175
2040	21	61	86	191
2045	24	66	92	206
2050	26	71	97	220

It is important to recognize that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable since they will evolve with improved scientific and economic understanding. The interagency group also recognizes that the existing models are imperfect and incomplete. The National Research Council report mentioned above points out that there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of analytic challenges that are being addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC. The interagency group intends to periodically review and reconsider those estimates to reflect increasing knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions resulting from this proposed rule, DOE used the values from the 2013 interagency report, adjusted to 2013$ using the Gross Domestic Product price deflator. For each of the four SCC cases specified, the values used for emissions in 2015 were

[67] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government, May 2013; revised November 2013. *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*

$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.

DOE solicits comment on the application of the new SCC values used to determine the social benefits of CO_2 emissions reductions over the rulemaking analysis period. In particular, the agency solicits comment on its derivation of SCC values after 2050, where the agency applied the average annual growth rate of the SCC estimates in 2040–2050 associated with each of the four sets of values.

Issue 18: DOE solicits comment on the application of the new SCC values used to determine the social benefits of CO_2 emissions reductions over the rulemaking analysis period. In particular, the agency solicits comment on its derivation of SCC values after 2050, where the agency applied the average annual growth rate of the SCC estimates in 2040–2050 associated with each of the four sets of values.

2. Valuation of Other Emissions Reductions

As noted above, DOE has taken into account how new or amended energy conservation standards would reduce NO_X emissions in those 22 states not affected by the CAIR. DOE estimated the monetized value of NO_X emissions reductions resulting from each of the TSLs considered for this NOPR based on estimates found in the relevant scientific literature. Estimates of monetary value for reducing NO_X from stationary sources range from $476 to $4,893 per ton in 2013$.[68] DOE calculated monetary benefits using a medium value for NO_X emissions of $2,684 per short ton (in 20123), and real discount rates of 3-percent and 7-percent.

DOE is evaluating appropriate monetization of avoided SO_2 and Hg emissions in energy conservation standards rulemakings. It has not included monetization in the current analysis.

[68] U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, *2006 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities,* Washington, DC.

M. Utility Impact Analysis

The utility impact analysis estimates several effects on the power generation industry that would result from the adoption of new or amended energy conservation standards. In the utility impact analysis, DOE analyzes the changes in installed electricity capacity and generation that would result for each trial standard level. The utility impact analysis uses a variant of NEMS,[69] 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,[70] to account for selected utility impacts of new or amended energy conservation standards. DOE's analysis consists of a comparison between model results for the most recent *AEO* Reference Case and for cases in which energy use is decremented to reflect the impact of potential standards. The energy savings inputs associated with each TSL come from the NIA. Chapter 15 of the NOPR TSD describes the utility impact analysis in further detail.

N. Employment Impact Analysis

Employment impacts from new or amended energy conservation standards include direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the equipment subject to standards; the MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more efficient equipment. Indirect employment impacts from standards consist of the jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, due to: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased consumer spending on the purchase of new equipment; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy. There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (i.e., the utility sector) to more labor-intensive sectors (e.g., the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment may increase because of shifts in economic activity resulting from amended standards.

For the standard levels considered in the NOPR, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies, Version 3.1.1 (ImSET). ImSET is a special-purpose version of the ''U.S. Benchmark National Input-Output'' (I–O) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among the 187 sectors. ImSET's national economic I–O structure is based on a 2002 U.S. benchmark table, specially aggregated to the 187 sectors most relevant to industrial, commercial, and residential building energy use. DOE notes that ImSET is not a general equilibrium forecasting model, and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may over-estimate actual job impacts over the long run. For the NOPR, DOE used ImSET only to estimate short-term employment impacts.

[69] For more information on NEMS, refer to the U.S. Department of Energy, Energy Information Administration documentation. A useful summary is *National Energy Modeling System: An Overview 2003,* DOE/EIA–0581 (2003) (March, 2003).

[70] 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).

For more details on the employment impact analysis, see chapter 16 of the NOPR TSD.

V. Analytical Results

A. Trial Standard Levels

At the NOPR stage, DOE develops Trial Standard Levels (TSLs) for consideration. TSLs are formed by grouping different efficiency levels, which are potential standard levels for each equipment class. DOE analyzed the benefits and burdens of the TSLs developed for this proposed rule. DOE examined four TSLs for small, large, and very large air-cooled commercial package air conditioning and heating equipment.

Table V.1 presents the TSLs analyzed and the corresponding efficiency level for each equipment class. The efficiency levels in each TSL can be characterized as follows: TSL 4 is comprised of the max-tech efficiency level, which is efficiency level 4 for each equipment class. TSL 3 is comprised of efficiency level 3 for each equipment class. TSL 2 is comprised of efficiency level 2 for each equipment class, and TSL 1 is comprised of efficiency level 1 for each equipment class.

TABLE V.1—SUMMARY OF TSLS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT

Equipment class	TSL 1	TSL 2	TSL 3	TSL 4
	Efficiency level *			
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	1	2	3	4
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	1	2	3	4
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	1	2	3	4
Small Commercial Packaged Heat Pumps—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	1	2	3	4
Large Commercial Packaged Heat Pumps—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	1	2	3	4
Very Large Commercial Packaged Heat Pumps—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	1	2	3	4

* For the IEERs that correspond to efficiency levels 1 through 4, see Table IV.6.

B. Economic Justification and Energy Savings

As discussed in section II.A, EPCA provides seven factors to be evaluated in determining whether a more stringent standard for small, large, and very large air-cooled CUAC and CUHP is economically justified. (42 U.S.C. 6313(a)(6)(B)(ii)) The following sections generally discuss how DOE is addressing each of those factors in this rulemaking.

1. Economic Impacts on Individual Customers

DOE analyzed the economic impacts on small, large, and very large air-cooled commercial package air conditioning and heating equipment customers by looking at the effects standards would have on the LCC and PBP. DOE also examined the impacts of potential standards on customer subgroups. These analyses are discussed below.

a. Life-Cycle Cost and Payback Period

To evaluate the net economic impact of standards on small, large, and very large air-cooled CUAC customers, DOE conducted LCC and PBP analyses for each TSL. In general, higher-efficiency equipment would affect customers in two ways: (1) Annual operating expense would decrease, and (2) purchase price would increase. Section IV.F of this notice discusses the inputs DOE used for calculating the LCC and PBP. As stated there, DOE did not do an LCC and PBP analysis for the CUHP equipment classes because energy modeling was performed only for CUAC equipment.

For each representative unit, the key outputs of the LCC analysis are a mean LCC savings and a median PBP relative to the base case, as well as the fraction of customers for which the LCC will decrease (net benefit), increase (net cost), or exhibit no change (no impact) relative to the base-case product forecast. No impacts occur when the base-case efficiency equals or exceeds the efficiency at a given TSL. Table V.2 through Table V.4 show the key results for each representative unit.

TABLE V.2—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR SMALL COMMERCIAL PACKAGE AIR CONDITIONERS

[7.5 ton, ≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity]

Trial standard level	1	2	3	4
Efficiency Level	1	2	3	4
IEER	12.9	14.0	14.8	19.9
Total Installed Cost	$8,535	$9,923	$10,323	$12,166
Mean LCC Savings ($)	$1,094	$937	$4,779	$6,771
Customers with LCC Increase (Cost) (%) *	0%	27%	0%	0%
Customers with LCC Decrease (Benefit) (%) *	61%	72%	99%	100%
Customers with No Change in LCC (%) *	39%	1%	0%	0%
Median PBP (Years)	2.2	8.0	3.9	4.7

* Rounding may cause some items to not total 100 percent.

TABLE V.3—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR LARGE COMMERCIAL PACKAGE AIR CONDITIONERS

[15 ton, ≥135,000 Btu/h and <240,000 Btu/h]

Trial standard level	1	2	3	4
Efficiency Level	1	2	3	4
IEER	12.2	13.2	14.2	18.4
Total Installed Cost	$14,935	$16,858	$17,753	$18,975
Mean LCC Savings ($)	$1,038	$2,214	$3,469	$7,508
Customers with LCC Increase (Cost) (%) *	3%	8%	6%	2%
Customers with LCC Decrease (Benefit) (%) *	74%	90%	93%	98%
Customers with No Change in LCC (%) *	22%	2%	0%	0%
Median PBP (Years)	6.0	7.2	6.6	5.1

* Rounding may cause some items to not total 100 percent.

TABLE V.4—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR VERY LARGE COMMERCIAL PACKAGE AIR CONDITIONERS

[30 ton, ≥240,000 Btu/h and <760,000 Btu/h]

Trial standard level	1	2	3	4
Efficiency Level	1	2	3	4
IEER	11.6	12.5	13.5	15.5
Total Installed Cost	$29,385	$31,738	$32,828	$36,200
Mean LCC Savings ($)	$4,103	$4,801	$16,477	$19,842
Customers with LCC Increase (Cost) (%) *	2%	12%	3%	5%
Customers with LCC Decrease (Benefit) (%) *	62%	76%	92%	94%
Customers with No Change in LCC (%) *	36%	13%	6%	1%
Median PBP (Years)	2.6	5.5	2.5	3.5

* Rounding may cause some items to not total 100 percent.

b. Customer Subgroup Analysis

In the customer subgroup analysis, DOE estimated the impacts of the considered TSLs on small business customers. The LCC savings and payback periods for small business customers are similar to the impacts for all customers. Chapter 11 of the NOPR TSD presents detailed results of the customer subgroup analysis.

c. Rebuttable Presumption Payback

As discussed in section III.E.2, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for equipment that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. DOE calculated a rebuttable-presumption PBP for each TSL to determine whether DOE could presume that a standard at that level is economically justified.

DOE based the calculations on average usage profiles. As a result, DOE calculated a single rebuttable-presumption payback value, and not a distribution of PBPs, for each TSL. Table V.5 shows the rebuttable-presumption PBPs for the considered TSLs. The rebuttable presumption is fulfilled in those cases where the PBP is three years or less. However, DOE routinely conducts an economic analysis that considers the full range of impacts to the customer, manufacturer, Nation, and environment, as required by EPCA. The results of that analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level (thereby supporting or rebutting the results of any three-year PBP analysis). Section V.C addresses how DOE considered the range of impacts to select today's proposed standards.

TABLE V.5—REBUTTABLE-PRESUMPTION PAYBACK PERIODS (YEARS) FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT

Trial standard level	1	2	3	4
Efficiency Level	1	2	3	4
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	2.2	8.0	3.9	4.7
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	6.0	7.2	6.6	5.1
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	2.6	5.5	2.5	3.5

2. Economic Impacts on Manufacturers

As noted above, DOE performed an MIA to estimate the impact of amended energy conservation standards on manufacturers of small, large, and very large air-cooled commercial package air conditioning and heating equipment. The following section describes the expected impacts on manufacturers at each considered TSL. Chapter 12 of the NOPR TSD explains the analysis in further detail.

a. Industry Cash-Flow Analysis Results

Table V.6 and Table V.7 depict the financial impacts (represented by changes in INPV) of amended energy standards on manufacturers of small, large, and very large air-cooled commercial package air conditioning and heating equipment, as well as the conversion costs that DOE expects manufacturers would incur for all equipment classes at each TSL. To evaluate the range of cash flow impacts on the commercial packaged air conditioner and heat pump industry, DOE modeled two different mark-up scenarios using different assumptions that correspond to the range of anticipated market responses to amended 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 not be able to greater operating profit on a per unit basis in the standards case. Rather, as manufacturers make the necessary investments required to convert their facilities to produce new standards-compliant products and incur higher costs of goods sold, their percentage markup decreases. Operating profit does not change in absolute dollars and decreases as a percentage of revenue.

As noted in the MIA methodology discussion (see IV.J.2), in addition to markup scenarios, the MPC, shipments, and conversion cost assumptions also affect INPV results. Of particular note in this rulemaking is the decline in cumulative shipments as the TSL increases that is forecasted in the NIA shipments. This change in shipments is summarized in Table V.10.

The set of results below shows potential INPV impacts for small, large, and very large air-cooled commercial package air conditioning and heating equipment manufacturers; Table V.6 reflects the lower bound of impacts, and Table V.7 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.6—INDUSTRY VALUATION AND FINANCIAL IMPACTS—PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO *

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	$M	1,260.91	1,249.47	1,208.04	1,172.36	1,142.78
Change in INPV	$M		(11.45)	(52.87)	(88.55)	(118.13)
	%		(0.91)	(4.19)	(7.02)	(9.37)
Product Conversion Costs	$M	12.72	38.73	58.52	120.90	210.96
Capital Conversion Costs	$M		14.94	39.23	105.54	113.31
Total Conversion Costs	$M	12.72	53.68	97.75	226.44	324.28
Free Cash Flow (2018)	$M	73.38	58.19	40.82	(9.32)	(42.13)
Free Cash Flow (2018)	% Change		(20.70)	(44.37)	(112.70)	(157.42)

TABLE V.7—INDUSTRY VALUATION AND FINANCIAL IMPACTS—PRESERVATION OF PER UNIT OPERATING PROFIT MARKUP SCENARIO *

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	$M	1,260.91	1,187.02	1,015.61	949.34	822.75
Change in INPV	$M		(73.89)	(245.30)	(311.58)	(438.16)
	%		(5.86)	(19.45)	(24.71)	(34.75)
Product Conversion Costs	$M	12.72	38.73	58.52	120.90	210.96
Capital Conversion Costs	$M	-	14.94	39.23	105.54	113.31
Total Conversion Costs	$M	12.72	53.68	97.75	226.44	324.28
Free Cash Flow (2018)	$M	73.38	58.19	40.82	(9.32)	(42.13)
Free Cash Flow (2018)	% Change		(20.70)	(44.37)	(112.70)	(157.42)

* Values in parentheses are negative values.

Base case conversion costs of $12.72 million are attributed to CC&E costs associated with new product certification under the proposed test procedure. This amount consists of modeling and equipment testing costs incurred to recertify currently available products.

TSL 1 represents EL 1 for all equipment classes. At TSL 1, DOE estimates impacts on INPV for commercial packaged air conditioning manufacturers to range from −5.86 percent to −0.91 percent, or a change in INPV of −$73.89 million to −$11.45

million. At this potential standard level, industry free cash flow is estimated to decrease by approximately 20.70 percent to $58.19, compared to the base-case value of $73.38 million in the year before the compliance date (2018).

At TSL 1, the industry is likely to face a small contraction. Industry wide shipments drop by approximately 5.04% in the standard year (2019), relative to the base case. In addition, manufacturers incur conversion costs totaling $53.68 million due to CC&E requirements, product redesigns for the Very Large equipment classes, and new tooling associated with their highest capacity equipment offerings. While impacts on the industry as a whole are relatively mild, small manufacturers may have greater difficulty with re-rating their products to an IEER metric since they generally do not have the testing capacity or engineering resources of larger competitors.

TSL 2 represents EL 2 across all equipment classes. At TSL 2, DOE estimates impacts on INPV for commercial packaged air conditioning manufacturers to range from −19.45 percent to −4.19 percent, or a change in INPV of −$245.30 million to −$52.87 million. At this potential standard level, industry free cash flow is estimated to decrease by approximately 44.37 percent to $40.82 million, compared to the base-case value of $73.38 million in the year before the compliance date (2018).

At TSL 2, industry-wide shipments drop by 28.32% in the standard year (2019) relative to the base case. Additionally, DOE anticipates conversion costs to increase to $97.75 million for the industry as roughly 67% of equipment listed in the AHRI directory would need to be redesigned in order to meet the higher proposed efficiency levels. Given the industry's existing trend of consolidation, DOE expects further consolidation at TSL 2. Manufacturers with limited market share may choose to sell off their small, large, and very large air-cooled commercial package air conditioning and heating equipment business to larger competitors.

TSL 3 represents EL 3 for all equipment classes. At TSL 3, DOE estimates impacts on INPV for commercial packaged air conditioning manufacturers to range from −24.71 percent to −7.02 percent, or a change in INPV of −$311.58 million to −$88.55 million., Industry-wide shipments drop by 28.76% relative to the base case in the standards year. DOE anticipates large capital conversion costs at TSL 3, as redesigns necessitate additional investments in tooling for cabinets and heat exchangers to meet amended efficiency standards. Roughly 81% of equipment listings would require changes to meet the standard. Conversion costs total $226.44 million for the industry. A key indicator of impact on the industry is the industry free cash flow, which is estimated to decrease by approximately 112.70 percent to −$9.32 relative to the base case value of $73.38 million in the year before the compliance date (2018). The negative free cash flow indicates that players in the industry would need to access cash reserves or borrow money from capital markets to cover conversion costs. Given expectation for a shrinking market and high conversion costs, some manufacturers indicated they would move production to lower-cost foreign markets at this level.

TSL 4 represents max tech across all equipment classes. At TSL 4, DOE estimates impacts on INPV for commercial packaged air conditioning manufacturers to range from −34.75 percent to −9.37 percent, or a change in INPV of −$438.16 million to −$118.13 million. At this potential standard level, industry free cash flow is estimated to decrease by approximately 157.42 percent relative to the base-case value of $73.38 million in the year before the compliance date (2018).

At max-tech, DOE estimates a 35.12% drop in shipments in the standards years, a maximum loss of over 34.75% of industry value over the analysis period, and conversion costs approaching $650 million for the industry. Only 2% of equipment listings could meet this trial standard level today. Manufacturers voiced concerns over the lack of product differentiation and the commoditization at upper TSLs. TSL 4 would leave no room for product differentiation based on efficiency. Furthermore, given the level of R&D and production line modifications necessary at this level, it is unclear whether the industry could make the necessary changes in the allotted conversion period. At TSL 4, most manufacturers would re-evaluate their role in the industry. Those that do remain would strongly consider all cost cutting measures, including relocation to foreign countries.

Issue 19: DOE requests comment on the capital conversion costs and product conversion costs estimated for each TSL. In particular, DOE seeks comment on the conversion costs at max-tech, at TSL 4.

b. Impacts on Direct Employment

To quantitatively assess the impacts of energy conservation standards on direct employment in the small, large, and very large air-cooled commercial package air conditioning and heating equipment industry, DOE used the GRIM to estimate the domestic labor expenditures and number of employees in the base case and at each TSL from 2015 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 changes in the number of production workers resulting from the amended energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment, as compared to the base case. In general, more efficient equipment is larger, more complex, and more labor intensive to build. Per unit labor requirements and production time requirements increase with a higher energy conservation standard. As a result, the total labor calculations described in this paragraph are considered an upper bound to direct employment forecasts.

On the other hand, the domestic HVAC industry has had a track record of consolidation over the past decade. See, e.g. *Daikin Acquires Goodman,*

[71] "Annual Survey of Manufactures (ASM)," U.S. Census Bureau (2011) (Available at: *http://www.census.gov/manufacturing/asm/*).

Daikin Corporate News (Aug. 29, 2012); *Ingersoll Rand to Acquire Trane Inc. for Approximately $10.1 Billion,* Trane Press Release (Dec. 17, 2007); and *JCI Buys Pennsylvania Firm,* Grand Rapids Press, C6 (Aug. 26, 2005) (noting purchase of York International by Johnson Controls, Inc.). DOE recognizes the potential for industry consolidation and its concomitant impacts on employment levels, especially at higher TSLs. As shipments drop and conversion costs increase, some manufacturers may choose not to make the necessary investments to meet the amended standard for all equipment classes. Alternatively, they may choose to relocate production facilities where conversion costs and production costs are lower. To establish a lower bound to negative employment impacts, DOE estimated the maximum potential job loss due to manufacturers either leaving the industry or moving production to foreign locations as a result of an amended standard. These lower bound estimates were based on GRIM results, conversion cost estimates, and content from manufacturers interviews. The lower bound of employment is presented in Table V.8 below.

DOE estimates that in the absence of amended energy conservation standards, there would be 1,085 domestic production workers for small, large, and very large air-cooled commercial package air conditioning and heating equipment. DOE estimates that 50 percent of small, large, and very large air-cooled commercial package air conditioning and heating equipment sold in the United States are manufactured domestically. Table V.8 shows the range of the impacts of potential amended energy conservation standards on U.S. production workers of small, large, and very large air-cooled commercial package air conditioning and heating equipment.

TABLE V.8—POTENTIAL CHANGES IN THE TOTAL NUMBER OF SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT PRODUCTION WORKERS IN 2019

	Trial standard level *				
	Base case	1	2	3	4
Potential Changes in Domestic Production Workers in 2019 (relative to a base case employment of 1,085).	.....	(181) to (10) ..	(482) to (69) ..	(543) to (27) ..	(1,085) to (31).

* Parentheses indicate negative values.

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 NOPR TSD.

c. Impacts on Manufacturing Capacity

According to the commercial packaged air conditioning manufacturers interviewed, amended energy conservation standards could lead to higher fabrication labor hours. However, manufacturers noted that industry shipments are down 40% from their peak in the 2007–2008 timeframe. Excess capacity in the industry today and any drop in shipments that result from higher prices could offset the additional production times. In the long-term, no manufacturers interviewed expected to have capacity constraints.

Manufacturers did note concerns about engineering and testing capacity in the time period between the announcement year and the effective year of the proposed standard. Manufacturers worried about the level of technical resources required to redesign and test all products at higher TSLs. The engineering analysis shows increasingly complex components and control strategies are required as standard levels increase. Manufacturers noted in interviews that the industry would need to add electrical engineering and control systems engineering talent beyond current staffing to meet the redesign requirements of higher TSLs. Additional training might be needed for manufacturing engineers, laboratory technicians, and service personnel if variable speed components are broadly adopted. Furthermore, as standards increase, units tend to grow in size, requiring more lab resources and time to test. Some manufacturers were concerned that an amended standard would trigger the need for construction of new test lab facilities, which require significant lead time.

Issue 20: DOE requests comments and data on capacity constraints at each TSL—including production capacity constraints, engineering resource constraints, and testing capacity constraints that are directly related to an amended standard for small, large, and very large CUAC and CUHP. In particular, DOE requests comment on whether the proposed effective date allows for a sufficient conversion period to make the equipment design and facility updates necessary to meet an amended standard.

d. Impacts on Subgroups of Manufacturers

Small manufacturers, niche equipment manufacturers, and manufacturers exhibiting a cost structure substantially different from the industry average could be affected disproportionately. Using average cost assumptions developed for an industry cash-flow estimate is inadequate to assess differential impacts among manufacturer subgroups.

For the commercial packaged air conditioner and heat pump industry, DOE identified and evaluated the impact of amended energy conservation standards on one subgroup—small manufacturers. The SBA defines a ''small business'' as having 750 employees or less for NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' Based on this definition, DOE identified three manufacturers in the commercial packaged air conditioning 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 NOPR TSD.

e. Cumulative Regulatory Burden

While any one regulation may not impose a significant burden on manufacturers, the combined effects of recent or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. In addition to energy conservation standards, other regulations can significantly affect manufacturers' financial operations. Multiple regulations affecting the same

manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

For the cumulative regulatory burden analysis, DOE looks at other regulations that could affect small, large, and very large air-cooled commercial package air conditioning and heating equipment manufacturers that will take effect approximately three years before or after the 2019 compliance date of amended energy conservation standards for these products. In interviews, manufacturers cited Federal regulations on equipment other than small, large, and very large air-cooled commercial package air conditioning and heating equipment that contribute to their cumulative regulatory burden. The compliance years and expected industry conversion costs of relevant amended energy conservation standards are indicated in the table below. Included in the table are Federal regulations that have compliance dates beyond the three year range of DOE's analysis. Those regulations were cited multiple times by manufacturers in interviews and written comments, and are included here for reference.

TABLE V.9—COMPLIANCE DATES AND EXPECTED CONVERSION EXPENSES OF FEDERAL ENERGY CONSERVATION STANDARDS AFFECTING SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT MANUFACTURERS

Federal energy conservation standards	Approximate compliance date	Estimated total industry conversion expense
2007 Residential Furnaces & Boilers 72 FR 65136 (Nov. 19, 2007)	2015	* $88M (2006$)
2011 Residential Furnaces 76 FR 37408 (June 27, 2011); 76 FR 67037 (Oct. 31, 2011)	2015	** $2.5M (2009$)
2011 Residential Central Air Conditioners and Heat Pumps 76 FR 37408 (June 27, 2011); 76 FR 67037 (Oct. 31, 2011)	2015	** $ 26.0M (2009$)
2010 Gas Fired and Electric Storage Water Heaters 75 FR 20112 (April 16, 2010)	2015	$95.4M (2009$)
Walk-in Coolers and Freezers	2017	$33.6.0M (2012$)
Furnace Fans	2019	$40.6M (2012$)
Packaged Terminal Air Conditioners and Heat Pumps ***	TBD	TBD
Commercial and Industrial Fans and Blowers ***	TBD	TBD

* Conversion expenses for manufacturers of oil-fired furnaces and gas- and oil-fired boilers associated with the November 2007 final rule for residential furnaces and boilers are excluded from this figure. The 2011 direct final rule for residential furnaces sets a higher standard and earlier compliance date for oil furnaces than the 2007 final rule. As a result, manufacturers will be required design to the 2011 direct final rule standard. The conversion costs associated with the 2011 direct final rule are listed separately in this table. EISA 2007 legislated higher standards and earlier compliance dates for residential boilers than were in the November 2007 final rule. As a result, gas-fired and oil-fired boiler manufacturers were required to design to the EISA 2007 standard beginning in 2012. The conversion costs listed for residential gas-fired and oil-fired boilers in the November 2007 residential furnaces and boilers final rule analysis are not included in this figure.

** Estimated industry conversion expense and approximate compliance date reflect a court-ordered May 1, 2013 stay of the residential non-weatherized and mobile home gas furnaces standards set in the 2011 Energy Conservation Standards for Residential Furnaces and Residential Central Air Conditioners and Heat Pumps.

*** The final rule for this energy conservation standard has not been published. The compliance date and analysis of conversion costs are estimates and have not been finalized at this time.

In addition to Federal energy conservation standards, DOE identified other regulatory burdens that would affect manufacturers of small, large, and very large air-cooled commercial package air conditioning and heating equipment:

DOE Certification, Compliance, and Enforcement (CC&E) Rule

Any amended standard that DOE would also require accompanying CC&E requirements for manufacturers of small, large, and very large air-cooled commercial package air conditioning equipment to follow. DOE conducted a rulemaking to expand AEDM coverage to commercial HVAC, including the equipment covered by this rulemaking, and issued a final rule on December 31, 2013. (78 FR 79579) An AEDM is a computer modeling or mathematical tool that predicts the performance of non-tested basic models. In the final rule, DOE is allowing manufacturers of small, large, and very large air-cooled commercial package air conditioning equipment to rate basic models using AEDMs, reducing the need for sample units and reducing burden on manufacturers. The final rule establishes revised verification tolerances for small, large, and very large air-cooled commercial package air conditioning equipment manufacturers. More information can be found at *http://www1.eere.energy.gov/buildings/appliance_standards/implement_cert_and_enforce.html.*

EPA Phase-Out of Hydrochlorofluorocarbons (HCFCs)

The U.S. is obligated under the Montreal Protocol to limit production and consumption of HCFCs through incremental reductions, culminating in a complete phase-out of HCFCs by 2030.[72] On December 15, 2009, EPA published the ''2010 HCFC Allocation Rule,'' which allocates production and consumption allowances for HCFC–22 for each year between 2010 and 2014. 74 FR 66412. The rule also prohibited the manufacture of new appliances using virgin HCFC–22, effective January 1, 2010, with limited exceptions. On April 3, 2013, EPA published the ''2012–2014 HCFC Allocation Proposed Rule,'' which lifted the regulatory ban on the production and consumption of HCFC–22 (following a court decision[73] in August 2010 to vacate a portion of the ''2010 HCFC Allocation Rule'') by establishing company-by-company HCFC–22 baselines and allocating allowances for 2012–2014. 78 FR 20004. On December 24, 2013, EPA published the ''2015–2019 HCFC Allocation Proposed Rule,'' which would provide HCFC allowances, including HCFC–22, through 2019. 78 FR 78072. Effective January 1, 2020, there will be no new production or import of virgin HCFC–22.

Manufacturers of small, large, and very large air-cooled commercial package air conditioning equipment must comply with the allowances

[72] ''Montreal Protocol.'' *United Nations Environment Programme.* Web. 26 Aug. 2010. *http://ozone.unep.org/new_site/en/montreal_protocol.php.*

[73] *See Arkema* v. *EPA,* 618 F.3d 1 (D.C. Cir. 2010).

established by the allocation rule as well as the prohibition on manufacture of new HFC–22 appliances that took effect January 1, 2010. As such, no covered manufacturers offer R–22 products today. The MPCs used for the baseline and higher efficiency design options account for the move away from R–22 and the changes in production costs that resulted from the shift to HFC refrigerants.

Issue 21: DOE requests comment on the identified regulations and their contribution to cumulative regulatory burden. Additionally, DOE requests feedback on product-specific regulations that take effect between 2016 and 2022 that were not listed, including identification of the specific regulations and data quantifying the associated burdens.

3. National Impact Analysis

For small, large, and very large air-cooled commercial package air conditioning and heating equipment, projections of shipments are an important part of the NIA. As discussed in section IV.G, DOE applied a repair/replace decision model to estimate how many units coming to the end of their lifetime would be repaired rather than replaced with a new unit. Because the decision is very sensitive to the installed cost of new equipment, the impact of standards on shipments increases with the minimum efficiency required. Table V.10 presents the estimated cumulative shipments in 2019–2048 in the base case and under each TSL.

TABLE V.10—PROJECTED CUMULATIVE SHIPMENTS OF SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT IN 2019–2048

	Million units	Percent reduction from base case (%)
Base Case	9.7	N/A
TSL 1	9.2	4.8
TSL 2	7.5	22.5
TSL 3	7.5	22.8
TSL 4	7.1	27.0

a. Significance of Energy Savings

For each TSL, DOE projected energy savings for small, large, and very large air-cooled commercial package air conditioning and heating equipment purchased in the 30-year period that begins in the year of anticipated compliance with amended standards (2019–2048). The savings are measured over the entire lifetime of equipment purchased in the 30-year period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. Table V.11 presents the estimated primary energy savings for each considered TSL, and Table V.12 presents the estimated FFC energy savings for each TSL. The approach for estimating national energy savings is further described in section IV.H.

TABLE V.11—CUMULATIVE PRIMARY ENERGY SAVINGS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2019–2048

Equipment class	Trial standard level			
	1	2	3	4
	quads			
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	1.2	4.3	5.4	8.3
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	0.8	1.8	2.6	3.8
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	0.7	1.5	2.7	3.4
Small Commercial Packaged Heat Pumps—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	0.1	0.5	0.7	1.0
Large Commercial Packaged Heat Pumps—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	0.0	0.1	0.1	0.2
Very Large Commercial Packaged Heat Pumps—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	0.0	0.1	0.1	0.2
Total All Classes	2.9	8.3	11.7	16.8

TABLE V.12—CUMULATIVE FULL-FUEL-CYCLE ENERGY SAVINGS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2019–2048

Equipment class	Trial standard level			
	1	2	3	4
	quads			
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	1.2	4.3	5.5	8.4
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	0.8	1.8	2.6	3.8
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	0.8	1.6	2.7	3.5
Small Commercial Packaged Heat Pumps—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	0.1	0.5	0.7	1.0
Large Commercial Packaged Heat Pumps—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	0.0	0.1	0.1	0.2
Very Large Commercial Packaged Heat Pumps—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	0.0	0.1	0.1	0.2
Total All Classes	3.0	8.4	11.8	17.1

For this rulemaking, DOE undertook a sensitivity analysis using nine rather than 30 years of equipment shipments. The choice of a nine-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[74] This timeframe may not be statistically relevant with regard to the equipment lifetime, equipment manufacturing cycles or other factors specific to small, large, and very large air-cooled commercial package air conditioning and heating equipment. Thus, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology. The NES results based on a 9-year analytical period are presented in Table V.13. The impacts are counted over the lifetime of small, large, and very large air-cooled commercial package air conditioning and heating equipment purchased in 2019–2027.

TABLE V.13—CUMULATIVE PRIMARY ENERGY SAVINGS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2019–2027

Equipment class	Trial standard level			
	1	2	3	4
	quads			
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	0.3	0.7	0.9	1.4
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	0.2	0.4	0.5	0.7
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	0.1	0.2	0.3	0.3
Small Commercial Packaged Heat Pumps—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	0.0	0.1	0.2	0.2
Large Commercial Packaged Heat Pumps—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity	0.0	0.0	0.0	0.0
Very Large Commercial Packaged Heat Pumps—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity	0.0	0.0	0.0	0.0
Total All Classes	0.6	1.4	1.9	2.7

Issue 22: For this rulemaking, DOE analyzed the effects of potential standards on equipment purchased over a 30-year period, and it undertook a sensitivity analysis using 9 years rather than 30 years of product shipments. The choice of a 30-year period of shipments is consistent with the DOE analysis for other products and commercial equipment. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such amended standards. DOE is seeking

[74] 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.

input on ways to refine the analytic timeline.

b. Net Present Value of Customer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for customers that would result from the TSLs considered for small, large, and very large air-cooled commercial package air conditioning and heating equipment. In accordance with OMB's guidelines on regulatory analysis,[75] DOE calculated the NPV using both a 7-percent and a 3-percent real discount rate. The 7-percent rate is an estimate of the average before-tax rate of return on private capital in the U.S. economy, and reflects the returns on real estate and small business capital as well as corporate capital. This discount rate approximates the opportunity cost of capital in the private sector (OMB analysis has found the average rate of return on capital to be near this rate). The 3-percent rate reflects the potential effects of standards on private consumption (*e.g.,* through higher prices for equipment and reduced purchases of energy). This rate represents the rate at which society discounts future consumption flows to their present value. It can be approximated by the real rate of return on long-term government debt (*i.e.,* yield on United States Treasury notes), which has averaged about 3 percent for the past 30 years.

Table V.14 shows the customer NPV results for each TSL considered for small, large, and very large air-cooled commercial package air conditioning and heating equipment. In each case, the impacts cover the lifetime of equipment purchased in 2019–2048.

TABLE V.14—NET PRESENT VALUE OF CUSTOMER BENEFITS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2019–2048

Equipment class	Discount rate %	Trial standard level			
		1	2	3	4
		billion 2012$			
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	3	6.9	20.7	26.0	36.2
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity		3.0	6.8	9.7	15.6
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity		3.4	6.4	11.0	13.5
Small Commercial Packaged Heat Pumps—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity		0.8	2.3	3.1	4.2
Large Commercial Packaged Heat Pumps—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity		0.2	0.3	0.5	0.8
Very Large Commercial Packaged Heat Pumps—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity		0.2	0.3	0.6	0.7
Total All Classes		14.4	36.9	50.8	71.0
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	7	2.5	7.1	9.0	11.8
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity		0.9	2.0	2.9	4.8
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity		1.0	1.8	3.3	3.9
Small Commercial Packaged Heat Pumps—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity		0.3	0.8	1.1	1.5
Large Commercial Packaged Heat Pumps—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity		0.1	0.1	0.2	0.3
Very Large Commercial Packaged Heat Pumps—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity		0.1	0.1	0.2	0.2
Total All Classes		4.8	11.9	16.5	22.5

The NPV results based on the aforementioned nine-year analytical period are presented in Table V.15. The impacts are counted over the lifetime of equipment 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.

[75] OMB Circular A–4, section E (Sept. 17, 2003). Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4.*

TABLE V.15—NET PRESENT VALUE OF CUSTOMER BENEFITS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2019–2027

Equipment class	Discount rate %	Trial standard level			
		1	2	3	4
		billion 2013$			
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	3	2.1	5.0	6.3	8.2
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity		0.9	1.7	2.4	3.7
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity		0.4	0.8	1.4	1.7
Small Commercial Packaged Heat Pumps—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity		0.2	0.6	0.9	1.0
Large Commercial Packaged Heat Pumps—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity		0.0	0.1	0.1	0.2
Very Large Commercial Packaged Heat Pumps—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity		0.0	0.0	0.1	0.1
Total All Classes		3.7	8.3	11.3	14.9
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity	7	1.1	2.7	3.3	4.1
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity		0.4	0.7	1.0	1.7
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity		0.2	0.4	0.7	0.8
Small Commercial Packaged Heat Pumps—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity		0.1	0.3	0.5	0.5
Large Commercial Packaged Heat Pumps—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity		0.0	0.0	0.1	0.1
Very Large Commercial Packaged Heat Pumps—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity		0.0	0.0	0.0	0.0
Total All Classes		1.8	4.1	5.6	7.3

c. Indirect Impacts on Employment

DOE expects energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment to reduce energy costs for equipment owners, and the resulting net savings to be redirected to other forms of economic activity. Those shifts in spending and economic activity could affect the demand for labor. As described in section IV.N, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered in this rulemaking. DOE understands that there are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term time frames, where these uncertainties are reduced.

The results suggest that the proposed standards are likely to have negligible impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the NOPR TSD presents detailed results.

4. Impact on Utility or Performance

DOE believes that the standards it is proposing today will not lessen the utility or performance of small, large, and very large air-cooled commercial package air conditioning and heating equipment.

5. Impact of Any Lessening of Competition

DOE considers any lessening of competition that is likely to result from amended standards. The Attorney General determines the impact, if any, of any lessening of competition likely to result from a proposed standard, and transmits such determination to the Secretary, together with an analysis of the nature and extent of such impact.

To assist the Attorney General in making such determination, DOE will provide DOJ with copies of this NOPR and the TSD for review. DOE will consider DOJ's comments on the proposed rule in preparing the final rule, and DOE will publish and respond to DOJ's comments in that document.

6. Need of the Nation to Conserve Energy

Enhanced energy efficiency, where economically justified, improves the Nation's energy security, strengthens the economy, and reduces the environmental impacts or costs of energy production. Reduced electricity demand due to energy conservation standards is also likely to reduce the cost of maintaining the reliability of the electricity system, particularly during peak-load periods. As a measure of this reduced demand, chapter 15 in the NOPR TSD presents the estimated reduction in generating capacity for the TSLs that DOE considered in this rulemaking.

Energy savings from standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment could also produce environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with electricity production. Table V.16 provides DOE's estimate of cumulative emissions reductions projected to result from the TSLs considered in this rulemaking. For the

proposed standards (TSL 3), the upstream emissions reduction accounts for 3 percent of total CO_2 emissions, 48 percent of total NO_X emissions, and 0.3 percent of total SO_2 emissions.[76] DOE reports annual emissions reductions for each TSL in chapter 13 of the NOPR TSD.

TABLE V.16—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT TRIAL STANDARD LEVELS *

	Trial Standard Level			
	1	2	3	4
Power Sector Emissions				
CO_2 (million metric tons)	262	745	1,049	1,514
NO_X (thousand tons)	129	375	528	767
SO_2 (thousand tons)	725	2,077	2,927	4,232
Hg (tons)	0.88	2.52	3.55	5.13
N_2O (thousand tons)	3.73	10.74	15.13	21.90
CH_4 (thousand tons)	19.2	54.4	76.7	110.6
Upstream Emissions				
CO_4 (million metric tons)	8.98	25.4	35.8	51.5
NO_X (thousand tons)	124	350	492	710
SO_2 (thousand tons)	1.92	5.44	7.66	11.04
Hg (tons)	0.00	0.01	0.02	0.03
N_2 (thousand tons)	0.09	0.25	0.36	0.52
CH_4 (thousand tons)	753	2,127	2,996	4,317
Total Emissions				
CO_2 (million metric tons)	271	770	1,085	1,565
NO_X (thousand tons)	252	725	1,021	1,477
SO_2 (thousand tons)	727	2,083	2,934	4,243
Hg (tons)	0.89	2.53	3.57	5.16
N_2O (thousand tons)	3.82	10.99	15.48	22.41
N_2O (thousand tons CO_2eq) **	1,138	3,275	4,614	6,679
CH_4 (thousand tons)	772	2,181	3,072	4,427
CH_2 (million tons CO_2eq) **	19.3	54.5	76.8	110.7

* The reduction is measured over the period in which equipment purchased in 2019–2048 continue to operate.
** CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).
These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

As mentioned in section I, emissions factors based on the *Annual Energy Outlook 2014* (*AEO 2014*), which became available too late for incorporation into this analysis, show a significant decrease in the cumulative emissions reductions from the proposed standards. For CO_2, the emissions reduction at TSL 3, the proposed standards, is 697 Mt rather than 1,085 Mt.

As part of the analysis for this rule, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that DOE estimated for each of the TSLs considered. As discussed in section IV.L, DOE used the most recent values for the SCC developed by an interagency process. The four sets of SCC values resulting from that process (expressed in 2013$) are represented by $12.0/metric ton (the average value from a distribution that uses a 5-percent discount rate), $40.5/metric ton (the average value from a distribution that uses a 3-percent discount rate), $62.4/metric ton (the average value from a distribution that uses a 2.5-percent discount rate), and $119/metric ton (the 95th-percentile value from a distribution that uses a 3-percent discount rate). These values correspond to the value of emission reductions in 2015; the values for later years are higher due to increasing damages as the projected magnitude of climate change increases.

Table V.17 presents the global value of CO_2 emissions reductions at each TSL. For each of the four cases, DOE calculated a present value of the stream of annual values using the same discount rate as was used in the studies upon which the dollar-per-ton values are based. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values, and these results are presented in chapter 14 of the NOPR TSD.

[76] The upstream share of the total reduction for NOx is high because power sector emissions are capped in many States and because changes in the projected power plant mix cause NOx emissions to increase in some years under the standards case.

TABLE V.17—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION UNDER SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT TRIAL STANDARD LEVELS

TSL	SCC Case *			
	5% discount rate, average *	3% discount rate, average *	2.5% discount rate, average *	3% discount rate, 95th percentile*
	Billion 2013$			
Power Sector Emissions				
1	1.51	7.55	12.17	23.41
2	4.21	21.21	34.25	65.80
3	5.92	29.88	48.24	92.67
4	8.50	42.99	69.45	133.36
Upstream Emissions				
1	0.05	0.26	0.42	0.81
2	0.15	0.73	1.18	2.26
3	0.20	1.03	1.65	3.18
4	0.29	1.47	2.38	4.57
Total Emissions				
1	1.56	7.81	12.59	24.22
2	4.35	21.94	35.43	68.06
3	6.13	30.90	49.90	95.86
4	8.79	44.47	71.83	137.93

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $12.0, $40.5, $62.4, and $119 per metric ton (2013$).[77]

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other greenhouse gas (GHG) emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed on reducing CO_2 emissions in this rulemaking is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this and other rulemakings, as well as other methodological assumptions and issues. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE has included in this proposed rule the most recent values and analyses resulting from the interagency process.

DOE also estimated the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from amended standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment. The dollar-per-ton values that DOE used are discussed in section IV.L. Table V.18 presents the cumulative present values for each TSL calculated using seven-percent and three-percent discount rates.

TABLE V.18—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION UNDER SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT TRIAL STANDARD LEVELS[78]

TSL	3% discount rate	7% discount rate
	Million 2013$	
Power Sector Emissions		
1	128	36.7
2	369	105.5
3	520	148
4	753	215
Upstream Emissions		
1	139	52.0
2	384	138
3	540	194

[77] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. The monetized benefits from GHG reductions would likely decrease by a comparable amount. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

TABLE V.18—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION UNDER SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT TRIAL STANDARD LEVELS [78]—Continued

TSL	3% discount rate	7% discount rate
4	773	275
Total Emissions		
1	267	88.7
2	753	243
3	1060	343
4	1527	490

7. Summary of National Economic Impacts

The NPV of the monetized benefits associated with emissions reductions can be viewed as a complement to the NPV of the customer savings calculated for each TSL considered in this rulemaking. Table V.19 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of customer savings calculated for each TSL considered in this rulemaking, at both a seven-percent and three-percent discount rate. The CO_2 values used in the columns of each table correspond to the four sets of SCC values discussed above.

TABLE V.19—NET PRESENT VALUE OF CUSTOMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

TSL	Customer NPV at 3% discount rate added with:			
	SCC Case $12.0/metric ton CO_2*	SCC Case $40.5/metric ton CO_2*	SCC Case $62.4/metric ton CO_2*	SCC Case $119/metric ton CO_2*
	Billion 2013$			
1	16.0	22.5	27.2	39.1
2	41.3	59.5	73.0	106.3
3	57.2	82.8	101.8	148.6
4	80.1	117.0	144.4	211.7
TSL	Customer NPV at 7% Discount Rate added with:			
	SCC Case $12.0/metric ton CO_2*	SCC Case $40.5/metric ton CO_2*	SCC Case $62.4/metric ton CO_2*	SCC Case $119/metric ton CO_2*
	Billion 2013$			
1	6.4	12.7	17.5	29.2
2	16.3	34.1	47.6	80.4
3	22.7	47.8	66.8	113.0
4	31.4	67.5	94.8	161.3

*These label values represent the global SCC in 2015, in 2013$. For NO_X emissions, each case uses the medium value, which corresponds to $2,684 per ton.[79]

Although adding the value of customer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. customer monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of equipment shipped in 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. These impacts continue well beyond 2100.

[78] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

[79] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. The monetized benefits from GHG reductions would likely decrease by a comparable amount. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

8. Other Factors

The Secretary of Energy, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6313(a)(6)(B)(ii)(VII)) No other factors were considered in this analysis.

C. Proposed Standards

To adopt national standards more stringent than the amended ASHRAE/IES Standard 90.1 for small, large, and very large air-cooled CUAC and CUHP, DOE must determine that such action would result in significant additional conservation of energy and is technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)). As discussed previously, EPCA provides seven factors to be evaluated in determining whether a more stringent standard for small, large, and very large air-cooled CUAC and CUHP is economically justified. (42 U.S.C. 6313(a)(6)(B)(ii)).

For this NOPR, DOE considered the impacts of standards at each TSL, beginning with the most energy-efficient level, to determine whether that level was economically justified. Where the most energy-efficient level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is technologically feasible, economically justified and saves a significant amount of energy.

To aid the reader in understanding the benefits and/or burdens of each TSL, tables in this section summarize the quantitative analytical results for each TSL, based on the assumptions and methodology discussed herein. The efficiency levels contained in each TSL are described in section V.A. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of customers who may be disproportionately affected by a national standard (see section V.B.1.b), and impacts on employment. DOE discusses the impacts on employment in small, large, and very large air-cooled commercial package air conditioning and heating equipment manufacturing in section V.B.2, and discusses the indirect employment impacts in section V.B.3.c.

1. Benefits and Burdens of Trial Standard Levels Considered for Small, Large, and Very Large Air-Cooled Commercial Package Air Conditioning and Heating Equipment

Table V.20 and Table V.21 summarize the quantitative impacts estimated for each TSL for small, large, and very large air-cooled commercial package air conditioning and heating equipment.

TABLE V.20—SUMMARY OF ANALYTICAL RESULTS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT: NATIONAL IMPACTS [80]

Category	TSL 1	TSL 2	TSL 3	TSL 4
National FFC Energy Savings quads				
	3.0	8.4	11.8	17.1
NPV of Customer Benefits 2013$ billion				
3% discount rate	14.4	36.9	50.8	71.0
7% discount rate	4.8	11.9	16.5	22.5
Cumulative Emissions Reduction (Total FFC Emissions)				
CO_2 *million metric tons*	271	770	1,085	1,565
NO_X *thousand tons*	252	725	1,021	1,477
SO_2 *thousand tons*	727	2,083	2,934	4,243
Hg *tons*	0.89	2.53	3.57	5.16
N_2O *thousand tons*	3.82	10.99	15.48	22.41
N_2O *thousand tons* CO_2eq *	1,138	3,275	4,614	6,679
CH_4 *thousand tons*	772	2,181	3,072	4,427
CH_4 *million tons* CO_2*eq**	19.3	54.5	76.8	110.7
Value of Emissions Reduction (Total FFC Emissions)				
CO_2 *2013$ billion***	1.56 to 24.2	4.35 to 68.1	6.13 to 95.9	8.79 to 138
NO_X—3% discount rate *2013$ million*	267	753	1060	1,527
NO_X—7% discount rate *2013$ million*	88.7	243	343	490

* CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).
** Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

[80] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. The monetized benefits from GHG reductions would likely decrease by a comparable amount. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

TABLE V.21—SUMMARY OF ANALYTICAL RESULTS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4
Manufacturer Impacts				
Change in Industry NPV (*$ million*) †	(73.89) to (11.45).	(245.30) to (52.87).	(311.58) to (88.55).	(438.16) to (118.13).
Change in Industry NPV (%) †	(5.86) to (0.91)	(19.45) to (4.19)	(24.71) to (7.02)	(34.75) to (9.37).
Customer Mean LCC Savings 2013$				
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity.	1,094	937	4,779	6,711.
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity.	1,038	2,214	3,469	7,508.
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity.	4,103	4,801	16,477	19,842.
Weighted Average *	1,257	1,472	5,150	7,675.
Customer Median PBP years				
Small Commercial Packaged Air Conditioners—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity.	2.2	8.0	3.9	4.7.
Large Commercial Packaged Air Conditioners—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity.	6.0	7.2	6.6	5.1.
Very Large Commercial Packaged Air Conditioners—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity.	2.6	5.5	2.5	3.5.
Weighted Average *	3.1	7.7	4.5	4.7.
Small CUAC—≥65,000 Btu/h and <135,000 Btu/h: **				
Customers with Net Cost %	0%	27%	0%	0%.
Customers with Net Benefit %	61%	72%	99%	100%.
Customers with No Impact %	39%	1%	0%	0%.
Large CUAC—≥135,000 Btu/h and <240,000 Btu/h: **				
Customers with Net Cost %	3%	8%	6%	2%.
Customers with Net Benefit %	74%	90%	93%	98%.
Customers with No Impact %	22%	2%	0%	0%.
Very Large CUAC—≥240,000 Btu/h and <760,000 Btu/h: **				
Customers with Net Cost (%)	2%	12%	3%	5%.
Customers with Net Benefit (%)	62%	76%	92%	94%.
Customers with No Impact (%)	36%	13%	6%	1%.
Weighted Average: *				
Customers with Net Cost (%)	1%	22%	2%	1%.
Customers with Net Benefit (%)	64%	77%	97%	99%.
Customers with No Impact (%)	35%	2%	0%	0%.

* Weighted by shares of each equipment class in total projected shipments in 2019.
** Rounding may cause some items to not total 100 percent.
† Values in parentheses are negative values.

First, DOE considered TSL 4, the most efficient level (max tech), which would save an estimated total of 17.1 quads of energy, an amount DOE considers significant. TSL 4 has an estimated NPV of customer benefit of $22.5 billion using a 7 percent discount rate, and $70.1 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 4 are 11,565 million metric tons of CO_2, 1,477 thousand tons of NO_X, 4,243 thousand tons of SO_2, and 5.16 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $9 billion to $138 billion.[81]

At TSL 4, the average LCC savings is $6,711 for small CUAC, $7,508 for large CUAC, and $19,842 for very large CUAC. The median PBP is 4.7 years for small CUAC, 5.1 years for large CUAC, and 3.5 years for very large CUAC. The share of customers experiencing a net LCC benefit is 100 percent for small CUAC, 98 percent for large CUAC, and 94 percent for very large CUAC.

At TSL 4, the projected change in INPV ranges from a decrease of $438.16 million to decrease of $118.13 million. If the larger decrease is realized, TSL 4 could result in a net loss of 34.75 percent in INPV to manufacturers of covered small, large, and very large air-cooled commercial package air conditioning and heating equipment. Conversion costs are expected to total $210.96 million. Only 2% of industry product listings meet this proposed standard today. At this level, DOE recognizes that manufacturers could face technical resource constraints. Manufacturers stated they would require additional engineering expertise and additional test laboratory capacity. It is unclear whether manufacturers could complete the hiring of the necessary technical expertise and construction of the necessary test facilities in time to allow for the redesign of all products to meet max-tech by 2019. Furthermore, DOE

[81] These results are based on emissions factors in AEO 2013, the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. The monetized benefits from GHG reductions would likely decrease by a comparable amount. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent AEO available, which may or may not be AEO 2014, depending on the timing of the issuance of the next rulemaking document.

recognizes that a standard set at max-tech could greatly limit product differentiation in the small, large, and very large air-cooled CUAC and CUHP market. By commoditizing a key differentiating feature, a standard set a max-tech would likely accelerate consolidation in the industry.

In view of the foregoing, DOE concludes that, at TSL 4 for small, large, and very large air-cooled commercial package air conditioning and heating equipment, the benefits of energy savings, positive NPV of total customer benefits, customer LCC savings, emission reductions and the estimated monetary value of the emissions reductions would be outweighed by the large reduction in industry value at TSL 4. Consequently, DOE has concluded that TSL 4 is not economically justified.

Next, DOE considered TSL 3, which would save an estimated total of 11.8 quads of energy, an amount DOE considers significant. TSL 3 has an estimated NPV of customer benefit of $16.5 billion using a 7 percent discount rate, and $50.8 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 3 are 1,085 million metric tons of CO_2, 1,021 thousand tons of NO_X, 2,934 thousand tons of SO_2, and 3.57 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $6 billion to $96 billion.[82]

At TSL 3, the average LCC savings is $4,779 for small CUAC, $3,469 for large CUAC, and $16,477 for very large CUAC. The median PBP is 3.9 years for small CUAC, 6.6 years for large CUAC, and 2.5 years for very large CUAC.[83] The share of customers experiencing a net LCC benefit is 99 percent for small CUAC, 93 percent for large CUAC, and 92 percent for very large CUAC.

At TSL 3, the projected change in INPV ranges from a decrease of $311.58 million to decrease of $88.55 million. If the larger decrease is realized, TSL 3 could result in a net loss of 24.71 percent in INPV to manufacturers of covered small, large, and very large air-cooled commercial package air conditioning and heating equipment. Conversion costs are expected to total $120.90 million. 19% of industry product listings meet this standard level today.

After considering the analysis and weighing the benefits and the burdens, DOE has tentatively concluded that at TSL 3 for small, large, and very large air-cooled commercial package air conditioning and heating equipment, the benefits of energy savings, positive NPV of customer benefit, positive impacts on consumers (as indicated by positive average LCC savings, favorable PBPs, and the large percentage of customers who would experience LCC benefits), emission reductions, and the estimated monetary value of the emissions reductions would outweigh the potential reductions in INPV for manufacturers. The Secretary of Energy has concluded that TSL 3 would save a significant amount of energy and is technologically feasible and economically justified.

Based on the above considerations, DOE today proposes to adopt the energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment at TSL 3. Table V.22 presents the proposed energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment.

TABLE V.22—PROPOSED ENERGY CONSERVATION STANDARDS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT

Equipment type		Heating type	Proposed energy conservation standard
Small Commercial Packaged AC and HP (Air-Cooled)—≥65,000 Btu/h and <135,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating.	14.8 IEER.
		All Other Types of Heating	14.6 IEER.
	HP	Electric Resistance Heating or No Heating.	14.1 IEER.
		All Other Types of Heating	3.5 COP.
Large Commercial Packaged AC and HP (Air-Cooled)—≥135,000 Btu/h and <240,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating.	13.9 IEER.
		All Other Types of Heating	3.4 COP.
	HP	Electric Resistance Heating or No Heating.	14.2 IEER.
		All Other Types of Heating	
Very Large Commercial Packaged AC and HP (Air-Cooled)—≥240,000 Btu/h and <760,000 Btu/h Cooling Capacity.	AC	Electric Resistance Heating or No Heating.	14.0 IEER. 13.4 IEER
		All Other Types of Heating	3.3 COP.
	HP	Electric Resistance Heating or No Heating.	13.2 IEER.
		All Other Types of Heating	3.3 COP.

[82] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. The monetized benefits from GHG reductions would likely decrease by a comparable amount. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

[83] Large CUAC experiences relatively lower LCC savings and longer PBPs than either small and very large CUACs due to the design measures being utilized to achieve higher rated IEER in the Engineering Analysis. In the case of small and very large CUACs, increased efficiency at TSL 3 is attained in large part due to increased compressor staging, which results in significant improvements in part-load performance. In the case of large CUAC, increased efficiency is attained without increasing compressor staging, i.e., the baseline design has the same number of stages as the design at TSL 3. Although the other design measures for large CUAC increase the rated IEER of the product, part-load performance is not impacted significantly. Because CUAC equipment operates frequently in part-load, the TSL 3 design for large CUAC results in annual energy savings and operating cost savings that are lower relative to what is attained with the designs for the small and very large CUACs.

2. Summary of Benefits and Costs (Annualized) of the Proposed Standards

The benefits and costs of today's proposed standards, for equipment 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 consumer operation of equipment that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[84]

Although combining the values of operating savings and CO_2 emission reductions provides a useful perspective, two issues should be considered. First, the national operating savings are domestic U.S. customer monetary savings that occur as a result of market transactions while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of small, large, and very large air-cooled commercial package air conditioning and heating equipment shipped in 2019 –2048. The SCC values, on the other hand, reflect the present value of some future climate-related impacts resulting from the emission of one ton of carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment are shown in Table V.23. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that uses a 3-percent discount rate, the cost of the standards proposed in this rule is $430 million per year in increased equipment costs; while the estimated benefits are $2,177 million per year in reduced equipment operating costs, $1,744 million in CO_2 reductions, and $36.2 million in reduced NO_X emissions. In this case, the net benefit would amount to $3,558 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the estimated cost of the standards proposed in this rule is $507 million per year in increased equipment costs; while the estimated benefits are $3,426 million per year in reduced operating costs, $1,774 million in CO_2 reductions, and $60.9 million in reduced NO_X emissions. In this case, the net benefit would amount to approximately $4,755 million per year.[85]

TABLE V.23—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDARDS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
	million 2013$/year			
Benefits				
Operating Cost Savings	7%	2,177	1,984	2,407
	3%	3,426	3,127	3,781
CO_2 Reduction Monetized Value ($12.0/t case) **.	5%	484	467	505
CO_2 Reduction Monetized Value ($40.5/t case) **.	3%	1,774	1,714	1,846
CO_2 Reduction Monetized Value ($62.4/t case) **.	2.5%	2,632	2,543	2,737
CO_2 Reduction Monetized Value ($119/t case) **.	3%	5,504	5,317	5,727
NO_X Reduction Monetized Value (at $2,684/ton) **.	7%	36.18	34.75	37.90
	3%	60.89	58.85	63.40
Total Benefits †	7% plus CO_2 range	2,698 to 7,718	2,486 to 7,336	2,950 to 8,172
	7%	3,988	3,733	4,291
	3% plus CO_2 range	3,972 to 8,991	3,653 to 8,503	4,349 to 9,572
	3%	5,262	4,900	5,691
Costs				
Incremental Product Costs	7%	430	350	485
	3%	507	433	550

[84] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2013, the year used for discounting the NPV of total customer costs and savings, for the time-series of costs and benefits using discount rates of three and seven percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2019 through 2048) that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

[85] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. The monetized benefits from GHG reductions would likely decrease by a comparable amount. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

TABLE V.23—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDARDS FOR SMALL, LARGE, AND VERY LARGE AIR-COOLED COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT—Continued

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Net Benefits				
Total †	7% plus CO_2 range	2,268 to 7,288	2,135 to 6,986	2,465 to 7,687
	7%	3,558	3,383	3,806
	3%	4,755	4,468	5,140
	3% plus CO_2 range	3,465 to 8,484	3,220 to 8,071	3,799 to 9,021

* This table presents the annualized costs and benefits associated with small, large, and very large air-cooled CUAC and CUHP shipped in 2019–2048. These results include benefits to customers 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 Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO2013* Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental product costs reflect no change for projected product price trends in the Primary Estimate, an increasing trend for projected product prices in the Low Benefits Estimate, and a decreasing trend for projected product prices in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.

** The 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 incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.[86]

† Total Benefits for both the 3-percent and 7-percent cases are derived using the series corresponding to average SCC with 3-percent discount rate. In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The proposed standards address the following problems:

(1) There is a lack of customer information in the commercial space conditioning market, and the high costs of gathering and analyzing relevant information leads some customers to miss opportunities to make cost-effective investments in energy efficiency.

(2) In some cases the benefits of more efficient equipment are not realized due to misaligned incentives between purchasers and users. An example of such a case is when the equipment purchase decision is made by a building contractor or building owner who does not pay the energy costs.

(3) There are external benefits resulting from improved energy efficiency of CUAC and CUHP that are not captured by the users of such equipment. These benefits include externalities related to public health, environmental protection and national security that are not reflected in energy prices, such as reduced emissions of air pollutants and greenhouse gases that impact human health and global warming.

The proposed standards address these issues by setting minimum levels of energy efficiency, which remove from the market equipment that might be purchased by poorly informed customers or by customers who would not be paying the costs of operating the equipment. In the process of so doing, DOE assembles, analyzes, and receives informed comment on a large quantity of information that indicates that most customers would be better off purchasing equipment that meets the standards rather than less-efficient equipment. In cases in which the user of the equipment is not able to make the purchase decision, the standards help to ameliorate the problem of misaligned incentives between purchasers and users. Finally, the standards account to some extent for externalities that are not represented in market transactions.

In addition, DOE has determined that this regulatory action is an "economically significant regulatory action" under section 3(f)(1) ("significant regulatory action") of Executive Order 12866, as it has an annual effect on the economy of 100 million or more. Accordingly, section 6(a)(3) of the Executive Order requires that DOE prepare a regulatory impact analysis (RIA) on this rule and that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) review this rule. DOE presented to OIRA for review the draft rule and other documents prepared for this rulemaking, including the RIA, and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE has also reviewed this proposal pursuant to Executive Order 13563, issued on January 18, 2011. 76 FR 3281 (Jan. 21, 2011). EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess

[86] These results are based on emissions factors in *AEO 2013,* the most recent version available at the time of this analysis. Use of emissions factors in AEO 2014 would result in a significant decrease in cumulative emissions reductions for CO_2, SO_2, and Hg. For example, the estimated decrease for CO_2 emissions reductions is 36%. In the next phase of this rulemaking, DOE plans to use emissions factors based on the most recent *AEO* available, which may or may not be *AEO 2014,* depending on the timing of the issuance of the next rulemaking document.

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. (DOE also discusses cumulative regulatory burdens above in section V.B.2.e.) For the reasons stated in the preamble, DOE believes that this NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://energy.gov/gc/office-general-counsel*). DOE has prepared the following IRFA for the products that are the subject of this rulemaking.

For manufacturers of small, large, and very large air-cooled CUAC and CUHP, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/category/navigation-structure/contracting/contracting-officials/small-business-size-standards.* Manufacturing of small, large, and very large air-cooled CUAC and CUHP 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.

1. Description and Estimated Number of Small Entities Regulated

To estimate the number of companies that could be small business manufacturers of equipment covered by this rulemaking, DOE conducted a market survey using available public information to identify potential small manufacturers. DOE's research involved examining industry trade association membership directories (including AHRI), public databases (*e.g.,* AHRI Directory,[87] the California Energy Commission Appliance Efficiency Database [88]), individual company Web sites, and market research tools (*e.g.,* Hoovers reports) to create a list of companies that manufacture or sell products covered by this rulemaking. DOE also asked stakeholders and industry representatives if they were aware of any other small manufacturers during manufacturer interviews and at DOE public meetings. DOE reviewed publicly-available data and contacted select companies on its list, as necessary, to determine whether they met the SBA's definition of a small business manufacturer of covered commercial packaged air conditioners. 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 at least 13 potential manufacturers of commercial packaged air conditioners sold in the U.S. DOE then determined that 10 were large manufacturers, manufacturers that are foreign owned and operated, or manufacturers that do not produce products covered by this rulemaking. DOE was able to determine that 3 manufacturers meet the SBA's definition of a ''small business'' and manufacture products covered by this rulemaking.

Before issuing this NOPR, DOE spoke with two of the small business manufacturers of commercial packaged air conditioners. DOE also obtained information about small business impacts while interviewing large manufacturers.

Based on DOE's research, one small manufacturer focused exclusively on the design and specification of equipment—but had no production assets of its own. All production was outsourced. The other small manufacturers performed all design and specification work but also owned domestic production facilities and employed production workers.

Issue 23: DOE requests additional information on the number of small businesses in the industry, the names of those small businesses, and their role in the market.

2. Description and Estimate of Compliance Requirements

The proposed standards for commercial packaged air conditioners 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 and do not scale with sales volume. For each product 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. Moreover, smaller manufacturers may experience higher testing costs relative to larger manufacturers as they may not possess their own test facility and therefore must outsource all testing at a higher per unit cost. In general, the small manufacturers had a number of equipment lines that was similar to that of larger competitors with similar market share. However, because small manufacturers have fewer engineers than large manufacturers, they may have greater difficulty bringing their portfolio of equipment in-line with an amended energy conservation standard within the allotted timeframe or may have to divert engineering resources from customer and new product initiatives for a longer period of time.

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 purchasing and pricing advantage because their higher volume demands. This

[87] See *www.ahridirectory.org/ahriDirectory/pages/home.aspx.*

[88] See *http://www.energy.ca.gov/appliances/.*

purchasing power differential between high-volume and low-volume orders applies to other commercial packaged air conditioner components as well.

In order to meet the proposed standard, manufacturers may have to seek outside capital to cover expenses related to testing and product design equipment. Smaller firms typically have a higher cost of borrowing due to higher risk on the part of investors, largely attributed to lower cash flows and lower per unit profitability. In these cases, small manufacturers may observe higher costs of debt than larger manufacturers.

To estimate how small manufacturers would be potentially impacted, DOE compared required conversion costs at each TSL for a small manufacturer with on-site production and an average large manufacturer (see Table VI.1 and Table VI.2). In the following tables, TSL 3 represents the proposed standard.

TABLE VI.1—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	122	526	14	159
TSL 2	199	932	24	276
TSL 3	407	1948	49	573
TSL 4	430	3369	77	896

TABLE VI.2—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	42	213	5	62
TSL 2	105	287	9	100
TSL 3	279	536	19	216
TSL 4	310	898	26	307

At TSL 3, the level proposed in this NOPR, DOE estimates capital conversion costs of $2.32 million and product conversion costs of $7.04 million for an average small manufacturer that owns production facilities, compared to capital conversion costs of $9.08 million and product conversion costs of $11.05 million for an average large manufacturer.

At these levels, the amended standard could contribute to the consolidation of the industry. As noted in section V.B.2.a, the GRIM free cash flow results indicated that some manufacturers may need to access the capital markets in order to fund conversion costs directly related to an amended standard. These conversion costs would continue to be borne by the identified small manufacturers in spite of any outsourcing of manufacturing activities because they must still incur the necessary product conversion costs to design, test, certify, and market equipment complying with any new standards that DOE may promulgate. Given that small manufacturers tend to have less access to capital and that the necessary conversion costs are high relative to the size of a small business, it is possible the small manufacturers will choose to leave the industry or choose to be purchased by or merged with larger market players.

Since the proposed standard could cause small manufacturers to be at a disadvantage relative to large manufacturers, DOE cannot certify that the proposed standards would not have a significant impact on a significant number of small businesses, and consequently, DOE has prepared this IRFA analysis.

Issue 24: DOE requests data on the cost of capital for small manufacturers to better quantify how small manufacturers might be disadvantaged relative to large competitors.

Issue 25: DOE requests comment and data on the impact of the proposed standard on small business manufacturers, including any potential cumulative regulatory effects.

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 considered today.

4. Significant Alternatives to the Rule

The discussion above analyzes impacts on small businesses that would result from DOE's proposed rule. In addition to the other TSLs being considered, the proposed rulemaking TSD includes a regulatory impact analysis that discusses the following policy alternatives: (1) Consumer rebates; (2) consumer tax credits; (3) manufacturer tax credits; (4) voluntary energy efficiency targets; and (5) bulk government purchases. While these alternatives may mitigate to some varying extent the economic impacts on small entities compared to the standards, DOE determined that the energy savings of these alternatives are significantly smaller than those that would be expected to result from adoption of the proposed standard levels. Accordingly, DOE is declining to adopt any of these alternatives and is proposing the standards set forth in this rulemaking. (See chapter 17 of the NOPR TSD for further detail on the policy alternatives DOE considered.)

Issue 26: DOE request input on regulatory alternatives to consider that would lessen the impact of the rulemaking on small business.

C. Review Under the Paperwork Reduction Act

Manufacturers of small, large, and very large air-cooled commercial package air conditioning and heating equipment must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for small, large, and very large air-cooled commercial package air conditioning and heating equipment, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and

commercial equipment, including small, large, and very large air-cooled commercial package air conditioning and heating equipment. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the proposed rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR Part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The proposed rule fits within the category of actions under CX B5.1 because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this proposed rule. DOE's CX determination for this proposed rule is available at *http://cxnepa.energy.gov/.*

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel.*

Although this proposed rule does not contain a Federal intergovernmental mandate, it may require expenditures of $100 million or more on the private sector. Specifically, the proposed rule will likely result in a final rule that could require expenditures of $100 million or more. Such expenditures may include: (1) Investment in research and development and in capital expenditures by small, large, and very large air-cooled commercial package air conditioning and heating equipment manufacturers in the years between the final rule and the compliance date for the new standards, and (2) incremental additional expenditures by consumers to purchase higher-efficiency small, large, and very large air-cooled commercial package air conditioning and heating equipment, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the proposed rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the NOPR and the ''Regulatory Impact

Analysis'' section of the TSD for this proposed 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 proposed rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. This proposed rule would establish energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the TSD for this proposed rule.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (Mar. 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this NOPR under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that this regulatory action, which sets forth proposed energy conservation standards for small, large, and very large air-cooled commercial package air conditioning and heating equipment, is not a significant energy action because the proposed standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the proposed rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions. 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www.eere.energy.gov/buildings/appliance_standards/peer_review.html.*

VII. Public Participation

A. Attendance at the Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this notice. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *brenda.edwards@ee.doe.gov.* As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site at: *http://www.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/59.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may

submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via *www.regulations.gov.* The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential

status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. Use of the IEER as the cooling efficiency metric and COP as the heating efficiency metric (for CUHP) for the proposed energy conservation standards, including additional data and input regarding the uncertainty of IEER test measurements. (See section III.A of this notice for additional information.)

2. Comment on whether the test procedure for air-cooled CUAC and CUHP should be amended to revise the weightings for the IEER metric to place a higher weighting value on the full-load efficiency. DOE also requests data to determine appropriate weighting factors for the full-load test condition and part-load test conditions (75 percent, 50 percent, and 25 percent of capacity). (See section III.A of this notice for additional information.)

3. DOE requests comments and detailed information regarding any design features, including dual-duct air conditioners, that DOE should consider for establishing separate equipment classes in this rulemaking. DOE requests that such information provide test data illustrating the additional challenges faced by models having such design features and a discussion of the customer utility aspects of the design feature. In particular, DOE requests detailed comments regarding the definition of such equipment classes, and any detailed information, such as test data, test conditions, key component design details, as well as other relevant information (e.g., fan power consumption) that may help DOE evaluate potential alternative equipment class standard levels. See section IV.A.2 of this notice for additional information.)

4. Comment and data regarding additional design options or variants of the considered design options that can increase the range of considered efficiency improvements, including design options that may not yet be found on the market. (See section IV.A.3 of this notice for additional information.)

5. The incremental and max-tech efficiency levels identified for the analyses, including whether the efficiency levels identified by DOE can be achieved using the technologies screened-in during the screening analysis (see section IV.B), and whether higher efficiencies are achievable using technologies that were screened-in during the screening analysis. Also, DOE seeks comment on the approach of extrapolating the efficiency levels from the small, large, and very large CUAC with electric resistance heating or no heating equipment classes to the remaining equipment classes using the IEER differentials in ASHRAE Standard 90.1–2010 draft addendum CL. In addition, input and data on the approach for determining the COP levels for the heat pump equipment classes using the relationship between IEER and COP. (See section IV.C.3 of this for additional information.)

6. Comments, information, and data that would inform adjustment of energy modeling input and/or results that would allow more accurate representation of the energy use impacts of design options using the modeling tools developed by the Center for Environmental Energy Engineering from the University of Maryland College Park. (See section IV.C.4 of this notice for additional information.)

7. Input and data on the estimated incremental manufacturing costs, including the extrapolation of incremental costs for equipment classes not fully analyzed, in particular for heat pump equipment classes. (See section IV.C.4 of this notice for additional information.)

8. Comments, information, and data that could be used to modify the proposed method for using laboratory and modeled IEER test data, which were developed in accordance to AHRI Standard 340/360–2007, to calculate the performance of CUAC equipment at part-load conditions. (See section IV.E.1 of this notice for additional information.)

9. Comments on the use of a ''generalized building sample'' to characterize the energy consumption of CUAC equipment in the commercial building stock. Specifically, whether there are any data or information that could improve the method for translating the results from the 1,033 simulated buildings to the generalized building sample. (See section IV.E.2 of this notice for additional information.)

10. Whether using RS Means cost data to develop maintenance, repair, and installation costs for CUAC and CUHP equipment is appropriate, and if not, what data should be used. (See section IV.F.6 of this notice for additional information.)

11. Comments, information and data on the equipment lifetimes developed for CUAC and CUHP equipment. Specifically, any information that would indicate whether the retirement functions yielding median lifetimes of 18.7 years and 15.4 years for CUAC and CUHP equipment, respectively, are reasonable. (See section IV.F.7 of this notice for additional information.)

12. Comments, information and data on the base case efficiency distributions of CUAC equipment. Given that historical market share efficiency data from 1999–2001 were used to inform a consumer choice model in the shipments analysis to develop estimated base case efficiency distributions in the compliance year (2019), DOE seeks more recent historical market share efficiency data would be useful for validating the estimated base case efficiency distributions. (See section IV.F.9 of this notice for additional information.)

13. Comments, information and data on the methods used to develop the two consumer choice models in the shipments analysis—i.e. one model for estimating the selection of CUAC and CUHP equipment by efficiency level and another model for the repair vs. replacement decision. With regards to the repair vs. replacement decision, the model is based on estimates of the cost of repair vs. the cost of new equipment. Field data for repair costs and how they vary with equipment first cost and age would allow DOE to refine its shipments forecasting by more precisely modeling the repair vs. replace decision sensitivity to the difference in repair and replacement equipment costs. (See section IV.G of this notice for additional information.)

14. Comments, information and data regarding the lifetime of repaired equipment. DOE's analysis considered

major repair consisting of replacement of the compressor and miscellaneous materials associated with the compressor; DOE estimated that repaired equipment would last as long as new replacement equipment. Information is requested to determine whether this estimate is reasonable. (See section IV.G of this notice for additional information.)

15. Comments, information, and data on the repair of CUACs and CUHPs in the ≥240,000 Btu/h and <760,000 Btu/h equipment classes. For this equipment, the shipments analysis estimated that any equipment experiencing their first failure would be repaired rather than replaced. Information is requested to determine whether this estimate is reasonable. (See section IV.G of this notice for additional information.)

16. Comments on its decision to not include a rebound effect for more-efficient CUAC and CUHP. (See section IV.H of this notice for additional information.)

17. Comments, information, and data that would inform adjustment of the DOE's estimate of $12.7M in conversion costs that occur in the base case. (See section IV.J.2.a of this notice for additional information.)

18. DOE solicits comment on the application of the new SCC values used to determine the social benefits of CO_2 emissions reductions over the rulemaking analysis period. In particular, the agency solicits comment on its derivation of SCC values after 2050, where the agency applied the average annual growth rate of the SCC estimates in 2040–2050 associated with each of the four sets of values. (See section IV.L of this notice for additional information.) Comments, information, and data on the capital conversion costs and product conversion costs estimated for each TSL. In particular, DOE seeks comment on the conversion costs at max-tech. (See section V.B.2.a of this notice for additional information.)

19. Comments, information, and data on capacity constraints at each TSL—including production capacity constraints, engineering resource constraints, and testing capacity constraints that are directly related to an amended standard for small, large, and very large CUAC and CUHP. In particular, DOE requests comment on whether the proposed effective allows for a sufficient conversion period to make the equipment design and facility updates necessary to meet an amended standard. (See section V.B.2.c of this notice for additional information.)

20. DOE requests comment on the identified regulations and their contribution to cumulative regulatory burden. Additionally, DOE requests feedback on product-specific regulations that take effect between 2016 and 2022 that were not listed, including identification of the specific regulations and data quantifying the associated burdens. (See section V.B.2.e of this notice for additional information.)

21. For this rulemaking, DOE analyzed the effects of potential standards on equipment purchased over a 30-year period, and it undertook a sensitivity analysis using 9 years rather than 30 years of product shipments. The choice of a 30-year period of shipments is consistent with the DOE analysis for other products and commercial equipment. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such amended standards. DOE is seeking input on ways to refine the analytic timeline. (See section V.B.3.a of this notice for additional information.)

22. Comments, information, and data on the number of small businesses in the industry, the names of those small businesses, and their role in the market. (See section VI.B.1 of this notice for additional information.)

23. DOE requests data on the cost of capital for small manufacturers to better quantify how small manufacturers might be disadvantaged relative to large competitors. (See section VI.B.2 of this notice for additional information.)

24. DOE requests comment and data on the impact of the proposed standard on small business manufacturers, including any potential cumulative regulatory effects.

25. DOE also seeks comment on whether there are features or attributes of the more energy-efficient CUAC and CUHP that manufacturers would produce to meet the standards in this proposed rule that might affect how they would be used by consumers. DOE requests comment specifically on how any such effects should be weighed in the choice of standards for the final rule. (See section IV.A.3 of this notice for additional information.)

26. Input on regulatory alternatives to consider that would lessen the impact of the rulemaking on small business.

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Issued in Washington, DC, on September 18, 2014.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE proposes to amend part 431 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 431.97 is amended by:

■ a. Revising paragraph (b) including Tables 1 through 3;

■ b. Redesignating Tables 4 through 8 as Tables 5 through 9;

■ c. Adding new Table 4; and

■ c. Revising paragraph (c).

The revision and additions read as follows:

§ 431.97 Energy efficiency standards and their compliance dates.

* * * * *

(b) Each commercial air conditioner or heat pump (not including single package vertical air conditioners and single package vertical heat pumps, packaged terminal air conditioners and packaged terminal heat pumps, computer room air conditioners, and variable refrigerant flow systems) manufactured starting on the compliance date listed in the corresponding table must meet the applicable minimum energy efficiency standard level(s) set forth in Tables 1, 2, 3, and 4 of this section.

TABLE 1 TO § 431.97—MINIMUM COOLING EFFICIENCY STANDARDS FOR AIR-CONDITIONING AND HEATING EQUIPMENT

[Not including single package vertical air conditioners and single package vertical heat pumps, packaged terminal air conditioners and packaged terminal heat pumps, computer room air conditioners, and variable refrigerant flow multi-split air conditioners and heat pumps]

Equipment type	Cooling capacity	Sub-category	Heating type	Efficiency level	Compliance date: products manufactured on and after . . .
Small Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled, 3 Phase).	<65,000 Btu/h	AC	All	SEER = 13	June 16, 2008.
		HP	All	SEER = 13	June 16, 2008.
Small Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥65,000 Btu/h and <135,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	EER = 11.2	January 1, 2010.[1]
			All Other Types of Heating.	EER = 11.0	January 1, 2010.[1]
		HP	Electric Resistance Heating or No Heating.	EER = 11.0	January 1, 2010.[1]
			All Other Types of Heating.	EER = 10.8	January 1, 2010.[1]
Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥135,000 Btu/h and <240,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	EER = 11.0	January 1, 2010.[1]
			All Other Types of Heating.	EER = 10.8	January 1, 2010.[1]
Heating Equipment (Air-Cooled)	>240,000 Btu/h	HP	Electric Resistance Heating or No Heating.	EER = 10.6	January 1, 2010.[1]
			All Other Types of Heating.	EER = 10.4	January 1, 2010.[1]
Very Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥240,000 Btu/h and <760,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	EER = 10.0	January 1, 2010.[1]
			All Other Types of Heating.	EER = 9.8	January 1, 2010.[1]
		HP	Electric Resistance Heating or No Heating.	EER = 9.5	January 1, 2010.[1]
			All Other Types of Heating.	EER = 9.3	January 1, 2010.[1]
Small Commercial Packaged Air-Conditioning and Heating Equipment (Water-Cooled, Evaporatively-Cooled, and Water-Source).	<17,000 Btu/h	AC	All	EER = 12.1	October 29, 2003.
	≥17,000 Btu/h and <65,000 Btu/h.	HP	All	EER = 11.2	October 29, 2003.
		AC	All	EER = 12.1	October 29, 2003.
		HP	All	EER = 12.0	October 29, 2003.
	≥65,000 Btu/h and <135,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	EER = 11.5	October 29, 2003.[2]
			All Other Types of Heating.	EER = 11.3	October 29, 2003.[2]
		HP	All	EER = 12.0	October 29, 2003.[2]
Large Commercial Packaged Air-Conditioning and Heating Equipment (Water-Cooled, Evaporatively-Cooled, and Water-Source).	≥135,000 Btu/h and <240,000 Btu/h.	AC	All	EER = 11.0	October 29, 2004.[3]
		HP	All	EER = 11.0	October 29, 2004.[3]
Very Large Commercial Packaged Air-Conditioning and Heating Equipment (Water-Cooled, Evaporatively-Cooled, and Water-Source).	≥240,000 Btu/h and <760,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	EER = 11.0	January 10, 2011.[3]
			All Other Types of Heating.	EER = 10.8	January 10, 2011.[3]
		HP	Electric Resistance Heating or No Heating.	EER = 11.0	January 10, 2011.[3]
			All Other Types of Heating.	EER = 10.8	January 10, 2011.[3]

[1] And manufactured before *[date 3 years after final rule* **Federal Register** *publication].* See Table 3 of this section for updated efficiency standards.

[2] And manufactured before June 1, 2013. See Table 3 of this section for updated efficiency standards.

[3] And manufactured before June 1, 2014. See Table 3 of this section for updated efficiency standards.

TABLE 2 TO § 431.97—MINIMUM HEATING EFFICIENCY STANDARDS FOR AIR CONDITIONING AND HEATING EQUIPMENT

[Heat pumps]

Equipment type	Cooling capacity	Efficiency level	Compliance date: Products manufactured on and after . . .
Small Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled, 3 Phase).	<65,000 Btu/h	HSPF = 7.7	June 16, 2008.
Small Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥65,000 Btu/h and <135,000 Btu/h.	COP = 3.3	January 1, 2010.[1]
Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥135,000 Btu/h and <240,000 Btu/h.	COP = 3.2	January 1, 2010.[1]
Very Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥240,000 Btu/h and <760,000 Btu/h.	COP = 3.2	January 1, 2010.[1]
Small Commercial Packaged Air-Conditioning and Heating Equipment (Water-Source).	<135,000 Btu/h	COP = 4.2	October 29, 2003.

[1] And manufactured before *[date 3 years after final rule* FEDERAL REGISTER *publication].* See Table 4 of this section for updated heating efficiency standards.

TABLE 3 TO § 431.97—UPDATES TO THE MINIMUM COOLING EFFICIENCY STANDARDS FOR AIR-CONDITIONING AND HEATING EQUIPMENT

[Not including single package vertical air conditioners and single package vertical heat pumps, packaged terminal air conditioners and packaged terminal heat pumps, computer room air conditioners, and variable refrigerant flow multi-split air conditioners and heat pumps]

Equipment type	Cooling capacity	Sub-category	Heating type	Efficiency level	Compliance date: Products manufactured on and after . . .
Small Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥65,000 Btu/h and <135,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	IEER = 14.8	*[date 3 years after final rule* **Federal Register** *publication].*
			All Other Types of Heating.	IEER = 14.6	
		HP	Electric Resistance Heating or No Heating.	IEER = 14.1	*[date 3 years after final rule* **Federal Register** *publication].*
			All Other Types of Heating.	IEER = 113.9	
Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥135,000 Btu/h and <240,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	IEER = 14.2	*[date 3 years after final rule* **Federal Register** *publication].*
			All Other Types of Heating.	IEER = 14.0	
		HP	Electric Resistance Heating or No Heating.	IEER = 13.4	*[date 3 years after final rule* **Federal Register** *publication].*
			All Other Types of Heating.	IEER = 13.2	
Very Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥240,000 Btu/h and <760,000 Btu/h.	AC	Electric Resistance Heating or No Heating.	IEER = 13.5	*[date 3 years after final rule* **Federal Register** *publication]*
			All Other Types of Heating.	IEER = 13.3	
		HP	Electric Resistance Heating or No Heating.	IEER = 12.5	*[date 3 years after final rule* **Federal Register** *publication]*
			All Other Types of Heating.	IEER = 12.3	
Small Commercial Packaged Air-Conditioning and Heating Equipment (Water-Cooled).	≥65,000 Btu/h and <135,000 Btu/h.		Electric Resistance Heating or No Heating.	EER = 12.1	June 1, 2013.
			All Other Types of Heating.	EER = 11.9	June 1, 2013.
Large Commercial Packaged Air-Conditioning and Heating Equipment (Water-Cooled).	≥135,000 Btu/h and <240,000 Btu/h.		Electric Resistance Heating or No Heating.	EER = 12.5	June 1, 2014.
			All Other Types of Heating.	EER = 12.3	June 1, 2014.
Very Large Commercial Packaged Air-Conditioning and Heating Equipment (Water-Cooled).	≥240,000 Btu/h and <760,000 Btu/h.		Electric Resistance Heating or No Heating.	EER = 12.4	June 1, 2014.
			All Other Types of Heating.	EER = 12.2	June 1, 2014.

TABLE 3 TO § 431.97—UPDATES TO THE MINIMUM COOLING EFFICIENCY STANDARDS FOR AIR-CONDITIONING AND HEATING EQUIPMENT—Continued

[Not including single package vertical air conditioners and single package vertical heat pumps, packaged terminal air conditioners and packaged terminal heat pumps, computer room air conditioners, and variable refrigerant flow multi-split air conditioners and heat pumps]

Equipment type	Cooling capacity	Sub-category	Heating type	Efficiency level	Compliance date: Products manufactured on and after . . .
Small Commercial Packaged Air-Conditioning and Heating Equipment (Evaporatively-Cooled).	≥65,000 Btu/h and <135,000 Btu/h.	.....	Electric Resistance Heating or No Heating.	EER = 12.1	June 1, 2013.
			All Other Types of Heating.	EER = 11.9	June 1, 2013.
Large Commercial Packaged Air-Conditioning and Heating Equipment (Evaporatively-Cooled).	≥135,000 Btu/h and <240,000 Btu/h.	.....	Electric Resistance Heating or No Heating.	EER = 12.0	June 1, 2014.
			All Other Types of Heating.	EER = 11.8	June 1, 2014.
Very Large Commercial Packaged Air-Conditioning and Heating Equipment (Evaporatively-Cooled).	≥240,000 Btu/h and <760,000 Btu/h.	.....	Electric Resistance Heating or No Heating.	EER = 11.9	June 1, 2014.
			All Other Types of Heating.	EER = 11.7	June 1, 2014.

TABLE 4 TO § 431.97—UPDATES TO THE MINIMUM HEATING EFFICIENCY STANDARDS FOR AIR-COOLED AIR CONDITIONING AND HEATING EQUIPMENT

[Heat pumps]

Equipment type	Cooling capacity	Heating type	Efficiency level [1]	Compliance date: Products manufactured on and after . . .
Small Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥65,000 Btu/h and <135,000 Btu/h.	Electric Resistance Heating or No Heating.	COP = 3.5 ...	*[date 3 years after final rule*
		All Other Types of Heating	COP = 3.4 ...	**Federal Register** *publication].*
Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥135,000 Btu/h and <240,000 Btu/h.	Resistance Heating or No Heating.	COP = 3.3 ...	*[date 3 years after final rule*
		All Other Types of Heating		**Federal Register** *publication]*
Very Large Commercial Packaged Air-Conditioning and Heating Equipment (Air-Cooled).	≥240,000 Btu/h and <760,000 Btu/h.	Resistance Heating or No Heating.	COP = 3.2 ...	*[date 3 years after final rule*
		All Other Types of Heating		**Federal Register** *publication]*

[1] For units tested by AHRI Standards, all COP values must be rated at 47 °F outdoor dry-bulb temperature for air-cooled equipment.

(c) Each packaged terminal air conditioner (PTAC) and packaged terminal heat pump (PTHP) manufactured starting on January 1, 1994, but before October 8, 2012 (for standard size PTACs and PTHPs) and before October 7, 2010 (for non-standard size PTACs and PTHPs) must meet the applicable minimum energy efficiency standard level(s) set forth in Table 5 of this section. Each standard size PTAC and PTHP manufactured starting on October 8, 2012, and each non-standard size PTAC and PTHP manufactured starting on October 7, 2010, must meet the applicable minimum energy efficiency standard level(s) set forth in Table 6 of this section.

* * * * *

[FR Doc. 2014–22894 Filed 9–29–14; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 189 September 30, 2014

Part V

Department of the Interior

Bureau of Land Management

43 CFR Parts 2800 and 2880

Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2800 and 2880

[LLWO301000.L13400000]

RIN 1004–AE24

Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Land Management (BLM) proposes to amend existing regulations to facilitate responsible solar and wind energy development and to receive fair market value for such development. The proposed rule would promote the use of preferred areas for solar and wind energy development and establish competitive processes, terms, and conditions (including rental and bonding requirements) for solar and wind energy development rights-of-way both inside and outside these preferred areas. In the proposed rule, preferred areas for solar and wind energy development would be called ''designated leasing areas.'' The proposed rule would also make technical changes, corrections, and clarifications to existing rights-of-way regulations. Some of these changes would affect all rights-of-way and some provisions would affect particular types of actions, such as transmission lines with a capacity of 100 Kilovolts (kV) or more, or pipelines 10 inches or more in diameter.

DATES: Please submit comments on or before *December 1, 2014.*

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

Mail: Director (630) Bureau of Land Management, U.S. Department of the Interior, 1849 C St. NW., Room 2134LM, Washington, DC 20240, Attention: 1004–AE24.

Personal or messenger delivery: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: Regulatory Affairs, Washington, DC 20003.

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions at this Web site.

You may submit comments on the proposed collection of information by fax or electronic mail as follows:

Fax: Office of Management and Budget, Office of Information and Regulatory Affairs, Desk Officer for the Department of the Interior, 202–395–5806.

Electronic mail: oira_submission@omb.eop.gov.

Please indicate ''Attention: OMB Control Number 1004–XXXX,'' regardless of the method used. If you submit comments on the proposed collection of information please provide the BLM with a copy of your comments at one of the addresses shown above.

FOR FURTHER INFORMATION CONTACT: Ray Brady, Bureau of Land Management, at 202–912–7312, for information relating to the BLM's solar and wind renewable energy programs, or the substance of the proposed rule. For information pertaining to the changes made for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter you may contact Lucas Lucero at 202–912–7342. For information on procedural matters or the rulemaking process you may contact Jean Sonneman at 202–912–7405. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to contact the above individuals.

SUPPLEMENTARY INFORMATION:

Executive Summary

The BLM initiated this rulemaking in 2011 by publishing an Advance Notice of Proposed Rulemaking (ANPR) seeking public comment on a potential regulatory framework for competitive solar and wind energy rights-of-way. The regulations in this proposed rule would provide for such a framework, update rental fees, establish new Megawatt (MW) Capacity fees for wind and solar energy projects, and codify existing solar and wind energy policies in 43 CFR 2800. The proposed regulations also would affect other rights-of-way, including transmission lines with a capacity of 100 kV or more, and pipelines 10 inches or more in diameter.

Statutory and Regulatory Authority

Facilities for the generation, transmission, and distribution of electric energy are authorized under Title V of the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1761–1771) and 43 CFR part 2800. Section 501(b)(1) includes provisions authorizing the consideration of competition in the issuance of a right-of-way. Section 504(g) requires annual rental payments of fair market value for a right-of-way, but does not provide for royalty payments on electricity generation.

Rights-of-way for oil and gas pipelines are authorized under Section 28 of the Mineral Leasing Act (30 U.S.C. 185) and 43 CFR Part 2880. The BLM processes applications for these categories of rights-of-way in accordance with 43 CFR 2884.11.

Policies

Title V of FLPMA authorizes the BLM to issue right-of-way grants, leases, and easements. The majority of BLM-issued rights-of-way are grants. The BLM intends to differentiate the solar and wind energy development rights-of-way issued inside a designated leasing area under new subpart 2809 as leases, which would be a type of grant with specific requirements.

The BLM released a Draft Solar Energy Programmatic Environmental Impact Statement (EIS) on December 17, 2010, and released a Supplemental Solar EIS on October 28, 2011. The Supplemental EIS included discussions of a process to identify and offer public lands in Solar Energy Zones (SEZs) through a competitive leasing process. The Supplemental EIS indicated that the BLM would pursue a rulemaking process to implement a competitive leasing program within SEZs. The BLM released the Final Solar EIS on July 27, 2012, and the Secretary signed the Record of Decision on October 12, 2012, which carried forward the proposal to establish a competitive leasing program within the SEZs.

The designation of SEZs, as an outcome of the Solar Energy Programmatic EIS, provides the foundation for initiating a Bureau-motion competitive process for offering lands for solar energy development within the SEZs. Similar efforts could be initiated by the BLM for designated wind development areas that may be identified in the future. The public comment period on the ANPR ended in February 2012 and this proposed rule has been prepared for competitive solar and wind energy leases in designated renewable energy leasing areas.

Competitive Leasing Process

The proposed rule outlines the competitive leasing process for solar and wind energy leases in designated leasing areas, including the definition of designated leasing areas, the nomination process, reviews of nominations, competitive bidding procedures, and the administration of solar or wind energy leases issued through the competitive leasing process. The proposed rule also includes provisions to provide incentives for leases within designated leasing areas. The proposed rule establishes a new $15 per-acre

application filing fee for right-of-way applications outside of designated leasing areas to discourage speculative applications and encourage development in the preferred designated leasing areas.

The proposed rule would provide for variable offsets when the competitive bidding process is used in a designated leasing area. A bidder would have an opportunity to pre-qualify for the offset by meeting the factors set forth in the Notice of Competitive Offer. Pre-qualified bidders would be eligible for offsets limited to no more than 20 percent of the high bid. Factors for a bidder to pre-qualify may vary from one competitive lease offer to another, but could include offsets for bidders with an approved Power Purchase Agreement (PPA) or Interconnect Agreement, among other factors. The proposed rule also includes revised language to facilitate the competitive ROW application process outside of designated leasing areas under the provisions of the existing right-of-way regulations at 43 CFR 2804.23. This provision would allow the use of a competitive process to select a preferred applicant for the processing of a ROW application outside of designated leasing areas.

Incentives

The proposed rule includes some financial incentives for leases within designated leasing areas. Incentives for designated leasing areas would include a limited nomination fee of $5 per acre for wind and solar competitive parcels, variable offsets for pre-qualified bidders, 10-year phase-in of the MW capacity fee as opposed to a 3-year phase-in for authorizations outside of a designated leasing area, issuance of 30-year fixed-term leases, and standard bonding requirements to include $10,000 per acre for solar energy development and $20,000 per wind energy turbine.

Rents and Fees

The proposed rule would update the annual rent schedules for both solar and wind energy authorizations. The acreage rent would be based on the acreage of the authorization, using a 10 percent encumbrance value for wind energy authorizations and a 100 percent encumbrance value for solar energy authorizations. This compares to a 50 percent encumbrance value that is used for determining rent for a linear right-of-way on the public lands. The acreage rent for both linear rights-of-way and solar and wind energy rights-of-way would vary by individual counties and are based on land values determined by data published by the National Agricultural Statistics Service.

A MW capacity fee would be used to capture the increased value of a solar or wind energy project on the public lands above the rural land value captured by the acreage rent. The MW capacity fee captures the value of the electrical generation from a project based on a formula that includes the MW size of the approved project, a capacity factor or efficiency factor based on average potential electric generation that varies by solar and wind technologies, average wholesale prices of electricity, and a Federal rate of return based on a 20-year Treasury bond. The capacity factor used for calculating the MW capacity fee would be 20 percent for solar photovoltaic (PV), 25 percent for concentrated solar power (CSP), 30 percent for CSP with storage, and 35 percent for wind.

The MW capacity fee would increase from the current fee of $4,155 per MW to $6,209 per MW for wind energy authorizations and adjust to $3,548 per MW for PV solar, $4,435 per MW for CSP solar and $5,322 per MW for CSP solar with storage. The MW capacity fee would provide for a 3-year phase-in outside of designated leasing areas (25 percent, 50 percent and 100 percent) and provide for a 10-year phase-in within designated leasing areas (50 percent the first 10 years and 100 percent for subsequent years). The MW capacity fees are based upon and supported by an appraisal consultation report performed by the Department's Office of Valuation Services.

The proposed rule would expand cost recovery, in response to BLM field office recommendations, to the pre-application process that has been implemented for solar and wind energy projects. In addition, the proposed rule would provide for cost reimbursement measures to coincide with a Secretarial Order for delegation of FLPMA cost recovery authority to other agencies and offices of the Department of the Interior.

43 CFR Part 2880

The BLM is proposing revisions to several subparts of part 2880. These revisions are necessary to ensure consistency of policies, processes, and procedures, where possible, between rights-of-way applied for and administered under part 2800 and those applied for and those rights-of-way administered under part 2880. In addition, the BLM is proposing pre-application requirements and fees for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter (see section 2884.10), similar to those being proposed for all solar energy and wind energy projects. Authorizations for solar or wind energy, for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter, are all generally large-scale operations that require additional steps to help protect the public land.

I. Public Comment Procedures
II. Background
III. Advance Notice of Proposed Rulemaking for the Competitive Solar and Wind Energy Development Regulations
IV. General Discussion and Section-by-Section Analysis
V. Procedural Matters

I. Public Comment Procedures

You may submit comments on this proposed rule by mail, personal or messenger delivery, or electronic mail.

Mail: Director (630) Bureau of Land Management, U.S. Department of the Interior, 1849 C St. NW., Room 2134LM, Washington, DC 20240, Attention: Regulatory Affairs, 1004–AE24.

Personal or messenger delivery: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: Regulatory Affairs, Washington, DC 20003.

Electronic mail: You may access and comment on the proposed rule at the Federal eRulemaking Portal by following the instructions at that site (see **ADDRESSES**).

Written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. When possible, comments should reference the specific section or paragraph of the proposed rule that the comment is addressing.

The BLM need not consider or include in the Administrative Record for the final rule, comments that it receives after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

Comments, including names and street addresses, will be available for public review at the U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003 during regular hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays. They will also be available at the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions at this Web site.

You may submit comments on the proposed collection of information by fax or electronic mail as follows:

Fax: Office of Management and Budget, Office of Information and

Regulatory Affairs, Desk Officer for the Department of the Interior, 202–395–5806.

Electronic mail: oira_submission@omb.eop.gov. Please indicate ''Attention: OMB Control Number 1004–XXXX,'' regardless of the method used. If you submit comments on the proposed collection of information, please provide the BLM with a copy of your comments at one of the addresses shown above.

Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment for the BLM to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

Section 310 of the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1740) authorizes the Secretary of the Interior (Secretary) to promulgate regulations with respect to public lands. FLPMA also provides comprehensive authority for the administration and protection of the public lands and their resources and directs that the public lands be managed ''on the basis of multiple use and sustained yield'' (43 U.S.C. 1701(a)(7)).

In this proposed rule, the BLM would amend its regulations to provide for two competitive processes for solar and wind energy rights-of-way on public lands. One of the processes would be for lands inside ''designated leasing areas,'' that is, areas that have been identified as preferred for solar or wind energy facility development. The other process would be for lands outside of such areas. The proposed rule, in an amendment of 43 CFR 2801.5, would define the term ''designated leasing area'' as a parcel of land with specific boundaries identified by the BLM land-use planning process as being a preferred location, conducted through a landscape-scale approach, for solar or wind energy where a competitive process must be undertaken.

For lands outside designated leasing areas, the BLM would amend existing section 2804.23 to allow the BLM to provide for a competitive bid process specifically for solar or wind energy development. At present, section 2804.23 authorizes a competitive process only when the BLM is resolving competing applications for the same facility or system. Under amended section 2804.23, the BLM could competitively offer lands by soliciting bids. The highest bidder would become the preferred applicant for a right-of-way if all requirements are met. The competitive process for solar and wind energy development on lands outside of designated leasing areas is outlined in new section 2804.30.

The competitive process for lands inside designated leasing areas is outlined in new 43 CFR subpart 2809, which would provide for a nomination and competitive process, instead of an application process. This nomination and competitive process for lands inside designated leasing areas was the primary focus of the BLM's Advance Notice of Proposed Rulemaking (ANPR) that was published on December 29, 2011 (76 FR 81908).

This proposed rule includes not only the process that was emphasized in the ANPR and a proposed competitive process for lands outside of designated leasing areas, but also a number of amendments to other provisions of the right-of-way regulations found at 43 CFR part 2800 and 43 CFR part 2880. The BLM has determined that it is necessary to first articulate the general requirements for rights-of-way in order to distinguish the specific solar and wind requirements.

For example, the proposed rule has mandatory bonding requirements for solar and wind energy, including a minimum bond amount. The BLM has determined that bonding is necessary for all solar and wind rights-of-way because of the intensity and duration of the impacts of such authorizations. For other right-of-way grant or lease authorizations, the BLM would require bonding at its discretion, under both the existing and proposed regulations. The proposed regulations, however, identify specific bonding requirements, should the BLM require a bond.

Other proposed amendments pertain to right-of-way bonding, rents for rights-of-way, and changes in pre-application requirements for applications for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter. Based on the BLM's experience, pipelines and transmission lines of these sizes would be large-scale projects and generate more public interest. In addition, this rule proposes several technical corrections.

FLPMA provides comprehensive authority for the administration and protection of the public lands and their resources and directs that the public lands be managed ''on the basis of multiple use and sustained yield'' (43 U.S.C. 1701(a)(7)). As defined by FLPMA, the term ''right-of-way'' includes an easement, lease, permit, or license to occupy, use, or traverse public lands (43 U.S.C. 1702(f)). Title V of FLPMA (43 U.S.C. 1761–1771) authorizes the BLM to issue rights-of-way for electric generation systems on the public lands and this authority includes solar and wind energy generation systems. FLPMA also mandates that ''the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute'' (43 U.S.C. 1701(a)(9)). Section 28 of the Mineral Leasing Act (MLA) (30 U.S.C. 185) provides similar authority for authorizing rights-of-way for oil and gas pipelines. The BLM has authority to issue regulations under both FLPMA (43 U.S.C. 1740) and the MLA (30 U.S.C. 185).

The Energy Policy Act of 2005 (codified at 42 U.S.C. 15801 *et seq.*) (EPAct) includes provisions authorizing and encouraging the Federal Government to develop energy producing facilities. Title II of the EPAct includes a provision encouraging the Secretary to approve non-hydropower renewable energy projects (solar, wind, and geothermal) on public lands with a total combined generation capacity of at least 10,000 MW of electricity by 2015. See Section 211, Public Law 109–58, 119 Stat. 660 (2005).

Since passage of the EPAct, the Secretary has issued several orders that emphasize the importance of renewable energy development on public lands and the Department of the Interior's (Department) efforts to achieve the goal that Congress established in Section 211 of the EPAct. Secretarial Order No. 3283, ''Enhancing Renewable Energy Development on the Public Lands,'' was signed by Secretary Salazar on January 16, 2009, and facilitates the Department's efforts to achieve the goal established by Congress in Section 211 of the EPAct. On March 11, 2009, Secretary Salazar signed Secretarial Order No. 3285, ''Renewable Energy Development by the Department of the Interior'' that describes the need for strategic planning and a balanced approach to domestic resource development. This order was amended by Secretarial Order 3285A1 (Order) in February 2010. This amended Order establishes the development of renewable energy on public lands as one of the Department's highest priorities.

In 2012, the BLM met the goal established by Congress by approving over 12,000 MWs of renewable energy. However, the development of renewable energy is a continuing Federal priority. On June 25, 2013, to emphasize the importance of the renewable energy

goals of the nation, the President announced the release of a Climate Action Plan to reduce carbon pollution. The Climate Action Plan set a new goal for the Department to approve a renewable energy capacity of at least 20,000 MWs of electricity on the public lands by 2020.

The BLM has, in recent years, issued several instruction memoranda (IM) that identify policies and procedures related to processing solar and wind energy right-of-way applications. Through this rule, the BLM intends to incorporate many of these existing policies and procedures into its right-of-way regulations. The IMs can be found at *http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.*

Briefly, the IMs are as follows:

1. IM 2009–043, Wind Energy Development Policy: This IM provides guidance on processing right-of-way applications for wind energy projects on public lands;

2. IM 2011–003, Solar Energy Development Policy: This IM provides guidance on the processing of right-of-way applications and the administration of authorized solar energy projects on public lands;

3. IM 2011–059, National Environmental Policy Act (NEPA) Compliance for Utility-Scale Renewable Energy Right-of-Way Authorizations: This IM clarifies NEPA policy for evaluating solar and wind energy project right-of-way applications;

4. IM 2011–060, Solar and Wind Energy Applications—Due Diligence: This IM provides guidance on the due diligence requirements for solar and wind energy development right-of-way applications; and

5. IM 2011–061, Solar and Wind Energy Applications—Pre-Application and Screening: This IM provides guidance on the review of right-of-way applications for solar and wind energy development projects on public lands.

More recently, Secretary Jewell signed Secretarial Order No. 3330, ''Improving Mitigation Policies and Practices of the Department of the Interior.'' In it, the Secretary established principles for the use of the mitigation strategies when considering the deployment of infrastructure, particularly large-scale applications, that impact natural resources and should incorporate a landscape-scale approach to mitigation compliance. The process proposed within this rule allows for the inclusion of landscape-scale approach and other mitigation actions on the public land.

Further, the President issued Executive Order 13604, ''Improving Performance of Federal Permitting and Review of Infrastructure Projects.'' The President established executive policy to improve the permitting and review processes across multiple agencies to reduce the aggregate time required to make permitting and review decisions on projects. In the policies, improved outcomes for communities and the environment were addressed. The policies compelled the agencies to improve practices such as ''pre-application procedures, early collaboration with other agencies, project sponsors, and affected stakeholders and coordination with State, local and tribal governments.''

In addition, the BLM has completed two programmatic EISs related to wind and solar energy development. These programmatic EISs supported decisions by the BLM to amend a large number of land use plans (LUP), which guide future BLM management actions by identifying and modifying desired outcomes and allowable or potential uses on public lands covered by a particular LUP.

On June 24, 2005, the BLM published the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States (70 FR 36651), which analyzed the environmental impact of the development of wind energy projects on public lands in the West and identified approximately 20.6 million acres of public lands with wind energy development potential (*http://windeis.anl.gov*). The Final Programmatic EIS and the Record of Decision (ROD) for Implementation of a Wind Energy Development Program and Associated Land Use Plan Amendments (71 FR 1768) did not identify specific wind energy development leasing areas, but rather identified areas that had potential for the development of wind energy production facilities, along with areas that were excluded from consideration from wind energy facility development because of other resource values that were incompatible with this use. The Programmatic EIS on Wind Energy Development also amended 48 BLM LUPs to incorporate wind energy development.

On July 27, 2012, the BLM and the Department of Energy published the Notice of Availability of the Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Solar Programmatic EIS) (77 FR 44267), which assessed the environmental, social, and economic impacts associated with utility-scale solar energy development on public lands in Arizona, California, Colorado, Nevada, New Mexico, and Utah (*http://solareis.anl.gov*). On October 12, 2012, the BLM and the Department issued the Solar Programmatic EIS ROD, which identified 17 solar energy zones (SEZs) on BLM managed lands, modified 89 land use plans, and described the BLM's intent to use a competitive offer process to facilitate solar energy development projects in SEZs.

This proposed rule is one of the steps being taken by the Department and the BLM to promote renewable energy development on the public lands consistent with the BLM's multiple use mission. The proposed rule would also implement the suggestions for improving the renewable energy program made by the Office of the Inspector General for the Department, initially in its draft report and carried over to the final report (Report No. CR–EV–BLM–0004–2010) and the Government Accountability Office (Audit No. 361373), both of which address the use of competitive leasing for solar and wind development authorizations. The Inspector General (IG) reviewed the BLM's renewable energy activities to assess the effectiveness of the BLM's development and management of its renewable energy program. The IG also made recommendations on other aspects of the BLM's right-of-way program.

The IG report discusses only wind energy projects, as the solar energy program was not at a stage where projects had been authorized. However, based on experience gained from recent authorizations for solar projects, the BLM believes that these recommendations also should apply to solar energy projects.

Other IG recommendations pertained to the amounts and collection procedures for bonds covering wind energy projects. These recommendations included:

1. Requiring a bond for all wind and solar projects and reassessing the minimum bond requirements;

2. Tracking and managing bond information;

3. Developing and implementing procedures to ensure that when a project is transferred, the BLM would return the first bond to the company that obtained it and request a new bond from the newly assigned company; and

4. Developing and implementing Bureau-wide guidance for using competitive bidding on wind and solar ROWs.

For additional information, you may review the IG report and recommendations at: *http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.*

The BLM concurred with the recommendations provided by the IG report. The last recommendation is one of the principal reasons for developing this proposed rule. The other recommendations require changes in the BLM's operating procedures that will also be addressed through this rulemaking.

Through this rulemaking, the BLM proposes to amend existing regulations in 43 CFR parts 2800 and 2880, and in particular:

1. § 2804.25, to establish screening criteria to prioritize applications for solar or wind energy development applications;
2. § 2804.30, to establish a competitive process for leasing public lands outside of designated leasing areas for solar and wind energy development;
3. § 2805.11(b), to establish a term for granting rights-of-way for solar or wind energy development;
4. § 2805.12(c), to establish terms and conditions for a solar or wind energy development grant or lease;
5. § 2805.20, to provide more detail on bonding requirements;
6. § 2806.50, to provide information on rents for solar energy development rights-of-way;
7. § 2806.60, to provide information on rents for wind energy development rights-of-way;
8. Subpart 2809, to establish a competitive process for leasing public lands inside designated leasing areas for solar and wind energy development;
9. Provisions in 43 CFR part 2800 pertaining to transmission lines with a capacity of 100 kV or more and any non-oil or gas pipeline 10 inches or more in diameter; and
10. Provisions in 43 CFR part 2880 pertaining to all oil and gas pipelines 10 inches or more in diameter.

In addition to these amendments, the BLM is proposing technical changes, corrections, and clarifications to the regulations at 43 CFR parts 2800 and 2880. For example, the BLM is codifying the cost recovery authority delegated by Secretarial Order 3327. See the explanation of the proposed changes to ''Management Overhead Costs'' for more discussion on this topic.

III. Advance Notice of Proposed Rulemaking for the Competitive Solar and Wind Energy Development Regulations

To solicit public comments and suggestions to assist the BLM in preparing the proposed regulations for competitive solar and wind energy leasing, the BLM published an ANPR in the **Federal Register** on December 29, 2011, and provided a 60-day comment period ending on February 27, 2012 (76 FR 81906). The BLM asked generally for comments regarding the content and structure of a competitive process for solar and wind energy development and specifically requested comments responding to the following nine questions:

1. How a competitive process should be structured for leasing lands within designated solar or wind energy development leasing areas?
2. Should a competitive leasing process be implemented for public lands outside of designated solar or wind energy development leasing areas? If so, how should such a competitive leasing process be structured?
3. What competitive bidding procedures should the BLM adopt?
4. What is the appropriate term for a competitive solar energy ROW lease?
5. What is the appropriate term for a competitive wind energy ROW lease?
6. Should nomination fees be established for the competitive process? If so, how should the fees be determined?
7. How should the bidding process for competitive solar and wind energy ROW leases be structured to ensure receipt of fair market value?
8. Should a standard performance bond be required for competitive solar and wind energy ROW leases and how should the bond amount be determined?
9. What diligent development requirements should be included in competitive solar and wind energy right-of-way leases?

In response to the above questions, 76 industry representatives, environmental groups, individuals, and local and State governments provided comments and suggestions. The BLM used this information to develop many components of this proposed rule. The substantive comments received are grouped together by the question asked and are addressed below. An introductory ''General Comments'' section responds to some comments that did not address the above nine questions. Comments received from this ANPR were directed at the 2800 regulations, specifically at solar and wind energy competitive leasing. Other provisions of this proposed rule were not raised in the ANPR.

General Comments

Several comments addressed topics other than those raised by the nine questions in the ANPR. These comments discuss the lease rental rates, valuing project proposals based upon qualitative and quantitative factors, adequate implementation of resource protection measures, and providing incentives for the leasing of low conflict development areas.

Some comments discussed grant and lease rental rates. Rates discussed in this proposed rule would be established pursuant to FLPMA and would be based upon known market data and calculations that are confirmed by a survey of market rental rates and comparable commercial practices. Provisions for updating the rental rates for solar and wind energy rights-of-way are included in this proposed rule and would be incorporated within any BLM grant or lease. Under the proposed rule, the BLM proposes a payment structure that includes both acreage rent and a MW capacity fee for solar and wind energy right-of-way authorizations.

Some comments expressed concern that if the BLM were to adopt a competitive leasing process, the agency might not adequately evaluate the potential impacts to resources on affected public lands. The BLM has structured its proposed competitive processes to obtain fair market value, while also promoting thoughtful and reasonable development of the public lands and protecting important resource and other values. If a competitive lease is issued, the BLM would continue to comply with all NEPA and other statutory requirements when reviewing project-specific plans. The designated leasing areas, which are preferred areas for solar or wind energy development, would be identified through the BLM land use planning process (43 CFR part 1600), supported by a NEPA analysis, and designed to minimize impacts to environmental and cultural resources. In addition to the environmental review associated with the designation of leasing areas, site specific environmental analyses and other appropriate studies would be done for each proposed lease site as stated in the proposed rule at paragraph 2809.12(b)(1).

Likewise, several comments voiced concern that the BLM would be unable to adequately mitigate impacts to resources if it were to adopt a competitive leasing process. All grants and leases for solar and wind energy right-of-way authorizations would be expected to implement best management practices and mitigation as identified within the ROD for the Wind Programmatic EIS (*http://windeis.anl.gov/*) or Solar Programmatic EIS (*http://solareis.anl.gov/*). Furthermore, any additional site-specific NEPA requirements associated with an individual project could result in the identification of further mitigation measures, as applicable. It is intended that this review would provide

the careful balance between the development and protection of the public lands that the BLM is charged with overseeing.

There were multiple comments regarding the BLM's proposed incentives for development in designated leasing areas. The BLM conducts an environmental review when identifying a designated leasing area through the planning process. This environmental review supports the BLM's decision to identify a designated leasing area. Project specific environmental reviews would be tiered from or incorporated by reference from this initial review to the extent practicable. The completion of this environmental review would be an incentive to develop facilities in designated leasing areas by reducing uncertainty regarding expected project schedules, potential resource conflicts, and mitigation measures, all of which could add considerably to a project development timeline and cost if not already captured in BLM's environmental review.

Some commenters suggested development of an internal cash flow model for how the BLM would retain and redistribute collected funds within the agency. Currently, the BLM does not have authority under FLPMA to retain rents or fees collected from right-of-way grantees for the use of public lands. It is required to distribute such funds to the U.S. Treasury. The BLM's collection of money as a bid, fee, or rent does not result in the BLM retaining such funds. The BLM may retain funds when collecting reimbursement for processing or monitoring costs under Sections 304(b) and 504(g) of FLPMA or when the BLM holds funds for a performance and reclamation bond. Funds held for purposes of a performance and reclamation bond are tied to the performance requirements of an authorization, which would include costs such as the reclamation and restoration of the right-of-way.

Question 1. How should a competitive process be structured for leasing lands within designated solar or wind energy development areas?

Comments responding to Question 1 of the ANPR discussed State and local government involvement in the process, multi-factor bidding, and revenue sharing with State and local governments.

One comment recommended that the BLM coordinate with and consider the regulations of State, local, and tribal governments during the application process. The BLM's proposed rule does not affect the authority of State, local, or tribal governments. The BLM's ongoing objective is to coordinate with State, local, or tribal governments to the fullest extent possible when considering the issuance of rights-of-way across Federal public lands. Under the existing regulations, applicants are encouraged to hold a pre-application meeting with the BLM and the BLM may share this information with State, local, and tribal governments (see section 2804.10). The proposed rule would require all applicants for solar and wind energy (and for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter), as part of the pre-application meetings, to coordinate with appropriate Federal and State agencies and tribal and local governments.

Some comments discussed competitive bidding processes to be applied outside of a designated leasing area and the allocation of revenue generated by an authorization. Of the several bidding processes discussed in the ANPR, the multi-factor bidding proposal received the most discussion. After review of comments and internal discussions, the BLM determined the term ''multi-factor bidding'' did not appropriately describe the BLM's procedures. It has been modified to align with its intent, which is to provide an offset to the successful bidder after competitive bidding has occurred. The variable offsets are discussed in the section-by-section analysis under section 2809.16. Bidding options are discussed later in the section-by-section analysis part of this proposed rule. Section 2804.30 outlines a competitive leasing process for solar and wind energy development outside of designated leasing areas similar to the process in subpart 2809 for lands inside designated leasing areas. The BLM would use the process in section 2804.30 when there are two or more competing applications, or may start the process on its own initiative. The BLM may receive interest from the public or industry for development in an area. The BLM may also offer a parcel to help a state reach its goals for developing renewable energy.

Under FLPMA, revenues generated from right-of-way rentals are deposited in the U.S. Treasury. Currently, there is no authority to distribute rents, fees, or bid amounts to State or local governments, or to the BLM. However, the proposed rule would not limit the ability of the BLM or other Federal agencies to seek reimbursement from project proponents for the costs associated with processing, inspecting, and monitoring right-of-way authorizations. In fact, the existing regulations already require reimbursement of costs associated with processing, inspecting, and monitoring rights-of-way under section 2804.14.

Question 2. Should a competitive leasing process be implemented for public lands outside of designated solar or wind energy development leasing areas? If so, how should such a competitive leasing process be structured?

Several commenters discussed their interest in the BLM's existing competitive process under section 2804.23 to remain intact and continue forward. They also had concerns about the recent processes established by the BLM under the Solar Programmatic EIS and ROD and about eminent domain actions. Other commenters proposed the use of a sliding scale for a nomination fee based upon the amount of environmental risk associated with a proposal. Comments were also submitted suggesting that the BLM should allow development outside of designated leasing areas based upon a determination of the project's economic viability.

The proposed rule would codify new procedures for the competitive process currently being implemented on public lands outside of designated leasing areas and establish a similar process for lands inside designated leasing areas. The proposed rule would also clarify the circumstances in which a competitive process may be used outside of designated leasing areas.

When developing the proposed rule, the BLM considered the solar variance process that was established by the Solar Programmatic EIS and ROD. The Solar Programmatic EIS and ROD identified variance areas as lands outside of SEZs (a type of designated leasing area) that may be suitable for solar energy development. The Solar Programmatic EIS and ROD accounted for avoidance and exclusion areas when identifying variance lands. The variance process established in the Solar Programmatic EIS ROD is the process by which the BLM evaluates applications for solar energy development in variance areas. The existing solar variance process and proposed rule are intended to be compatible and complement each other when the BLM processes an application for solar energy development.

One commenter expressed concern over potential BLM eminent domain actions on private land in areas where public and private lands are interspersed. The BLM's authority does not extend beyond the boundaries of BLM managed public lands. The

proposed rule is intended to provide further direction on the management of public lands and should not be interpreted as applying to lands managed or owned by others. To the extent private lands are relevant to or necessary for a proposed use of public lands, it would be the responsibility of an applicant who proposes the use of BLM managed public lands to also secure the necessary rights over the adjacent private lands. No authorization from the BLM can confer such rights.

Some comments expressed concern that the BLM was determining whether projects are economically viable if located inside or outside a designated leasing area and questioned the differences in environmental conditions between lands inside and outside a designated leasing area.

The BLM would identify areas that have a high potential for solar or wind energy development, but would not determine the economic viability of developing a project in these areas. Any determination of a project's economic viability would be left to the prospective developers.

The BLM would, however, identify locations that have fewer and less significant adverse resource impacts and are suitable for solar or wind energy development. The BLM would identify these areas through the land use planning process, which includes a supporting environmental review. The BLM and the Department issued the Solar Programmatic EIS ROD, which identified 17 SEZs on BLM managed lands, modified 89 land use plans, and described the BLM's intent to use a competitive process to facilitate solar energy development projects in SEZs.

Lands outside of designated leasing areas are not closed to solar and wind energy development, but would not benefit from the completed environmental review of the land use planning process and may, therefore, have greater resource conflicts. Greater resource conflicts are likely to increase an applicant's costs, as well as the BLM review period.

Outside of designated leasing areas, the BLM would prioritize solar and wind energy applications based upon categories of screening criteria, as discussed in the section-by-section analysis. While this is not a sliding scale as suggested by commenters, an application may be reprioritized based on new information provided or identified in the processing of an application. Prioritizing applications would focus the BLM's efforts on those applications that are likely to have lesser resource conflicts before those with potentially greater impacts.

Question 3. What competitive bidding procedures should the BLM adopt?

In response to the request for comments on competitive bidding procedures, the BLM received several recommendations to model the competitive procedures of solar and wind energy development after the geothermal or oil and gas leasing programs. One commenter discussed the merit in allowing bidding on single or multiple tracts at a time. In addition to the recommendations for methods of competitive procedures, several commenters discussed appropriate methodologies for valuing public lands made available for competitive offering.

When developing the proposed competitive bid procedures, the BLM considered the bidding processes used by programs for offshore renewable energy, onshore oil and gas, and geothermal mineral leasing, and also past competitive actions for rights-of-way. Though these programs are guided by different statutes, regulations, and policies, the BLM's proposed competitive bid processes for rights-of-way have incorporated procedures used by the oil and gas and geothermal leasing programs, some of which were described in the ANPR. For example, similar to the BLM's oil and gas program, a notice placed in both a local newspaper and the **Federal Register** would provide specific instructions to interested parties on the required methodology and procedures to file for a pending competitive offer.

The BLM, through this proposed rule, intends to identify the methods by which it may competitively offer rights-of-way inside designated leasing areas. However, the proposed rule is written so as to not unnecessarily limit the BLM's ability to competitively offer lands for solar and wind energy development. The BLM may tailor the competitive leasing offer to meet the needs of the agency, prospective developers, and the interests of the public. For example, when a notice is provided in a local newspaper and the **Federal Register**, the BLM could announce whether it would accept bids on single or multiple tracts of public land and whether variable offsets would be provided for a preferred technology.

Questions 4 and 5. What is the appropriate term for a competitive solar energy ROW lease? What is the appropriate term for a competitive wind energy ROW lease?

Most of the commenters agreed that the duration of both solar and wind energy development right-of-way lease terms should be no less than 20 years and no more than 30 years. The proposed rule would establish a term of 30 years inside designated leasing areas, and up to 30 years outside of designated leasing areas.

Question 6. Should nomination fees be established for the competitive process? If so, how should the fees be determined?

Most commenters felt that a nomination fee should be established for a competitive process for solar and wind energy development. However, those commenters that agreed with a nomination fee had different suggestions for how the nomination fee should be configured. Most commenters indicated that they would support a nomination fee if the fee was reasonable. The BLM's proposed nomination fees are discussed in the section-by-section analysis under section 2809.11.

Question 7. How should the bidding process for competitive solar and wind ROW leases be structured to ensure receipt of fair market value?

The BLM received a variety of different comments discussing Question 7. Some commenters discussed instituting a bidding process while others opposed it. Some commenters recommended that the agency consider not implementing a bidding process once an application is submitted.

The BLM considered not implementing a competitive process once an application for solar or wind energy development has been submitted. Existing regulations allow the BLM to implement a competitive process when there are two or more competing applications for the same facility or system. The rules would still have this provision, and under the proposal, the BLM would also be able to implement a competitive process on its own initiative. FLPMA directs the BLM to receive fair market value for right-of-way authorizations on the public lands and the recommendation not to offer rights-of-way competitively could prevent the BLM from doing so. The BLM is more likely to receive fair market value through a combination of the competitive process and the rents and MW capacity fees described in this proposed rule. Section 2804.23 describes when the BLM would implement a competitive process outside of designated leasing areas. Section 2809.19 describes how the BLM would process applications on lands that are subsequently identified as designated leasing areas.

Some commenters suggested alternative methodologies for

determining the value of using public lands for solar or wind energy development, including valuing a proposed right-of-way based on adjacent land uses or the appraised value of the past uses of the land.

In this rule, the BLM proposes a structure where the fair market value of a right-of-way authorization would be reflected by all of the components of the competitive offer i.e., the minimum bid, bonus bid, acreage rent, and a MW capacity fee. The combination of these components is intended to result in the Government's receipt of fair market value for the use of the public lands for solar and wind energy development. The BLM has determined competitive offers provide a more accurate assessment of fair market value for solar and wind energy rights-of-way than valuations of adjacent lands.

Other commenters indicated that the BLM should develop an internal cash flow model for specific technology types, on a State-by-State or regional basis to achieve fair market value. Comments also indicated that the BLM should match or stay above other competitively offered lease prices, utilizing a minimum bid rate.

As part of this rule, the BLM has proposed rents and fees specific to the different solar and wind energy technology types. The BLM proposes a MW capacity fee, based on the number of approved MWs of capacity for the energy development, and an acreage rent, based on the number of acres authorized for the right-of-way. The acreage rent would be based on the existing linear rent schedule, which is determined on a regional basis to reflect the value of the land. The MW capacity fees and acreage rents would be different for solar and wind energy based upon technology type and encumbrance factors. See sections 2806.50 and 2806.60 for more information on the solar and wind right-of-way rents and fees. The proposed combination of rent, MW capacity fees, and bids proposed by this rule is not intended to require a value greater than other competitively offered parcels, but rather to represent fair market value.

Question 8. Should a standard performance bond be required for competitive solar and wind energy ROW leases and how should the bond amount be determined?

Most commenters stated that a standard performance bond should be required for competitive solar and wind energy development right-of-way leases. Several comments suggested that a bond should be required for the cost of restoring the land to its original condition. Other comments suggested that bond amounts should be based on project development costs. Several comments also suggested that a bond requirement would encourage viable proposed solar and wind energy development projects by committed applicants. There were a few comments suggesting that bonds should not be required because of uncertainty as to what bonds were to cover, and other comments recommended that the BLM should continue to use its existing bond requirements.

The proposed rule describes bonding requirements and addresses the elements the BLM would consider when establishing a bond amount. The BLM considered the comments submitted under the ANPR and determined that a bond would be required for each solar and wind energy authorization, including a minimum bond amount. A minimum bond amount would be established for grants on lands outside of designated leasing areas. This minimum bond amount would be the same as the standard bond amount for leases on lands inside designated leasing areas. These amounts are discussed in greater detail in the section-by-section analysis under section 2805.20. The bond amount for grants on lands outside designated leasing areas would be based on a reclamation cost estimate (RCE), which estimates the costs for reclaiming and restoring the public lands. This amount would include the administrative costs for the BLM to administer a contract to reclaim and restore the lands in the authorization. The minimum bond amount is based on an average of RCEs for existing projects.

The BLM considered establishing bond amounts based upon other costs, such as costs to develop a project. However, the BLM rejected this idea since these and other suggested costs and methods for establishing bond amounts were based on construction costs and were not specific to the reclamation and restoration requirements of a project or an indication of reasonable costs to do so on BLM-managed public lands. The proposed minimum bond amounts are based on an average of the RCEs for existing projects.

Question 9. What diligent development requirements should be included in competitive solar and wind energy right-of-way leases?

Comments on diligent development requirements for leases focused on the BLM notification to potential bidders before a competitive offer is made. Comments expressed interest in timeframes for the start and completion of development requirements, such as construction deadlines, once a lease is offered to the successful bidder. Some comments indicated that the BLM should enforce benchmarks, deadlines, or other criteria.

The BLM is proposing diligent development requirements for a competitively offered lease for solar or wind energy development. For example, the proposed regulations would require that a plan of development (POD) be submitted to the BLM within 2 years and that the proposed energy development be operational within 10 years of the lease issuance. Other site-specific requirements may be disclosed in the notice offering the lands for a competitive offer.

Existing regulations (section 2807.16) provide the BLM with authority to suspend or terminate a right-of-way authorization if the holder does not comply with the terms and conditions of the grant, such as a POD. A suspension or termination of a solar or wind energy right-of-way would cause a right-of-way holder to lose profits and potentially increase their cost of operations. The BLM does not propose to establish monetary penalties to enforce diligent development or established benchmarks or criteria.

IV. General Discussion and Section-by-Section Analysis

General Discussion

The BLM's existing right-of-way regulations provide only limited authority to use a competitive bidding process when authorizing solar and wind renewable energy facilities. Specifically, the existing regulations (see 43 CFR 2804.23(c)) allow the BLM to use a competitive bidding process only when it has already received two or more competing right-of-way applications for the same facility or system. This proposed rule would expand the BLM's ability to use competitive bidding processes, including competitive bidding for solar and wind energy development grants and leases. While this proposed rule includes provisions that apply to all rights-of-way, the focus of this rule is primarily on solar and wind energy development. It would codify existing BLM policies and provide additional detail pertaining to a competitive process for seeking solar or wind energy development grants outside designated leasing areas. In addition, it would establish a competitive process for seeking solar and wind energy development leases inside designated leasing areas.

The term ''designated leasing area'' would be defined at section 2801.5(b) as ''a parcel of land with specific boundaries identified by the BLM land use planning process as being a preferred location for solar or wind energy development that must be leased competitively.'' Similar to right-of-way corridors, designated leasing areas would be identified as appropriate areas for development while minimizing cultural and environmental impacts through avoidance, minimization, and compensatory mitigation. The BLM's preliminary review of these areas, and its determinations that these areas are suitable for renewable energy development, are intended to provide an incentive to renewable energy developers looking for a potential site to develop. Site-specific NEPA analysis would still be required for each right-of-way, but the BLM's preliminary review and land management suitability determinations would streamline subsequent site-specific NEPA analysis and could save the developer time and money.

Solar and wind energy development inside designated leasing areas would be authorized using the competitive offer process that would be established in proposed 43 CFR subpart 2809. Another competitive process for lands outside designated leasing areas would be established in proposed section 2804.30. Both processes would enable the BLM, on its own initiative, to offer lands competitively for solar or wind energy development.

After deciding to offer either type of lands competitively, the BLM would publish a notice of competitive offer in accordance with new section 2804.30(d) that would be used in conducting the auction or competitive bidding. This notice would include the date, time, and location, as well as the process and procedures of the competitive offer. The BLM would accept a bid only if it included payment for the minimum bid and at least 20 percent of the bonus bid.

The minimum bid would consist of: (1) Administrative costs incurred by the BLM and other Federal agencies in preparing for and conducting the competitive offer; and (2) An amount determined by the BLM based on known or potential values of the parcel. The bonus bid would consist of any dollar amount that a bidder decides to bid in addition to the minimum bid.

For lands outside designated leasing areas, the bidder who submits the highest total bid would become the preferred applicant. The preferred applicant is the only party who may submit a right-of-way application for the parcel identified in the notice of competitive offer on which it was the highest bidder. A preferred applicant who completes the application process may be offered a grant, at the BLM's discretion.

In contrast, for lands inside designated leasing areas, the bidder who submits the highest total bid would be offered a lease, provided that qualifications and payment terms are met. The BLM would offer a lease in designated leasing areas as an incentive for development in these preferred areas. These lands would have undergone sufficient cultural and environmental review to offer the successful bidder a lease that ordinarily would not require further evaluation. As noted, site-specific NEPA analysis would still be required for each right-of-way and could be tiered from the BLM's preliminary review and land management suitability determinations. This streamlined process would save the applicant time and money. Lands outside of designated leasing areas would not have yet undergone the preliminary environmental and cultural review provided by the planning process.

In addition, new section 2809.16 of this proposed rule would provide that a successful bidder for lands inside a designated leasing area may qualify for variable offsets totaling up to 20 percent of the total bid. These offsets are intended to provide an incentive for development inside designated leasing areas and benefits to the general public. As envisioned, such benefits to the public would include better resource protection, more efficient use of the public lands, and an increased likelihood of project development. Requirements for qualifying for such offsets would be outlined specifically in the notice of competitive offer. Competitive offers for lands outside of designated leasing areas would not include variable offsets. These offsets are discussed in detail in the section-by-section analysis of this preamble.

The rent for solar and wind energy grants and leases would comprise an acreage rent and a MW capacity fee. The methodology used to determine rents and fees for solar and wind energy, inside and outside of designated leasing areas, are generally the same. The main differences between acreage rents for lands outside and inside designated leasing areas are when the acreage rent is adjusted and how it is phased in. For lands outside of designated leasing areas, the acreage rent would be updated every year using the BLM's linear rent schedule. For lands inside designated leasing areas, the acreage rent would be updated in year 11 of the lease, and every 10 years thereafter, using the acreage rent schedule in place at the time of the adjustment.

The MW capacity fees would be phased in over the course of the grant or lease based on changes to the MW rate. There would be a 3-year phase-in period for grants outside of designated leasing areas, and a 10-year phase-in period for leases inside designated leasing areas. The provisions describing how acreage rents and MW capacity fees would be phased in are explained in greater detail in the section-by-section analysis.

Bonding requirements would also differ. Inside designated leasing areas, the standard bond amount for solar energy developments would be $10,000 per acre and wind energy developments would be $20,000 per authorized turbine. These same amounts would be the minimum requirements for bonds outside designated leasing areas, and those minimum bonds could be subject to adjustment by the BLM under proposed section 2805.20(a). These bond amounts are based on an average of the bond requirements of existing solar or wind energy projects. The minimum amount outside of designated leasing areas would help ensure that the BLM receives an adequate bond to protect the public lands. Since the BLM would identify designated leasing areas as areas with lesser and fewer environmental and cultural resource conflicts, the BLM proposes a standard bond amount for solar or wind energy developments inside those areas. The BLM expects that if a RCE were prepared for a project inside a designated leasing area, the amount would not deviate significantly from the standard bond amount.

The BLM intends to provide an additional level of certainty for right-of-way holders inside designated leasing areas and streamline the development process. The potential lessee could save time and money by not preparing a RCE.

Under existing regulations, the BLM may adjust a bond amount to ensure the bond adequately protects the lands in a right-of-way. The BLM does not intend to adjust the standard bond amount for solar and wind energy leases unless there is a change in use. A change in use would be when a grant is amended. The removal of a wind turbine and subsequent reclamation could result in a decreased bond amount. The expansion of a lease area for a solar project could result in an increased bond amount. While the BLM intends to streamline solar and wind energy development on public lands, the BLM would maintain the ability to protect public lands.

Title V of FLPMA authorizes the BLM to issue right-of-way grants, leases, and easements. The majority of BLM-issued rights-of-way are grants. The BLM intends to differentiate the rights-of-way issued under subpart 2809 as leases, which would be a type of grant with specific requirements. Communication site rights-of-way are another example of BLM-issued leases, which have specific regulatory requirements for rent and subletting.

The following table summarizes the differences between grants outside designated leasing areas and leases inside designated leasing areas:

DIFFERENCES IN PROCESSES, TERMS, AND CONDITIONS BETWEEN RIGHT-OF-WAY GRANTS AND LEASES FOR SOLAR AND WIND ENERGY DEVELOPMENT

	Grants (outside designated leasing areas)	Leases (inside designated leasing areas)	Applicable regulations
All applications			
Pre-application meetings	Mandatory for all applications	Does not apply	43 CFR 2804.10.
Screening Criteria	Applies to all applications	Does not apply	43 CFR 2804.25 and 2804.35.
Competitive Process			
BLM would identify parcels for competitive offer.	When there are 2 or more competing applications, or on the BLM's initiative.	After issuing a call for nominations, or on the BLM's initiative.	43 CFR 2804.30 and subpart 2809.
Variable offset	Does not apply	Each offset (and percent) described in Notice of Competitive Offer; total offset cannot exceed 20 percent of total bid.	43 CFR 2809.16.
The successful bidder:	Becomes the preferred applicant and may apply for a grant.	Would be offered a lease if requirements are met.	43 CFR 2804.30(f) and 2809.15.
Terms and Conditions			
Assignment rights	Yes	Yes	43 CFR 2807.21 and 2809.18(f).
Due Diligence	2 years to begin construction, 24 months to complete construction.	2 years to submit POD, 7 years to complete construction.	43 CFR 2805.12(c)(3) and 2809.18(g).
Bonding	Minimum bond of $10,000 per acre for solar/$ 20,000 per authorized turbine for wind.	Standard bond of $10,000 per acre for solar/$ 20,000 per authorized turbine for wind.	43 CFR 2805.20.
Acreage Rent	Adjusted annually	Adjusted every 10 years.	43 CFR 2806.50 and 2806.60.
MW Fee Phase-ins	3 years at 25%/50%/100%	10 years at 50%, then 100% all subsequent years.	43 CFR 2806.50 and 2806.60.
Term Length of Grants and Leases	Up to 30 years	30 years	43 CFR 2805.11 and 2809.18(a).

The above identified differences between outside and inside designated leasing areas are intended to provide incentives for development inside designated leasing areas. The BLM is soliciting comments as to whether these identified differences and incentives are appropriate for the designated leasing areas, if other incentives may exist, and as to whether the identified timeframes, amounts, rationale, and processes are appropriate for such areas.

The BLM believes that the Federal Government will receive fair market value for all of the uses of public lands that could be authorized by the proposed rule (see 43 U.S.C. 1701 (a)(9)). The salient features of fair market value as referenced by the Uniform Appraisal Standards for Federal Land Acquisitions (1992) and the Appraisal of Real Estate (1992) are as follows:

1. Fair market value is characterized as, or is representative of, a transaction between a knowledgeable buyer and a knowledgeable seller;

2. Neither buyer nor seller is obligated or under duress to buy or sell;

3. Fair market value is determined by a competitive market rather than the personal or inherent value of the property;

4. The property is exposed to a competitive market for a reasonable time;

5. Market value is only that value transferable from owner to owner. In most cases this means private market value; and

6. Properties lacking buyer competition, which are likely to become part of a larger competition property, can be given an estimated market value as part of the larger property. In accordance with the market concept, the price paid for a similar property in an arm's-length transaction is accepted as the best evidence of fair market value. Factors to be considered in estimating value include probable demand, property location, and property use.

This proposed rule would establish a framework through which the United States would obtain fair market value for the use of the public lands (See 43 U.S.C. 1701(a)(9) and 43 U.S.C. 1764(g)). The procedures in the proposed rule have been designed to facilitate the BLM's determination of fair market value through a combination of acreage rent (based on the number and value of acres within the authorized area), MW capacity fees (based on approved capacity of the solar or wind energy project), and any minimum and bonus bids offered during the competitive process. Although the BLM would collect administrative costs as a component of the minimum bid, these costs are not part of the fair market value of a parcel and would be reimbursement for reasonable costs for processing the authorization.

Drawing upon its experience with solar and wind energy development on the public lands to date, the BLM has given careful consideration to the procedures to collect fair market value through a combination of rents, MW capacity fees, and bids (not including

Federal administrative costs). While the BLM's current right-of-way regulations provide only limited authority for the agency to use a competitive bidding process, through the proposed rule the BLM intends to develop a more detailed set of competitive procedures that will enhance the agency's ability to identify and receive fair market value by collecting minimum and bonus bids for solar and wind energy authorizations.

Currently, the BLM does not have authority to retain revenues collected from such developments as payment to the government for the use of public lands. Revenue collected for solar or wind energy developments will be sent to the U.S. Treasury and not retained by the BLM. This revenue includes acreage rents, MW capacity fees, minimum bids and bonus bids (not including Federal administrative costs), application filing fees, and nomination filing fees.

However, some funds received by the BLM for solar and wind energy developments would be retained or held by the BLM for its use. Such funds would include those received for cost recovery for the pre-application period and the processing of an application or the monitoring of an authorization, bonds, Federal administrative costs for a competitive offer, and penalty fees for the late payment of rent and MW capacity fees.

Annual rent payments are required for all solar and wind energy grants and leases. Acreage rent would consist of payments based on the value of the underlying public land encumbered by a particular project, which the proposed rule addresses through a set of updated and more detailed methods. Under the proposed rule, the BLM would identify acreage rent as described in the section-by-section discussion at 2806.50 and 2806.60 of this preamble. For lands outside of designated leasing areas, the acreage rent would be updated every year using the BLM's linear rent schedule. For lands inside designated leasing areas, the acreage rent is updated in year 11, and every 10 years thereafter, using the acreage rent schedule in place at the time of the adjustment.

The BLM would also establish a MW capacity fee using payment schedules based on the approved generation capacity of solar and wind energy grants and leases. It has been the BLM's practice under its current regulatory authority and policies to collect acreage and MW capacity payments as rent. Through this proposed rule the BLM is proposing to classify MW capacity payments as fees, since they reflect the incremental value added by the more intensive, industrial use of the land above and beyond the rural or agricultural value of the land in its unimproved state. In addition, in the BLM's experience, the total MW generating capacity of a project is independent of the area of land it occupies since the generation capacity of a project is driven in significant part by the technology used. The acreage payment would remain classified as rent under the proposed rule as it is directly tied to the area of public lands encumbered by the project and its constraints to other uses on the public lands.

Under the competitive process that the proposed rule would establish for lands outside designated leasing areas, the winning bid amount, combined with other potential payments to the BLM over the course of the period of the grant, may better represent the fair market value. If the BLM receives no bids in a competitive offer, the lands could be reoffered competitively or non-competitively, if doing so is in the public interest (see paragraph 2804.34(h)(4)). In the absence of comparable transactions, an appraisal could determine whether a fair market value was achieved.

For lands inside designated leasing areas, the highest bidder at the competitive offer would become the lessee and may qualify for and receive variable offsets for up to 20 percent of the winning bid amount. Since the potential offsets would be known to bidders before a competitive offer, bidders should be willing to bid higher than they would without the offsets.

Assuming a scenario with sufficient competition among bidders who qualify for offsets, the winning bid amount minus any offsets would theoretically be the same as what the winning bid would have been if no offsets were offered. In this case, the bonus bid and the other payments to the BLM over the course of the lease may better represent the fair market value for the lease. If one or few bidders qualify for offsets, then it is likely that the winning bid amount minus any offsets would be less than what the winning bid would have been if no offsets were offered.

If the BLM receives no bids on a competitive offer, the lands could be reoffered competitively or non-competitively, if doing so is in the public interest (see 2809.17(d)). An appraisal could verify whether a fair market value was achieved.

Section-by-Section Analysis for Part 2800

This proposed rule would make the following changes in part 2800. The existing language found at section 2809.10 would be revised and redesignated as paragraph 2807.17(d), while revised subpart 2809 would be devoted to solar and wind energy development in designated leasing areas. This proposed rule would also amend parts 2800 and 2880 to clarify the BLM's administrative procedures used to process right-of-way grants and leases. These clarifications would ensure uniform application of the BLM's procedures and requirements. A more in-depth discussion of the proposed changes is provided below.

The following terms would be added to the definitions in section 2801.5:

''Acreage rent'' is a new term that means rent assessed for solar and wind energy development grants and leases that is determined by the number of acres authorized by the grant or lease. The acreage rent is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per-acre county rate in effect at the time the authorization is issued. Provisions addressing adjustments in the acreage rent can be found in sections 2806.52, 2806.54, 2806.62, and 2806.64. An example of how to calculate acreage rent is discussed in this preamble in the section-by-section analysis of paragraph 2806.52(a)(1).

''Application filing fee'' is a new term that means a nonrefundable filing fee specific to solar and wind energy right-of-way applications. The fee is proposed at $15 per acre for all solar and wind energy development applications and $2 per acre for wind site testing applications. The BLM would adjust the application filing fee once every 10 years to account for inflation. Further discussion of application filing fees can be found in section 2804.12.

''Assignment'' means the transfer, in whole or in part, of any right or interest in a right-of-way grant or lease from the holder (assignor) to a subsequent party (assignee) with the BLM's written approval. The proposed rule would add this definition to section 2801.5 to help clarify existing regulations. A more detailed explanation of assignments and the changes made can be found under section 2807.21.

''Designated leasing area'' is a new term that means a parcel of land with specific boundaries identified by the BLM's land use plan process as being an area (e.g., SEZ) established, conducted through a landscape-scale approach, for the leasing of public lands for solar or wind energy development via a competitive offer. The competitive offer process may be found in the discussion of subpart 2809 under the section-by-section analysis contained in this

preamble. Further discussion of designated leasing areas can be found under section 2802.11.

''Designated right-of-way corridor'' is a term that is defined in existing regulations. The word ''linear'' has been added to this definition to distinguish between these corridors and designated leasing areas.

''Management overhead costs'' is defined in existing regulations as Federal expenditures associated with the BLM. Under Sections 304(b) and 504(g) of FLPMA, the Secretary may require payments intended to reimburse the United States for reasonable costs with respect to applications and other documents relating to public lands. Secretarial Order (see Order 3327) delegated the Secretary's authority under FLPMA to receive reimbursable payments to the bureaus and offices of the Department of the Interior. This definition has been expanded to include other Federal agencies.

''Megawatt capacity fee'' is a new term meaning the fee paid in addition to the acreage rent for solar and wind development grants and leases based on the approved MW capacity of the solar or wind authorization. The MW capacity fee is calculated based on the MW capacity for an approved solar or wind energy project authorized by the BLM. Examples of how MW capacity fees are calculated may be found under the discussion of section 2806.56. While the acreage rent reflects the value of the land itself, the MW capacity fee reflects the value of the industrial use of the property to generate electricity.

''Megawatt rate'' is a new term that means the price of each MW for various solar and wind energy technologies as determined by the MW rate schedule. The MW rate equals the number of hours per year multiplied by the net capacity factor multiplied by the MW per hour (MWh) price multiplied by the rate of return where: The net capacity factor is the average operational time divided by the average potential operational time of a solar or wind energy development facility multiplied by current technology efficiency rates. The net capacity factor for each technology type is:

a. Photovoltaic (PV) = 20 percent;

b. Concentrated photovoltaic (CVP) and concentrated solar power (CSP) = 25 percent;

c. Concentrated solar power with storage capacity of 3 hours or more = 30 percent; and

d. Wind energy = 35 percent.

1. The MWh price equals the 5-year average of the annual weighted average wholesale price per MWh for the major Intercontinental Exchange (ICE) or its successor in interest at trading hubs serving the 11 Western States of the continental United States (see proposed paragraph 2806.52(b)). The wholesale price of electricity is tracked daily on the ICE and is readily accessible at *https://beta.theice.com/marketdata/reports/ReportCenter.shtml.* Should the ICE or its successor in interest discontinue tracking the wholesale price of electricity, the 5-year average of the annual weighted average wholesale price per MWh would be calculated using comparable market prices.

2. The rate of return is the relationship of income (to the property owner, or in this case the United States) to the revenue generated from authorized solar and wind energy development facilities, based on the 10-year average of the 20-year U.S. Treasury bond yield, rounded to the nearest one-half percent.

3. The number of hours per year is a fixed number (i.e., 8,760 hours, the total number of hours in a 365-day year).

The BLM is considering basing the net capacity factors for these technologies on an average of the annual capacity factors listed by Energy Information Administration (EIA). The EIA posts an average of the capacity factors on its Web site at *http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_6_07_b.*

''Performance and reclamation bond'' is a new term that means the document provided by the holder of a right-of-way grant or lease that provides the appropriate financial guarantees, including cash, to cover potential liabilities or specific requirements identified by the BLM. This term is defined here to clarify the expectations of what a bond accomplishes.

The definition would also explain which instruments would or would not be acceptable. Acceptable bond instruments include cash, cashiers or certified check, certificate or book entry deposits, negotiable U.S. Treasury securities, surety bonds from the approved list of sureties, and irrevocable letters of credit. The BLM would not accept a corporate guarantee. These provisions would codify the BLM's existing procedures and practices.

''Reclamation cost estimate (RCE)'' is a new term that means the report used by the BLM to estimate the costs to restore the intensive land uses on the right-of-way to a condition that would support pre-disturbance land uses.

''Right-of-way'' is defined in existing regulations as the public lands the BLM authorizes a holder to use or occupy under a grant. The revised definition would describe the authorization as ''a particular grant or lease.''

''Screening criteria for solar and wind energy development'' is a term that refers to the policies and procedures that the BLM would use to prioritize how it processes solar and wind energy development right-of-way applications outside of designated leasing areas. Some examples of screening criteria are:

1. Applications filed for areas specifically identified for solar or wind energy development, other than designated leasing areas;

2. Previously disturbed areas or areas located adjacent to previously disturbed areas;

3. Lands currently designated as Visual Resource Management (VRM) Class IV; and

4. Lands identified for disposal in a BLM land use plan.

Screening criteria for solar and wind energy development have been established by policy through IM 2011–61, and are further discussed in paragraph 2804.25(d)(2) and section 2804.35 of this proposed rule. The IM may be found at *http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.*

''Short term right-of-way grant'' is a new term that means any grant issued for a term of 3 years or less for such uses as storage sites, construction sites and short-term site testing and monitoring activities. The holder may find the area unsuitable for development or the BLM may determine that a resource conflict exists in the area.

The scope section of the regulations in part 2800 is clarified in the proposed changes to section 2801.6. The additional language clarifies that the regulations in this part would apply to all systems and facilities identified under paragraph 2801.9(a).

Section 2801.9 explains when a grant or lease is required for systems or facilities on public lands. Paragraph 2801.9(a)(4), systems for generation, transmission and distribution of electricity, would be expanded to include solar and wind energy development facilities and associated short-term actions. Language would also be added to paragraph 2801.9(a)(7) to allow any temporary or short-term surface-disturbing activities associated with any of the systems described in this section. A new paragraph (d) would be added to specifically describe the types of authorizations required for various components of solar and wind energy development projects. These are:

1. Short term authorizations (term to not exceed 3 years),

2. Long term right-of-way grants (up to 30 years); and

3. Solar and wind energy development leases (30 years).

This paragraph also describes the type of authorizations for solar and wind projects located both inside and outside of designated leasing areas. Authorizations for solar or wind energy development located outside of a designated leasing area would be issued as a right-of-way grant for a term of up to 30 years. Authorizations located inside of a designated solar or wind energy development would be issued as a right-of-way lease for a term of 30 years.

Section 2802.11, which explains how the BLM designates right-of-way corridors, would be revised to include ''designated leasing areas.'' The BLM would identify designated leasing areas as preferred areas for solar or wind energy development, based on a high potential for energy development and lesser resource impacts. This section provides the factors the BLM considers when determining which lands may be suitable for right-of-way corridors or designated leasing areas. These factors are unchanged from the existing regulations.

Paragraphs (a), (b), (b)(3), (b)(4), (b)(6), (b)(7) and (d) of this section would be amended to include references to designated leasing areas. Existing regulations specifically mention right-of-way corridors in these paragraphs. These revisions would clarify that this section would apply to designated leasing areas in addition to linear right-of-way corridors.

Existing section 2804.10 encourages prospective applicants for a right-of-way grant to schedule and hold a pre-application meeting. As revised in this proposed rule, section 2804.10 would continue to encourage pre-application meetings regarding some right-of-way grants, but would require two or more such meetings for:

1. Any solar or wind energy grant outside a designated leasing area;
2. Any transmission line with a capacity of 100 kV or more; or
3. Any pipeline 10 inches or more in diameter.

Under existing paragraph 2804.10(a)(2), the BLM determines if your application is on land within a right-of-way corridor. This paragraph would be revised to include ''or a designated leasing area.'' The BLM would not accept applications for grants on lands inside designated leasing areas (see the section-by-section analysis of paragraph 2809.19(b) for further discussion).

Proposed paragraph 2804.10(a)(4) would be amended by adding a reference to proposed paragraph 2804.10(b). The existing paragraph states that the BLM may inform you of financial obligations, such as processing and monitoring costs, rent, and mitigation. The reference would reiterate that applicants must pay the reasonable costs associated with proposed paragraph 2804.10(b), or may elect to pay the full actual costs.

Under paragraph 2804.10(b), applicants for right-of-way grants for solar or wind energy development (outside of designated leasing areas), any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter, must hold two or more pre-application meetings. These types of authorizations are generally larger and more complex than the average right-of-way authorization, and this extra step would help protect the public lands and make application processing more efficient.

The BLM would not accept an application until all pre-application meetings are held and the applicant complies with the grazing permittee early notification requirement found at 43 CFR 4110.4–2(b). Applicants must pay reasonable costs associated with the pre-application requirements identified in paragraph (b) of this section, with the option of paying the-actual costs. Payment for reasonable costs associated with pre-application requirements would be paid prior to the first pre-application meeting.

After the enactment of the Energy Policy Act of 2005, the BLM received an influx of solar and wind energy development applications. Many of these applications were unlikely to be approved due to issues such as siting, environmental impacts and lack of involvement with other interested parties. As the BLM gained more experience with these applications it developed policies to process applications more efficiently. These policies required pre-application meetings and application screening criteria (see section 2804.35).

Mandatory pre-application meetings helped the BLM and prospective applicants identify necessary resource studies, and other interests and concerns associated with a project. Further, the pre-application meetings provided an opportunity to direct development away from lands with high conflict or sensitive resource values. As a result of these meetings, the applications submitted were better sited and had fewer resource issues than those submitted where no pre-application meetings were held. Holding these meetings early in the process made the applications more likely to be approved by the BLM. This saved the applicant the time and money spent when doing resource studies and developing projects that may not be accepted or approved by the BLM.

Some prospective applicants chose not to pursue a development after these meetings after they had a better understanding of the potential issues and resource conflicts with the project as proposed. The BLM found that applicants who participated in pre-application meetings saved money that would have been spent planning a development that the BLM would not have approved. This also saved the BLM time by reducing the number of applications they would process and the time spent reviewing resource studies and project plans.

The Government Accountability Office report (GAO–13–189), submitted in January 2013, found that the average BLM permitting timeframes have decreased since implementation of its solar and wind energy policies, which include the pre-application and application requirements in this proposed rule.

In review of the BLM's experiences with renewable energy development, transmission lines larger than 100 kV, and pipelines larger than 10 inches in diameter, holding pre-application meetings save both the BLM and a developer time and money. The GAO concluded that applications submitted in 2006 averaged about 4 years to process. Applications submitted in 2009 and later averaged about 1.5 years to process. Further, the BLM has reviewed its records for cost recovery of these renewable energy, transmission and pipeline projects and identified a range of costs and time associated with each type of application for the public lands. These ranges vary between the solar and wind energy, transmission line, and pipeline projects. For solar and wind energy a range of costs was identified between $40,000 and $4 million including up to approximately 40,000 BLM staff labor hours and other non-labor costs per project. For transmission lines 100 kV or larger and pipelines 10 inches or larger, a range of costs was identified between $260,000 and $3.2 million including up to approximately 32,000 BLM staff labor hours and other non-labor costs per project.

Based on the BLM's experience, two pre-application meetings would usually be sufficient to address all potential concerns with a project. However, the BLM understands that additional pre-application meetings may be beneficial to a project before an application is submitted. The BLM does not want to limit its ability to hold additional meetings should a project be

particularly complex and has allowed for additional pre-application meetings to be held when mutually agreed upon by the BLM. For example, a project that crossed State lines could require additional coordination with local governments and other interested parties.

The burden on prospective applicants would be limited. In advance of the first pre-application meeting, they would need to collect information about the general project proposal (see section 2804.10(b)(1)(i)). The BLM would be in the best position to know, and thus would be primarily responsible for collecting and communicating, the rest of the required information:

- The status of BLM land use planning for the lands involved;
- Potential siting issues or concerns;
- Potential environmental issues or concerns;
- Potential alternative site locations; and
- The right-of-way application process.

One or more additional pre-application meetings would be held with the BLM and other Federal, State, tribal, and local governments to facilitate coordination. This requirement would provide an opportunity for a prospective applicant to describe the general project proposal (i.e., information that has already been collected), and for the BLM and the prospective applicant to learn generally the views of various governmental entities. Again, the burden for prospective applicants would be limited. Paragraph 2804.10(c) would explain requirements for submitting an application for solar or wind energy development projects, for any transmission line with a capacity of 100 kV or more, or for any pipeline 10 inches or more in diameter. This provision would codify the existing policies and provide clear instructions to the public about what they should expect during the application process.

The BLM would accept an application only if the following conditions are met. The written proposal must address known potential resource conflicts with sensitive resources and values that are the basis for special designations or protections, and include applicant-proposed measures to avoid, minimize, and mitigate such resource conflicts. For example, some applicant proposed measures could utilize a landscape level approach as conceptualized by Secretarial Order 3330 and subsequent reports, and consistent with the BLM's IM 2013–142 interim policy guidance. Due to the intense use of the land from the projects covered in this section, the BLM would require applicants to identify potential conflicts and how they may be avoided, minimized, or mitigated. The BLM works with applicants throughout the application process to ensure the most efficient use of public land and to minimize possible resource conflicts. This provision would require applicants to consider these concerns before submitting an application and therefore provide the BLM with potential plans to minimize and mitigate conflicts.

The BLM is soliciting comments on the number of pre-application meetings that would be required for solar or wind energy development projects, for any transmission line with a capacity of 100 kV or more, or for any pipeline 10 inches or more in diameter. The Department of Energy (DOE) is currently developing a draft integrated, interagency pre-application (IIP) process for onshore transmission projects. The BLM intends to create a pre-application process that would be consistent with the IIP when it is proposed for transmission lines. However, the DOE has not yet published the IIP or other such plan for pre-application. The BLM will coordinate with the DOE to ensure that the final BLM rule is consistent with DOE's final IIP process.

The proposal for solar energy or wind energy development must not be sited on lands inside a designated leasing area except as provided for by section 2809.19. Lands inside designated leasing areas would be offered competitively under subpart 2809. See section 2809.19 of this preamble for further discussion.

The applicant must have completed pre-application meetings described in paragraphs 2804.10(b)(1) and 2804.10(b)(2) to the BLM's satisfaction. This paragraph would reinforce the requirements for pre-application meetings.

The proposal must be accompanied by a general description of the proposed project and a schedule for the submittal of a POD conforming to the POD template at *http://www.blm.gov.*

The submittal of a POD is often required under the authority of the existing regulations at paragraph 2804.25(b). Under proposed paragraph 2804.10(b) of this rule, PODs would always be required for authorizations for solar or wind energy development, any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter. The new requirement in paragraph 2804.10(c)(4) is for a more general summary of the project, using the information available at the time of submittal. A POD conforming to the BLM's template would be submitted later, in accordance with the approved schedule.

Proposed paragraph 2804.12(a)(8) would require that an applicant submit a non-refundable application filing fee with any solar or wind energy right-of-way application. Section 304 of FLPMA authorizes the BLM to establish filing and service fees. A per-acre application filing fee would discourage applicants from applying for more land than would be necessary for the proposed project. Revenue collected for application filing fees will be sent to the U.S. Treasury and not retained by the BLM as this is not a cost recovery fee. A similarly structured nomination fee inside designated leasing areas is established following the same criteria and is described in paragraph 2809.11(b)(1).

The application filing fee is based on the appraisal consultation report performed by the Department's Office of Valuation Services. The appraisal consultation report compared similar costs on private lands, and provided a range between $10 and $25 per acre per year. The nominal range or median was reported as $15–$17 per acre per year. The appraisal consultation report is available for review by contacting individuals listed regarding the substance of the proposed rule under the **FOR FURTHER INFORMATION CONTACT** heading section of this preamble.

The BLM is proposing to adopt a single filing fee at the time of filing an application, as opposed to a yearly payment. Based on the appraisal consultation report, fees are proposed at $15 per acre for solar and wind energy applications and $2 per acre for wind energy project area and site specific testing applications.

Fees for solar and wind energy development applications would be adjusted for inflation once every 10 years using the Implicit Price Deflator for Gross Domestic Product (IPD–GDP). The average change in the IPD–GPD from 1994–2003 is 1.9 percent which would be applicable through 2015.

Paragraph 2804.12(a)(9) would be added to clarify existing requirements, as well as to complement new provisions. Under existing paragraph 2804.25(b), the BLM may require an applicant to submit a general description of the project POD. This new requirement in paragraph 2804.12(a)(9) states that if the BLM requires you to submit a POD, you must include a schedule for its submittal in your application.

Under the existing regulations at section 2804.14, applicants must pay the BLM for its reasonable costs, as defined by FLPMA, of processing an application. New paragraph 2804.14(a)

gives the BLM discretion to collect the estimated reasonable costs incurred by other Federal agencies. Secretarial Order 3327 delegated the Secretary's FLPMA cost reimbursement authority to Interior agencies, who often work together on projects with joint jurisdiction. Applicants may pay those costs to the other affected agencies directly instead of paying them to the BLM.

Proposed paragraph 2804.14(b) includes a table of the processing categories for applications. The specific costs would be removed from this table, while the explanations of the categories and the methodology of calculating the costs would remain. These numbers are available in writing upon request or on the BLM's Web site. The cost figures that would be removed are outdated, since the BLM updates these costs annually and has done so annually since the original rule was published. The revision would allow the BLM to update these numbers without modifying the CFR and prevent confusion to potential applicants who would see incorrect information. The explanation of how these costs are calculated, currently in paragraph 2804.14(c), would be moved up to paragraph (b) in order to provide better context for the amended table. Redundant language would be removed from the Category 1 processing fee in order to streamline the definition.

As defined in section 2804.18, a Master Agreement is a written agreement covering processing and monitoring fees negotiated between the BLM and a right-of-way applicant that involves multiple BLM rights-of-way for projects within a defined geographic area. New paragraph 2804.18(a)(6) would require that a Master Agreement describe existing agreements between the BLM and other Federal agencies for cost reimbursement with such applications. With the recent authority delegated by Secretarial Order 3327 to collect costs for other Federal agencies, it is important for the applicant, the BLM, and other Federal agencies to coordinate and be consistent for cost reimbursement.

Under paragraph 2804.19(a), an applicant for a Category 6 application must enter into a written agreement with the BLM about how such applications would be processed. A new requirement would be added to this paragraph requiring that the final agreement must include a description of any existing agreements the applicant has with other Federal agencies for cost reimbursement associated with the application. The new authority delegated by Secretarial Order 3327 requires more coordination and promotes consistency between the Federal agencies and this revision would help to implement this coordination.

Under new paragraph 2804.19(e), the BLM may collect reimbursement to the U.S. for reasonable costs for processing applications and preparation of other documents under this part relating to the public lands. Secretarial Order 3327 authorizes the BLM to collect funds for other agencies for their work on applications submitted to the BLM. Adding this language to the CFR would clarify the BLM's authority for the public.

Section 2804.20 would be amended to account for the authority delegated by Secretarial Order 3327, as well as new provisions in the proposed rule, when determining reasonable costs for processing and monitoring Category 6 applications. New language would include existing agreements with other Federal agencies for cost reimbursement associated with an application and costs associated with new pre-application requirements for proposed solar or wind energy development projects, for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter. Processing costs would include reasonable costs for processing a right-of-way application, while monitoring costs include reasonable costs for those actions the Federal Government performs to ensure compliance with the terms, conditions, and stipulations of a right-of-way grant.

The heading of section 2804.23 would be revised to read ''When will the BLM use a competitive process?'' to better reflect the subject of the section. Paragraph (a)(1) of this section would now require applicants to reimburse the Federal Government, as opposed to just the BLM, for processing costs. This change reflects the authority delegated by Secretarial Order 3327 for Interior agencies to collect money for processing applications made on the public land, as well as promote cooperation between the different Federal land management agencies.

A new sentence in paragraph 2804.23(c) would give the BLM authority to offer lands through a competitive process. Under the existing regulations, the BLM may only use a competitive process when there are two or more competing applications for a single right-of-way system. This change gives the BLM more flexibility to offer lands competitively for all potential rights-of-way, not just solar and wind energy development projects.

The BLM has already established competitive leasing procedures for the oil and gas and geothermal leasing programs, some of which were described in the ANPR. Though these programs are guided by different statutes, regulations, and policies, the BLM's proposed competitive bid processes for rights-of-way have appropriately incorporated procedures used by these programs. For example, a notice placed in both a local newspaper and the **Federal Register** would provide specific instructions to interested parties on the required methodology and procedures for a competitive offer.

Under proposed paragraph 2804.23(d), lands outside of designated leasing areas may be made available for solar or wind energy applications through the competitive process outlined in section 2804.30. This new provision would direct the reader to new section 2804.30, which explains the competitive process for solar and wind energy development outside of designated leasing areas. This paragraph is necessary to differentiate between development inside and outside of a designated leasing area.

Under new paragraph 2804.23(e), lands inside a designated leasing area would be offered competitively through the process described in subpart 2809. This new paragraph would direct the reader to new subpart 2809, which would explain the competitive process for solar and wind energy development inside of designated leasing areas. This paragraph is necessary to differentiate between development inside and outside of a designated leasing area.

Existing section 2804.24 explains when you do not have to use Standard Form 299 (SF–299) to apply for a right-of-way. Under the existing rule, you do not have to use SF–299 if the BLM determines competition exists under paragraph 2804.23(a). This only occurs when there are two or more competing applications for the same right-of-way facility or system.

Due to the proposed changes to section 2804.23, section 2804.24 must specify when an SF–299 is required. Under both the existing regulations and the proposed rule, the BLM would implement a competitive process if there are two or more competing applications. Under paragraph 2804.24(a), you would not have to submit a SF–299 if the BLM is offering lands competitively and you have already submitted an application for that facility or system.

Under paragraph (a), if you have not submitted an application for that facility or system, you must submit an SF–299 as specified by the BLM. Under the competitive process for solar or wind energy in section 2804.30, for example, the successful bidder becomes the

preferred applicant, and may apply for a grant. The preferred applicant would be required to submit an SF–299, but unsuccessful bidders would not.

New paragraph (b) would explain that an applicant would not have to use an SF–299 when the BLM is offering lands competitively under subpart 2809. The BLM may offer lands competitively for solar and wind energy development inside designated leasing areas under subpart 2809. Under subpart 2809, the successful bidder would be offered a lease if the requirements described in paragraph 2809.15(d) are met. The successful bidder inside designated leasing areas would not have to submit an application using SF–299. The following chart illustrates under what circumstances the filing of an SF–299 would or would not be required:

WHEN A SF–299 IS REQUIRED

Type of solar or wind right-of-way	Would have to submit a SF 299	Comments
Have two or more competing applications for the same area	Yes	Outside of designated leasing areas.
Lands are offered competitively outside of a designated leasing area and you have already submitted an application for the parcel before the Notice of Competitive Offer.	No.	
Lands are being offered competitively outside of a designated leasing area and you have not submitted an application.	Yes.	
You are the successful bidder and have been declared the preferred applicant and may apply for a grant.	Yes	Outside of designated leasing areas.
Lands being offered competitively within a designated leasing area under subpart 2809	No.	

Under the amendments to paragraph 2804.25(b), the BLM would not process your application if you have any trespass action pending for any activity on BLM-administered lands or have any unpaid debts owed to the Federal Government. The only applications the BLM would process to resolve the trespass would be for a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR 2920, but only after outstanding debts are paid. This provision would apply to rights-of-way, and would clarify existing regulations. Under existing regulations at section 2808.12, the BLM will not process any application for any activity on BLM-administered lands until you have satisfied your liability for a trespass. The requirement in section 2808.12 is often overlooked by potential right-of-way applicants and this change would insert this existing requirement into the application process described in subpart 2804.

Paragraph 2804.25(d) would be revised by replacing the words ''before issuing a grant'' with ''in processing an application.'' This change would be made to account for the situation where the BLM would issue a grant without accepting applications. Lands leased inside designated leasing areas would be offered through a competitive bidding process under subpart 2809 in situations where no applications for those lands are received. The provisions in section 2804.25 would not apply to the leases issued under subpart 2809. They would apply to all other rights-of-way, including solar and wind energy development grants outside of designated leasing areas. The issuance of leases inside designated leasing areas will be discussed in subpart 2809.

Paragraph 2804.25(d) also would be revised to incorporate new provisions for all rights-of-way as well as specific provisions for solar and wind energy development. Existing paragraph 2804.25(d)(5), which provides the requirement to hold a public meeting if there is sufficient public interest, would be moved to new paragraph 2804.25(d)(1). Language would be added to specify that the public notice would be published in a newspaper in the area affected by the potential right-of-way and that the BLM may use other notification methods as well, such as the Internet. The former revision would clarify existing regulations, while the latter would expand the BLM's methods for notification.

New paragraph 2804.25(d)(2) would consist of three separate requirements for solar and wind energy development applications. Under paragraph 2804.25(d)(2)(i), the BLM would hold a public meeting in the area affected by the potential right-of-way for all solar or wind energy applications. Based on the BLM's experience, most solar and wind energy development projects are large-scale projects that draw a high level of public interest. This requirement would be added to provide an opportunity for public involvement early in the process. Under paragraph (d)(2)(ii), the BLM would apply screening criteria when processing an application outside of designated leasing areas. These screening criteria are explained further in section 2804.35.

Under new paragraph 2804.25(d)(2)(iii), the BLM would either deny or continue processing an application, after reviewing the input of other government and tribal entities, as well as information received in the application, public meetings, and pre-application meetings. The denial of an application would be in writing and would be an appealable decision under section 2801.10. The approval of all grant applications is at the BLM's discretion and the BLM would likely deny an application that has high potential for resource conflicts. While the BLM already has the authority to deny applications that have high potential for resource conflicts, the proposed rule would clarify to potential applicants how they may submit an application that is more likely to be approved.

Under new paragraph 2804.25(d)(3), if an application is for solar or wind energy development, for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter, then the BLM would determine whether the POD submitted with the application meets the applicable development schedule and other requirements or whether the applicant must provide additional information. This is a necessary step that would be added to allow the BLM to evaluate the new application requirements under paragraphs 2804.10(c)(4) and 2804.12(a)(9). The BLM would determine if the development schedule and other requirements of the POD templates were followed as required under paragraphs 2804.10(c)(4) and 2804.12(a)(9). The POD template can be found at *http://www.blm.gov*.

Proposed paragraphs (d)(4), (d)(5), (d)(6), (d)(7), and (d)(8) of this section are existing provisions that would be moved to fit in with the other paragraphs of this section.

The BLM is considering and seeks public comment on establishing in the final rule a provision that would limit

the time for applicants to begin conducting necessary resource studies. The deadline could be specific, for example 1 year after the BLM accepts an application. Alternatively, a time limitation could be stated in more general terms that would provide for greater flexibility on a case-by-case basis. Under this proposal, the failure to begin conducting such studies in the specified time frame could result in the BLM's denial of an application unless the BLM had previously agreed to a longer period of time at the request of the applicant. We are considering adding this time limitation to section 2804.25. We seek public comment on any other provisions that might be pertinent.

Section 2804.26 explains the circumstances under which the BLM may deny an application. Existing paragraph 2804.26(a)(5) explains one such circumstance, when an applicant does ''not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities in the proposed right-of-way.'' The proposed rule would add text to clarify this requirement, which applies to all rights-of-way. The new paragraphs would explain how an applicant could provide evidence of the financial and technical capability to be able to construct, operate, maintain, and decommission a solar or wind energy development project. The applicant may provide documented evidence showing prior successful experience in developing similar projects, provide information of sufficient capitalization to carry out development, or provide documentation of loan guarantees, confirmed power purchase agreements, and contracts for the manufacture and/or supply of key components for solar or wind energy project facilities. A specific period of time for requiring compliance with this provision has not been established. The BLM is soliciting comments as to what an appropriate time would be in such situations.

Under new paragraph 2804.26(a)(6), the BLM may deny your application if you do not meet the POD submittal requirements under paragraphs 2804.10(c)(4) and 2804.12(a)(9). New paragraph 2804.26(a)(7) would reference the possible denial based on the screening criteria established in new paragraph 2804.25(d)(2)(iii). Paragraphs (a)(6) and (a)(7) would be added to this section to reiterate these new requirements and explain that the BLM may deny an application should an applicant not comply with these provisions.

The heading of section 2804.27, ''What fees do I owe if BLM denies my application or if I withdraw my application?'' would be revised to read ''What fees must I pay if BLM denies my application or if I withdraw my application?'' A new provision in this paragraph would provide that if the BLM denies your application, or if you withdraw it, you must still pay any pre-application costs required under paragraph 2804.10(a)(4), any application filing fees submitted or due under paragraph 2804.12(a)(8), and the processing fee set forth at section 2804.14. Currently, the BLM is reimbursed for its costs only after a right-of-way application has been filed. Under the proposed rule, the BLM could recover the considerable expense devoted to pre-application work. Reimbursement for pre-application costs would ensure that the BLM has funds for, and could help reduce delays in performing pre-application work. Section 304(b) of FLPMA provides for the deposit of payments to reimburse the BLM for reasonable costs with respect to applications and other documents relating to the public lands.

New section 2804.30 would explain the process by which the BLM would competitively offer lands outside of designated leasing areas. The bidding process here is similar to the one established in subpart 2809, except for the end result of the bidding. Under paragraph (f) of this section, the successful bidder would become the preferred right-of-way applicant. Under this section, the high bidder is not guaranteed a grant; however, the preferred applicant is the only party that may submit an application for the parcel identified by the BLM under paragraph (g). This is different from subpart 2809, where the successful bidder would be offered a lease.

Paragraph (a) of this section would identify which lands are available for competitive lease; paragraph (b) of this section would explain the variety of competitive procedure options available; and paragraph (c) would explain how the BLM would identify parcels for competitive offer. The BLM may identify a parcel for competitive offer if competition exists or the BLM may include lands in a competitive offer on its own initiative. The existing regulations only allow the BLM to use a competitive process when there are two competing applications and the changes to paragraph 2804.23(c) would give the BLM more flexibility. The BLM could include lands in a competitive offer in response to interest from the public, industry, or to facilitate State renewable energy goals.

Paragraph 2804.30(d), ''Notice of competitive offer,'' establishes the content of the materials of a notice of competitive offer that include the date, time, and location (if any) of the competitive offer, bidding procedures, qualifications of potential bidders, and the minimum bid required. The notice would also explain that the successful bidder would become the preferred applicant and must apply for a grant under this subpart. This is different from the competitive offers held under subpart 2809 where the successful bidder is offered a lease.

Paragraph 2804.30(d)(4) requires that the notice to provide the amount of the minimum bid, which would include a description of the administrative costs to the Federal agencies involved and what was provided by those administrative costs, as well as the minimum bid determined by the authorized officer and the rationale for how this minimum bid was derived. As discussed in the general discussion section of this preamble, the administrative costs are not a component of fair market value, but are cost reimbursement to the Federal Government. The BLM would publish a notice containing all of the identified elements in a newspaper of general circulation in the area affected by the potential right-of-way, in the **Federal Register**, and other notification methods, including use of the Internet.

Under paragraph 2804.30(e), ''Bidding,'' the BLM would require that bid submissions include both the minimum bid amount and at least 20 percent of the bonus bid. The minimum bid would consist of administrative costs and an amount determined by the authorized officer. Included in the administrative costs are those expenses pertaining to the development of environmental analyses and those costs to the Federal Government associated with holding the competitive offer.

The authorized officer may specifically identify a second component for the minimum bid(s) submitted for each competitive offer. This amount would be based on the known or potential values of the offered parcel. The authorized officer may consider values that include, but are not limited to, the acreage rent, the MW capacity fee, or other environmental and mitigation costs of the parcel. For example, the BLM may have identified values in management plans, or other such documents, for the habitat mitigation of the desert tortoise. The authorized officer would have to identify these costs and provide the description of how the minimum bid amount was determined. An explanation of the minimum bid amount and how the BLM derived it

would be provided in the notice of competitive offer.

Under proposed paragraph 2804.30(f), the successful bidder would be determined by submitting the highest total bid at a competitive offer. The successful bidder must fulfill the payment requirements of the successful bid in order to become the preferred right-of-way applicant. The preferred applicant must submit the balance of the bid to the BLM within 15 calendar days of the end of the offer.

Under proposed paragraph 2804.30(g), the preferred applicant would be the only party who may submit an application for the parcel offered. Unlike the process under subpart 2809, the approval of a grant under this paragraph is not guaranteed to the successful bidder. Approval of a grant is solely at the BLM's discretion. The preferred applicant may also apply for a wind energy project area or site specific testing grant.

Paragraph 2804.30(h), ''Reservations,'' describes how the BLM would address certain situations that could arise from a competitive offer. Under paragraph (h)(1) of this section, the BLM may reject bids regardless of the amount offered. For example, the BLM may reject a bid if there is evidence of conflicts of interest or collusion among bidders or if there is new information regarding potential environmental conflicts. The BLM would notify the bidder of the reason for the rejection and what refunds are available. If the BLM rejects a bid, the bidder may administratively appeal that decision.

Under paragraph (h)(2) of this section, the BLM could make the next highest bidder the preferred applicant if the first successful bidder does not satisfy the requirements under section 2804.30(f). This could allow the BLM to determine a preferred applicant without reoffering the land and could save time and money for the BLM and potential applicants.

The BLM could reoffer lands competitively under (h)(3) of this section if the BLM could not identify a successful bidder. If there is a tie, this offer could be limited to tied bidders or to all bidders. This would provide the BLM flexibility to resolve ties and other issues that could complicate a competitive offer.

Under proposed paragraph 2804.30(h)(4), if the BLM receives no bids, the BLM may re-offer the lands through the competitive process in section 2804.30. The BLM may also make the lands available through the non-competitive process as described in subparts 2803, 2804, and 2805, if doing so is determined to be in the public interest.

New section 2804.35 would explain how the BLM would prioritize review of an application for a solar or wind energy development right-of-way based on the screening criteria for projects outside of designated leasing areas. The BLM would evaluate the application based on the screening criteria and place the application into one of three categories. These categories would assist the BLM in prioritizing and processing such applications. Applications for solar and wind energy development will not be accepted for lands inside designated leasing areas except as allowed under new section 2809.19, and therefore would not have such applications prioritized.

The BLM has already established screening criteria through IM 2011–061, which identifies their use for solar and wind energy development rights-of-way in order to facilitate environmentally responsible development by considering resource conflicts, land use plans, and statutory and regulatory provisions pertinent to the applications and the lands in question. Applications with lesser resource conflicts are anticipated to be less costly and time-consuming for the BLM to process and would be prioritized over those with greater resource conflicts. IM 2011–061 may be found at *http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.* This rule proposes criteria similar to those in the IM and the codification of these criteria would give applicants a better understanding of how their application would be categorized. Also, applications could be tailored to fit these screening criteria to streamline the processing of an application.

High priority applications are given processing priority over medium and low priority applications and would consist of lands meeting some or all of the following criteria:

1. Lands specifically identified for solar or wind energy development, outside designated leasing areas;
2. Previously disturbed sites or areas adjacent to previously disturbed or developed sites;
3. Lands currently designated as VRM Class IV; and
4. Lands identified as suitable for disposal in the BLM's land use plans.

The BLM may identify lands through the NEPA process that are suitable for solar or wind energy development, which are not designated leasing areas. Identified lands would include those which have: Been analyzed in a land use plan and are suitable for solar and wind energy development but were determined to not be made available competitively; received approval from the BLM for a similar development for which a right-of-way was never issued or the right-of-way was relinquished, or; been returned from a designated leasing area back to lands not identified for solar or wind energy completion.

VRM factors would address situations where the construction of solar or wind facilities would have low impacts to the environment and are in areas that have few or no resource values or areas needing protection from development. The VRM inventory process is a means to determine visual resource values. The VRM inventory consists of a scenic quality evaluation, sensitivity level analysis, and a delineation of distance zones. Based on these three factors, BLM-administered lands are placed into one of four VRM classes, with Classes I and II being the most valued, Class III representing a moderate value, and Class IV being of least value. The BLM assigns VRM classes through the land use planning process and these values can range from areas having few scenic qualities to areas with exceptional scenic quality.

Under the proposed rule, medium priority applications would be considered before low priority applications, based on the following criteria:

1. BLM special management areas that provide for limited development or where a project may adversely affect lands having value for conservation purposes, such as historical, cultural, or other similar values;
2. Right-of-way avoidance areas;
3. Sensitive plant or animal habitat areas; and
4. Lands designated as VRM Class III.

Low priority applications may not be feasible to authorize due to a high potential for conflict. Examples of applications that may be assigned low priority would involve:

1. Lands near or adjacent to areas designated by the Congress, the President, or the Secretary for the protection of various resource values;
2. Right-of-way exclusion areas;
3. Lands currently designated as VRM Classes I or II;
4. Lands currently designated as no surface occupancy areas; and
5. Lands designated as critical habitat for federally designated threatened or endangered species.

The heading for section 2805.10 would be revised to read, ''How will I know if BLM has approved or denied my application, or if my bid for a solar or wind energy development lease inside a designated leasing area is successful or unsuccessful?'' This section would be updated to reflect the new competitive process for lands inside designated leasing areas by

providing that a successful bidder for a solar or wind development lease on such lands would not have to submit an SF–299 application. Instead, in these circumstances, the successful bidder would have the option to sign the lease offered by the BLM.

Paragraph (a) of this section would contain the existing language that explains how the BLM would notify you about your application. It would add a new provision requiring that the BLM send the successful bidder a written response, including an unsigned lease for review and signature. Unsuccessful bidders would also be notified and any funds submitted with their bid would be returned. If an application is rejected, the applicant would still be required to pay any pre-application costs (paragraph 2804.10(a)(4)), filing fees (paragraph 2804.12(a)(8)), and any processing fee (section 2804.14).

Proposed paragraphs 2805.10(b), (b)(1), and (b)(2) would parallel existing paragraphs (a)(1) and (a)(2), and the content remains unchanged. These paragraphs describe the unsigned grant that the BLM would send for approval and signature.

Paragraph (b)(3) of this section would specify that the BLM may make changes to any grant or lease as a result of the periodic review of the grant or lease required by this section, including those issued under subpart 2809, in accordance with paragraph 2805.15(e). A more detailed discussion can be found under that section. This provision is necessary because many terms and conditions of leases issued under subpart 2809 would not be changed except as described in this rule. However, the terms and conditions in subpart 2809 may be changed in accordance with paragraph 2805.15(e) as a result of changes in legislation, regulation, or as otherwise necessary to protect public health or safety or the environment.

Proposed paragraphs 2805.10(c), 2805.10(d), 2805.10(d)(1), 2805.10(d)(2), and 2805.20(d)(3) would contain the language from existing paragraphs 2805.10(b) 2805.10(c), 2805.10(c)(1), 2805.10(c)(2), and 2805.20(c)(3). These provisions remain unchanged from existing regulations.

Existing paragraph 2805.11(b) explains how the duration of each potential right-of-way is determined. This paragraph would be revised to include specific terms for solar and wind energy authorizations because they are unique and different than other right-of-way authorizations.

Paragraph 2805.11(b)(2)(i) would limit the term for a site specific grant for testing and monitoring of wind energy potential to 3 years. Under this rule, this type of grant would only be issued for a single meteorological tower or wind study facility. This authorization cannot be renewed. If a holder of a grant wishes to keep their site for additional time, they must reapply.

Paragraph 2805.11(b)(2)(ii) would provide for an initial term of 3 years for project area wind energy testing. Such grants may include any number of meteorological towers or wind study facilities inside the right-of-way. Any renewal application must be submitted before the end of the third year. In order for the BLM to renew a permit, the project area wind testing grant holder must submit another application for wind energy development and a POD for that use. Renewals for project area wind testing grants may be authorized for one additional 3-year term.

Paragraph 2805.11(b)(2)(iii) would provide for a short-term grant for all other associated actions, such as geotechnical testing and other temporary land-disturbing activities, when the term is 3 years or less. A renewal of this grant may be issued under for an additional 3-year term.

Paragraph 2805.11(b)(2)(iv) would provide for an initial grant term of up to 30 years for solar and wind energy grants outside of designated leasing areas, with a possibility of renewal in accordance with paragraph 2805.14(g). A holder must apply for renewal before the end of the authorization term.

Paragraph 2805.11(b)(2)(v) would provide for a 30-year term for solar and wind energy development leases inside designated leasing areas. A holder may apply for renewal for this term and any subsequent terms of the lease before the end of the authorization and the renewal would be considered at that time by the BLM.

For all grants and leases under this section with terms greater than 3 years, the actual term period would include the number of full years specified, plus the initial partial year, if any. This provision differs from the grant term for rights-of-way authorized under the MLA (see the discussion of paragraph 2885.11 later in this preamble section) as FLPMA rights-of-way may be issued for terms greater than 30 years, while a MLA right-of-way may be issued for a maximum term of 30 years and a partial year would count as the first year of a grant.

Paragraph 2805.11(b)(3) contains the language from existing paragraph 2805.11(b)(2) and would require that grants and leases with terms greater than 3 years include the number of full years specified, plus the partial year, if any. This proposed change to existing BLM regulations would affect the duration of all right-of-way grants that are issued or amended after the final rule becomes effective. This change would provide specific direction for consistently calculating the term of a right-of-way grant or lease.

Section 2805.12 would provide a listing of terms and conditions to which all right-of-way holders must comply. This section has been reorganized in order to better present a large amount of information. Paragraph (a) of this section in the proposed rule would carry forward, without adjustment, most of the requirements from the existing section. Paragraph (b) of this section refers the reader to new section 2805.20, which explains bonding requirements for right-of-way holders. Paragraph (c) of this section contains specific terms and conditions for solar or wind energy right-of-way authorizations. The following discussion would apply only to those requirements that are proposed by this rule. All other requirements are part of the existing regulation and are not discussed in this preamble.

New paragraph 2805.12(a)(5) contains existing language from section 2805.12(e) with two small changes. The word ''phase'' would be changed to ''stage'' to prevent confusion with the use of ''phase-in of the MW capacity fee'' and similar phrases in this proposed rule. The proposed rule would also prohibit discrimination based on sexual orientation. Adding sexual orientation as a protected class in this regulation would be consistent with the policy of the Department of the Interior that no employee or applicant for employment be subjected to discrimination or harassment because of his or her sexual orientation. See 373 Departmental Manual 7 (June 5, 2013).

Paragraph 2805.12(a)(8)(v) would require compliance with project specific terms, conditions, and stipulations, including proper maintenance and repair of equipment during the operation of the grant. This is an existing policy requirement that affects all rights-of-way and would be clarified to include leases offered under new subpart 2809 and that the approved operations would not unnecessarily harm the public land by poor maintenance and operation activities. In addition, this provision would require a holder to comply with the terms and conditions in the POD. Any holder that does not comply with the POD approved by the BLM would be subject to remedial actions under existing section 2807.17, which may include the suspension or termination of the grant or lease.

In order to comply with the terms and conditions of the grant or lease, a developer may choose to modify, remove or add improvements to the project in order to remedy identified compliance matters. Proposed changes to the grant or lease, if approved by BLM, would be completed as discussed in section 2807.11 as a substantial deviation. Substantial deviations may require adjustment to a grant or lease rent and fees under part 43 CFR 2806, or bonding requirements under part 43 CFR 2805 and 2809 that reflect proposed changes that are approved by BLM.

New paragraph 2805.12(a)(15) would require that a grant holder or lessee provide or make available, upon the BLM's request, any pertinent environmental, technical, and financial records for inspection and review. Any information marked confidential or proprietary would be kept confidential to the extent allowable by law. Review of the requested records would facilitate the BLM's monitoring and inspection activities related to the development. The records would also be used to determine if the holder is complying with the requirements for holding a grant under existing paragraph 2803.10(b).

Paragraph 2805.12(b) would require that grant holders and lessees comply with the bonding requirements of new section 2805.20. The existing bonding requirements are lacking in detail and this new section would help clarify the requirements of a grant holder or lessee.

New paragraph 2805.12(c) would identify specific terms and conditions for grants and leases issued for solar or wind energy development, including those issued under subpart 2809, unless specifically noted.

New paragraph 2805.12(c)(1) would prohibit ground-disturbing activities until either a notice to proceed is issued under the authority of existing section 2807.10 or the BLM states in writing that all requirements have been met to begin construction. Requirements may include the payment of rents, fees, or monitoring costs and securing a performance and reclamation bond. The BLM would apply this requirement prohibiting ground-disturbing activities to all solar and wind rights-of-way due to the large-scale of most of these projects.

Paragraph 2805.12(c)(2) would require construction to be completed within the timeframes provided in the approved POD. Construction must begin within 24 months of the effective date of the grant authorization or within 12 months, if approved as a staged development. Further discussion of a staged development can be found under section 2806.50.

Paragraph 2805.12(c)(3) would require each stage of construction after the first begin within 3 years after construction began for the previous stage of development. Construction would be completed no later than 24 months after the start of construction for that stage of development. These time periods were selected after evaluating the timing of other completed wind energy development projects. These timeframes help to ensure that the public land is not unreasonably encumbered by these large authorizations, which are exclusive to other rights during the construction period of the project.

Paragraph 2805.12(c)(3)(iii) would limit the number of stages of development to three, unless the BLM's approval for additional stages is obtained in advance. The BLM would generally approve up to three stages for solar and wind energy development. Approval of additional stages may be requested by an applicant or holder, but must be accompanied with supporting discussion for why additional stages are necessary or reasonable. Each stage would require a review of records and a decision issued by the BLM to allow the construction of the next stage. Additional phasing could generate unnecessary work for the BLM.

Paragraphs (c)(4), (c)(5), and (c)(6) of this section would contain specific requirements for diligent development and the potential consequences of not complying with these requirements.

Paragraph 2805.12(c)(4) would require the holder to maintain all onsite electrical generation equipment and facilities in accordance with the design standards of the approved POD. This paragraph specifies requirements to comply with the POD that must be submitted under paragraph 2804.10(c)(4).

Paragraph 2805.12(c)(5) would provide requirements for repairing or removing damaged or abandoned equipment and facilities within 30 days of a notice from the BLM. The BLM would issue a notice of noncompliance under this provision only after identifying damaged or abandoned facilities that present an unnecessary hazard to the public health or safety or the environment for a continuous period of 3 months. Upon receipt of a notice of noncompliance under this provision, an operator would be required to take appropriate remedial action within 30 days, or show good cause for any delays. Failure to comply with these requirements may result in suspension or termination of a grant or lease.

Under paragraph 2805.12(c)(6), the BLM may suspend or terminate a grant if the holder does not comply with the diligent development requirements of the authorization.

Paragraph 2805.12(d) would describe specific requirements for wind energy site or project testing grants. These requirements include shorter time periods for beginning construction, because these grant terms are only 3 years or less. All facilities must be installed within 12 months after the effective date of the grant. All equipment must be maintained and failure to comply with any terms may result in termination of the authorization.

The BLM is proposing two new paragraphs for section 2805.14, both of which would address renewal applications. New paragraph (g) would provide that a holder of a solar or wind energy development grant or lease may apply for renewal under section 2807.22. New paragraph (h) would provide that a holder of a wind energy project area testing grant may apply for renewal of such a grant for up to an additional 3 years, provided that the renewal application also includes a wind energy development application. The BLM is proposing paragraph (h) to recognize that project area testing may be necessary for longer than an initial 3-year term even after an applicant believes that wind energy development at a proposed project site is feasible.

Under existing paragraph 2805.15(e), the BLM may change the terms and conditions of a grant as a result of changes in legislation, regulation, or as otherwise necessary to protect public health or safety or the environment. This paragraph remains unchanged and would apply to the leases issued under subpart 2809. The BLM must maintain the flexibility to adjust these leases for new laws and rules, as well as to protect the public lands. In section 2805.15, the word ''facilities'' would be added to the first sentence of paragraph (b) to clarify that the BLM may require common use of right-of-way facilities. The term ''facility'' is defined in the BLM's existing regulations at section 2801.5 and means an improvement or structure that would be owned and controlled by the grant holder or lessee. Common use of a right-of-way is when more than one entity uses the same area for their authorization. This revision would facilitate the cooperation and coordination between users of the public lands managed by the BLM so that resources are not unnecessarily impacted. An example of common use of a facility would be authorization for a roadway and an adjacent transmission

line. Maintenance of the transmission line would include use of the adjacent roadway. Under existing paragraph 2805.14(b), the BLM may authorize or require common use of a facility as a term of the grant. Under this existing provision, a grant holder may charge for the use of its facility. A reference to this paragraph is provided in the section proposed.

The table of monitoring categories in section 2805.16 would no longer have the dollar amounts for the 2005 category fees. Paragraph (b) explains that the current year's monitoring cost schedule is available from any BLM State, district, or field office, or by writing and would be adjusted for inflation annually using the same methodology as the table in paragraph 2804.14(b). The table now only includes the existing definition of the monitoring categories in terms of hours worked, instead of providing specific dollar amounts. This change was made to avoid either adjusting the table each year through a rulemaking or relying on outdated material. The current monitoring fee schedule may also be found at *http://www.blm.gov.* This paragraph also provides that you may pay directly to another Federal agency their incurred costs in monitoring your grant instead of paying the fee to the BLM.

New section 2805.20 would provide for the bonding requirements for all grant holders or lessees. This information would be moved from the existing section 2805.12. Bonds are required only at the BLM's discretion, but this expanded section explains the specifics should a bond be required. Specific bonding requirements for solar and wind energy development are also outlined in paragraphs (b) and (c) of this section.

New paragraph 2805.20(a) would provide that, if required by the BLM, you must obtain or certify that you have obtained a performance and reclamation bond or other acceptable bond instrument to cover any losses, damages, or injury to human health or damages to property or the environment in connection with your use of an authorized right-of-way. This paragraph includes the language from existing paragraph 2805.12(g), which is the section that details bonding requirements.

Paragraph 2805.20(a)(1) would require that bonds list the BLM as an additionally covered party if a State regulatory authority requires a bond to cover some portion of environmental liabilities. If the BLM were not named as an additionally covered party for such bonds, the BLM would not be covered by the instrument. This provision would allow the BLM to accept the State bond as satisfying a portion of the BLM's bonding requirement, thus limiting double bonding.

Under paragraph (a)(1)(i), the State's bond must be redeemable by the BLM. If such instrument is provided to the BLM and it is not redeemable, the BLM would be unable to use the bond for its intended purpose(s).

Under paragraph (a)(1)(ii), the State's bond must be held or approved by a State agency for the same reclamation requirements as the BLM requires.

Under paragraph (a)(1)(iii), the State's bond must provide the same or greater financial guarantee than the BLM requires for the portion of environmental liabilities covered by the State's bond.

Under paragraph 2805.20(a)(2) a bond must be approved by the BLM authorized officer. This approval ensures that the bond meets the BLM's standards. Under paragraph 2805.20(a)(3), the amount would be determined based on an RCE, and must also include the BLM's costs in administering a reclamation contract. As defined in section 2801.5, the RCE identifies an appropriate amount for financial guarantees for uses of the public lands. Both of these paragraphs contain a stipulation that they do not apply to leases issued under subpart 2809. Bonds issued under subpart 2809 for leases inside designated leasing areas have standard amounts. Bond acceptance and amounts for solar and wind energy facilities outside of designated leasing areas are discussed in paragraphs (b) and (c) of this section.

Proposed paragraph 2805.20(a)(4) would require that a bond be submitted on or before the deadline provided by the BLM. Current regulations have no such provision and this revision would enable the BLM to collect bonds in a timely manner. Timely submittal of a bond would promote efficient stewardship of the public lands and ensure that the bond amount provided would be acceptable to the BLM and available prior to beginning on-the-ground activities.

Paragraph 2805.20(a)(5) would outline the components to be addressed when determining a RCE. They include environmental liabilities, maintenance of equipment and facilities, and reclamation of the right-of-way. This paragraph consolidates and presents what liabilities the bond must cover.

Under paragraph 2805.20(a)(6), a holder of a grant or lease may ask the BLM to accept a replacement bond. The BLM must review and approve the replacement bond before accepting it. Should a replacement bond be accepted, the surety company for the old bond is not released from obligations that accrued while the old bond was in effect unless the new bond covers such obligations to the BLM's satisfaction. This gives the grant holder flexibility to find a new bond, potentially reducing their costs, while ensuring that the right-of-way is adequately bonded.

A holder of a grant or lease would be required to notify the BLM that reclamation has occurred under paragraph 2805.20(a)(7). If the BLM determines reclamation is complete, the BLM may release all or part of the bond that covers these liabilities. However, paragraph 2805.20(a)(8) reiterates that a grant holder is still liable in certain circumstances under existing section 2807.12. Despite the bonding requirements of this section, grant holders are liable if the BLM releases all or part of your bond, the bond amount does not cover the cost of reclamation, or even if no bond remains in place.

New paragraphs 2805.20(b) and 2805.20(c) would identify specific bond requirements for solar energy development and wind energy development, respectively, outside of designated leasing areas. Holders of a solar or wind energy grant outside of designated leasing areas would be required to submit an RCE to help the BLM determine the bond amount. The bond amount would be no less than $10,000 per acre for solar energy development grants and no less than $20,000 per authorized turbine for wind energy development grants. Bond amounts for short term grants for wind energy site or project testing would be no less than $2,000 per authorized meteorological tower. These minimum bond amounts for lands outside of designated leasing areas would be the standard bond amounts inside of designated leasing areas.

The BLM completed a recent review of existing bonded solar and wind energy projects and the BLM based the bond amounts in this proposed rule on the information discovered during this review. When determining these bond amounts, the BLM considered potential liabilities associated with the lands affected by the rights-of-way, such as cultural values, wildlife habitat, and scenic values. The range of costs included in this review represented the cost differences in performing reclamation activities for solar and wind energy developments throughout the various geographic regions the BLM manages. The BLM used this review to determine an appropriate bond amount to cover potential liabilities associated with solar and wind energy projects.

Minimum bond amounts were set for solar development for each acre of authorization because the activities authorized encumber 100 percent of the lands and are exclusive to other uses. The range of bond amounts for solar energy development was approximately $10,000 to $18,000 per acre of the rights-of-way on public lands. Minimum bond amounts for wind energy development were set for each wind turbine authorized on public land because the encumbrance is factored at 10 percent and is not exclusive to other uses. The review showed that the range of bond amounts for wind energy development varied between $22,000 and $60,000 per wind turbine.

The heading of section 2806.12 would be changed to ''When and where do I pay rent?'' New paragraph 2806.12(a) would describe the proration of rent for the first year of a grant. Specific dates are used for proration to prevent any confusion for grant holders or the BLM. Rent is prorated for the first partial year of a grant, since the use of public lands in such situations is only for a partial year. Paragraph (a)(2) of this section explains that if you have a short term grant, you may request that the BLM bill you for the entire duration of the grant in the first payment. Some short term grant holders may wish to pay this amount up front.

New paragraph (d) of section 2806.12 would direct right-of-way grant holders to make rental payments as instructed by the BLM or as provided for by Secretarial order or legislative authority. This provision acknowledges that the Secretary or Congress may take action that could affect rents and fees. The BLM would provide payment instructions for grant holders, which would include where payments may be made.

Section 2806.13 would be retitled ''What happens if I do not pay rents or fees or if I pay the rents or fees late?'' This change addresses the addition of new paragraph (e) that would provide authority for the BLM to retroactively bill for uncollected or under-collected rents and fees. The BLM would collect rent if: (1) A clerical error is identified; (2) A rental schedule adjustment is not applied; or (3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

Paragraph (a) of this section would be amended by removing language from the existing rule that a fee for a late rental payment may not exceed $500 per authorization. The BLM has determined that the current $500 limit is not a sufficient financial incentive to ensure the timely payment of rent. Therefore, under this proposed rule, late fees would be proportionate to late rental amounts. A penalty proportionate to the rental amount would provide more incentive for the timely payment of rents to the BLM. The BLM also added the term ''fees'' so the MW capacity fees for solar and wind energy development grants and leases may be retroactively collected.

New paragraph (g) of this section would allow the BLM to condition any further activities associated with the right-of-way on the payment of outstanding payments. The BLM believes that this consequence imposed for outstanding payments would be further incentive to timely pay rents to the BLM.

In section 2806.20, the address to obtain a current rent schedule for linear rights-of-way would be updated. District offices would also be added to State and field offices as a location at which you may request a rent schedule. These are minor corrections made to provide current information to the public.

A technical correction in 2806.22 would correct the acronym IPD–GDP, referring to the Implicit Price Deflator for Gross Domestic Product.

Section 2806.23 would be amended by removing paragraph (b), which refers to the 2-year phase-in of the linear rent schedule in 2009 and renumbering the existing paragraphs. This language would be removed since the phase-in for the updated rent schedule ended in 2011 and thus, is no longer applicable.

Paragraph 2806.24(c) would explain how the BLM prorates the first year rental amount. The proposed rule would add the option to pay rent for multiple year periods. The new language would require payment for the remaining partial year along with the first year, or multiples thereof, if proration applies.

Section 2806.30 would be amended by removing the communications site rent schedule table. The rent schedule may be found at section 2806.70. Paragraph (b) would be removed and paragraph (c) would be redesignated as new paragraph (b).

Paragraph 2806.30(a)(1) would be revised to update the mailing address. Paragraphs 2806.30(a)(2) would be revised by removing references to the table that would be removed. This paragraph would still describe the methodology for updating the schedule, but would direct the reader to the BLM's Web site or offices instead.

Paragraph 2806.34(b)(4) would be revised to fix a citation in the existing regulations that is incorrect.

Paragraphs 2806.43(a) and 2806.44(a) would each be revised by changing the cross-reference from section 2806.50 to section 2806.70. Section 2806.50 would be redesignated as section 2806.70 and these citations must be updated to reflect this change.

Sections 2806.50 and 2806.60 would provide new rules for the rents and fees of solar and wind energy development, respectively. The rents and fees described in these sections, along with the bidding process, would help the BLM receive fair market value for the use of the public lands. There are similarities between rents for solar and wind, as well as between rents for lands inside and outside of designated leasing area. These similarities are discussed below and include acreage and MW capacity fees, phase-ins, and adjustments. For some of these, several components comprise a single element of the rent and will be discussed here. Where there are differences in the solar rent provisions, they are discussed in sections 2806.52 and 2806.54, and for wind rents, they are discussed in sections 2860.62 and 2860.64. The differences between inside and outside of designated leasing areas will be identified and discussed in the section-by-section analysis.

Section 2806.50 would be retitled ''Rents for solar energy rights-of-way.'' The existing regulation at section 2806.50 would be redesignated as new section 2806.70. Revised section 2806.50 would require a holder of a solar energy right-of-way authorization to pay annual rent for right-of-way authorizations both inside and outside of a designated leasing area. Those right-of-way holders with authorizations located outside a designated leasing area would pay rent for a grant and those right-of-way holders with authorizations inside designated leasing areas would pay rent for a lease. Rent for both types of right-of-way authorizations would consist of an acreage rent and MW capacity fee. The acreage rent would be paid in advance, prior to the issuance of an authorization, and the MW capacity fee would be phased-in. Initial acreage rent and MW capacity fee would be calculated, charged, and prorated consistent with right-of-way requirements at sections 2806.11 and 2806.12. Rent for solar authorizations would vary depending on the number of acres, technology of the solar development, and whether the right-of-way authorization is a grant or lease.

New section 2806.52 would be titled ''Rent for solar energy development grants.'' This section would require a grant holder to pay rent annually based on the acreage rent and MW capacity fee.

New paragraph 2806.52(a), ''Acreage rent,'' would describe the per-acre

county rate, acreage rent payment, and adjustments for solar grants. Acreage rent, as defined in section 2801.5, means rent assessed for solar energy development grants and leases that is determined by the number of acres authorized for the grant or lease times the per-acre county rate.

Under new paragraph 2806.52(a)(1), the acreage rent would be calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per-acre county rate in effect at the time the authorization is issued. Under paragraph 2806.52(a)(1), the initial per-acre county rate would be established at double the per-acre rent value for each respective county using the BLM's linear rent schedule (see paragraph 2806.20(c)). The per-acre county rates used for linear right-of-way grants reflect a 50 percent encumbrance factor, while a 100 percent encumbrance factor is used to determine acreage rent for solar energy right-of-way authorizations since solar energy facilities generally encumber 100 percent of the authorized acreage to the exclusion of other public land uses. Therefore, doubling the per-acre county rate for linear rights-of-way would reflect the 100 percent encumbrance of solar energy development. An annual adjustment would be made to the per-acre county rates based upon the IPD–GDP, as determined under existing paragraph 2806.22(a). These adjusted rates would be effective on January 1 of each year. A copy of the per-acre county rates for solar energy development would be made available by the BLM upon request.

Acreage rent example: The 2012 acreage rent for a 4,000 acre solar energy development grant in Clark County, Nevada is $782,240 (4,000 acres × $195.56 per acre) while the 2013 acreage rent would be $797,120 (4,000 acres × $199.28 per acre) to reflect the 1.9 percent annual acreage rent adjustment.

New paragraph 2806.52(a)(2) would provide that acreage rent would be required each year, regardless of the stage of development or status of operations of a grant. Acreage rent would be paid for the public land acreage described in the right-of-way grant prior to issuance of the grant and prior to the start of each subsequent year of the authorized term. There is no phase-in period for acreage rent, which must be paid initially upon issuance of the grant. A rental payment plan may be requested and approved by the BLM State Director consistent with section 2806.15(c).

New paragraph 2806.52(a)(3) would provide that the BLM would adjust the per-acre county rates each year based on the average annual change in the IPD–GDP as determined under paragraph 2806.22(a). The acreage rent also would adjust each year for solar energy development grants outside designated leasing areas. The BLM would use the most current per-acre county rates to calculate the acreage rent for each year of the grant term. The BLM posts the current per-acre county rates for solar energy development grants and leases at *http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.*

New paragraph 2806.52(b), ''MW capacity fee'' would describe the components used to calculate the MW capacity fee. Paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) explain the MW rate, MW rate schedule, adjustments to the MW rate, and the phase-in of the MW rate.

The MW capacity fee, as defined in section 2801.5, would mean fees paid, in addition to the acreage rent, for solar energy development grants and leases based on the approved MW capacity of the solar energy authorization. The MW capacity fee captures the value of the increased industrial use of the right-of-way, above the limited rural or agricultural land value captured by the acreage rent schedule. The MW capacity fee would vary depending on the size and type of solar project and technology and whether the solar energy right-of-way authorization is a grant (if located outside a designated leasing area) or a lease (if located inside a designated leasing area). The MW capacity fee is paid annually when electricity generation begins or as approved, within the approved POD, whichever comes first. If the electricity generation does not begin on or before the time approved in the POD, the BLM will begin charging a MW capacity fee at the time identified in the POD.

The POD submitted to the BLM would identify the stages of development for the solar or wind energy project's energy generation. The POD stages would describe development steps for the solar or wind energy facility and the time by which energy operations would begin. Each step of development would generally separate the project into a different energy development stage. The POD and its stages represent the agreed-to understanding between the grant holder and the BLM of what the status of the facility would be at any given point in time after lease or grant issuance. The BLM would generally allow up to three development stages for a solar energy project. As the facility becomes operational, the approved MW capacity would increase as would be described in the POD. These stages are part of the approved POD and would allow the BLM to enforce the diligence requirements associated with the grant.

The ''MW capacity fee'' is the total authorized MW capacity approved by the BLM for the project, or an approved stage of development, multiplied by the appropriate MW rate. The MW capacity fee is prorated and would be paid for the first partial calendar year in which generation of electricity starts or when identified within an approved POD.

New paragraph 2806.52(b)(1) would identify the ''MW rate'' as a formula that is the product of four components: The hours per year multiplied by the net capacity factor, multiplied by the MWh price, multiplied by the rate of return. This can be represented by the following equation: MW Rate = H (8,760 hrs) × N (net capacity factor) × MWh (Megawatt Hour price) ×R (rate of return). The components of this formula are discussed here at greater length.

Hours per year. This component of the MW rate formula is the fixed number of hours in a year (8,760). The BLM would use this number of hours per year for both standard and leap years.

Net capacity factor. The net capacity factor is the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. A net capacity factor is used to identify the efficiency at which a project operates. The net capacity factor is influenced by several common factors such as geographic location and topography and the technology employed. Other factors can influence the specifics of a project's net capacity factor. For example, placement of a solar panel in the direction that captures the most sun may increase the efficiency at which a project operates. These other factors tend to be specifically related to a project and its design and layout. An increase in the net capacity factor is most readily seen when a developer sites a project geographically for the energy source they are seeking and utilizes the best technology for harnessing the power. An example of this would be placing wind turbines in a steady wind speed location with a wind turbine designed for optimal performance at those wind speeds.

The efficiency rates may vary by location for each specific project, but the BLM proposes to use the national average for each technology. Efficiency rates for solar and wind energy technology can be found in the market reports provided by the DOE through its Lawrence Berkeley National Laboratory. For solar energy see ''Utility-Scale Solar

2012'' at *http://emp.lbl.gov/sites/all/files/lbnl-6408e_0.pdf,* and for wind energy, please see ''2012 Wind Technologies Market Report'' at *http://emp.lbl.gov/sites/all/files/lbnl-6356e.pdf.* This proposed rule would establish the net capacity factor for each technology as follows:

Technology type	Net capacity factor (percent)
Photovoltaic (PV)	20
Concentrated Photovoltaic (CPV) or Concentrated Solar Power (CSP)	25
CSP w/Storage Capacity of 3 Hours or More	30
Wind Energy	35

The BLM would periodically review the efficiency factors for the various solar and wind technologies, but would not adjust this component of the MW rate formula except through new rulemaking. The BLM is considering basing the net capacity factors for these technologies on an average of the annual capacity factors listed by the EIA. This would allow the BLM to regularly update these factors absent rulemaking. Please specifically comment on whether and how the BLM could use the EIA's data to determine the net capacity factors. The EIA posts an average of the capacity factors on its Web site at *http://www.eia.gov/electricity/monthly/epm_table_grapher.cfm?t=epmt_6_07_b.* Basing the net capacity factors for these technologies on EIA's posted averages would allow the BLM to adjust these factors without future rulemakings.

MWh price. This component of the MW rate formula is the 5-year average of the annual weighted average wholesale prices per MWh for the major ICE trading hubs serving the 11 Western States of the continental United States. This wholesale price of the ICE trading hubs is the price paid for energy on the open market between power purchasers and is an indication of current pricing for the purchase of power.

The wholesale price of electricity is tracked daily on the ICE and is readily accessible at *https://beta.theice.com/marketdata/reports/ReportCenter.shtml.* Should the ICE or its successor in interest discontinue tracking the wholesale price of electricity, the 5-year average of the annual weighted average wholesale price per MWh would be calculated using comparable market prices.

Pricing may be based upon a daily high and low value, as well as an average value. When determining the proposed MWh price, the BLM used the yearly average value for each of the trading hubs that cover the BLM public lands in the West. The BLM then averaged the yearly hub values for the most recent 5-year timeframe to establish the annual weighted average wholesale prices per MWh, which is in turn used to determine the MWh price. The MWh price would be initially established at $45 per MWh which for the years 2008 through 2012, is rounded up to the nearest five dollar increment.

ANNUAL WEIGHTED AVERAGE WHOLESALE PRICE PER MWH BY TRADING HUB

Year	Mid-Columbia hub	Paloverde hub	Four Corners hub	Mead hub	SP15–EZ CA hub *	NP15 Hub	California Oregon border hub	West US	5-yr. average
2008	$65.32	$72.43	$72.46	$76.15	$81.20	.....	$74.54	$73.68	.....
2009	35.85	34.90	35.60	36.70	38.24	39.22	38.28	36.97	.....
2010	35.88	38.84	40.13	40.16	40.41	40.29	38.87	39.23	.....
2011	29.42	36.31	36.66	37.02	36.39	36.29	32.86	34.99	.....
2012	22.78	29.65	30.59	30.97	35.41	32.74	26.96	29.87	42.95

Rate of return. The rate of return component used in the MW rate schedule reflects the relationship of income (to the property owner) to revenue generated from authorized solar or wind energy development facilities on the encumbered property. A rate of return for the developed land can vary from 7 percent to 12 percent and is typically around 10 percent, as is identified in the market study completed by the Office of Valuation Services. These rates take into account certain risk considerations, i.e., the possibility of not receiving or losing future income benefits, and do not normally include an allowance for inflation.

A holder seeking a right-of-way from the BLM must show that it is financially able to construct and operate the facility. In addition, the BLM may require surety or performance bonds from the holder to facilitate a right-of-way's compliance with the terms and conditions of the authorization, including any rental obligations. This reduces the risk and should allow the BLM to utilize a ''safe rate,'' i.e., the prevailing rate on guaranteed government securities that include an allowance for inflation. Therefore, the BLM proposes to establish a rate of return that adjusts every 5 years to reflect the preceding 10-year average of the 20-year U.S. Treasury bond yield, rounded up to the nearest one-half percent, with a minimum rate of 4 percent. Applying this criterion, the initial rate of return is 4.5 percent (the 10-year average of the 20-year U.S. Treasury bond yield (4.3 percent), rounded up to the nearest one-half percent). As provided under paragraph (b)(2) of this section, the MW rate schedule is made available to the public in the MW Rate Schedule for Solar and Wind Energy Development. The MW rate schedule is available to the public at any BLM office, via mail by request, or at *http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.*

MW RATE SCHEDULE FOR SOLAR AND WIND ENERGY DEVELOPMENT

[2014–2018]

Type of energy technology	Hours per year	Net capacity factor	MWh Price	Rate of return	MW Rate 2014—2018
Solar—Photovoltaic (PV)	8,760	0.20	$45	0.045	$3,548
Solar—Concentrated photovoltaic (CPV) and concentrated solar power with less than 3 hours of storage capacity (CSP)	8,760	0.25	45	0.045	4,435

MW RATE SCHEDULE FOR SOLAR AND WIND ENERGY DEVELOPMENT—Continued

[2014–2018]

Type of energy technology	Hours per year	Net capacity factor	MWh Price	Rate of return	MW Rate 2014—2018
Solar—Concentrated solar power with storage capacity of 3 hours or more (CSP w/storage)	8,760	0.30	45	0.045	5,322
Wind—All technologies	8,760	0.35	45	0.045	6,209

Periodic adjustments in the MW rate are discussed under paragraph 2806.52(b)(3). Under this rule, adjustments to the MW rate would occur every 5 years by recalculating the MWh price as provided in paragraph 2806.52(b)(3)(i) and by recalculating the rate of return as provided in paragraph 2806.52(b)(3)(ii). The MWh price and the rate of return would be recalculated for the next 5-year period starting in 2020.

In paragraph 2806.52(b)(3)(i), the MWh price would be initially at $45 per MWh for calendar years 2014 through 2018. However, the MWh price of electricity would be recalculated every 5 years beginning in 2018, by determining the 5-year average of the annual weighted average wholesale price per MWh for the major ICE trading hubs serving the 11 Western States of the continental United States for the years 2013 through 2017, rounded to the nearest five-dollar increment. The resulting MWh price would be used to determine the MW rate for each subsequent 5-year interval. The availability of data on which the MWh price would be based is discussed in this preamble in the discussion of section 2801.5.

In paragraph 2806.52(b)(3)(ii), the rate of return is initially established at 4.5 percent, which is the 10-year average (2003 through 2012) of the 20-year U.S. Treasury bond yield (4.3 percent), rounded up to the nearest one-half percent (4.5 percent). The rate of 4.5 percent would be used for calendar years 2014 through 2018. However, the rate of return would be recalculated every 5 years beginning in 2018, by determining the 10-year average of the 20-year U.S. Treasury bond yield for calendar years 2008 through 2017, rounded up to the nearest one-half percent. The resultant rate of return, of not less than four percent, would be used to determine the MW rate for calendar years 2019 through 2023, and so forth. The 20-year U.S. Treasury bond yields are tracked daily and are readily accessible at *http://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=longtermrateAll.*

To allow for a reasonable and diligent testing and operational period, under paragraph 2806.52(b)(4)(i), the BLM would provide for a 3-year phase-in of the MW capacity fee. This would apply after the start of generation operations for solar energy development grants outside designated leasing areas, at the rates of 25 percent for the first year, 50 percent the second year, and 100 percent the third and subsequent years of operations. The first year is the first partial calendar year of operations and the second year is the first full year. For example, if a facility begins producing electricity in June 2014, 25 percent of the capacity fee would be assessed for June through December of 2014 and 50 percent of the capacity fee would be assessed for January through December of 2015. One hundred percent would be assessed thereafter.

Under paragraph 2806.52(b)(4)(ii), the proposed rule further explains the staged development of a right-of-way. Such staged development, consistent with the proposed rule in paragraph 2805.12(c)(3)(iii), would have no more than three development stages, unless the BLM approves more development stages in advance. The 3-year phase-in of the MW rate applies individually to each stage of the solar development. The MW capacity fee is calculated using the authorized MW capacity approved for that stage multiplied by the MW rate for that year of the phase-in, plus any previously approved stages multiplied by the MW rate.

New section 2806.54 would be titled ''Rents and fees for solar energy development leases inside designated leasing areas.'' The introductory paragraph to section 2806.54 requires a holder of a solar energy lease obtained through the competitive process under subpart 2809 to pay an annual acreage rent and MW capacity fee. The acreage rent would be paid in advance, prior to issuing a lease, and the MW capacity fee would be phased-in and calculated upon the total authorized MW capacity of the solar energy development. Rent or fees for solar authorizations would vary depending on the number of acres, technology of the solar development, and whether the right-of-way authorization is a grant or lease.

There are many similarities in the rent for leases and grants for solar development. This section would reference the rent of grants outside of designated leasing areas as appropriate and provide further discussion where the rent for a lease differs from that of a grant.

Paragraph (a) of this section identifies the acreage rent for a solar lease, which would be calculated in the same way as acreage rent for solar grants outside a designated leasing area (see paragraph 2806.52(a)). The acreage rent amount for a lease would be calculated and paid prior to issuing a lease. County rates and payment of the acreage rent are the same for leases as they are for grants. For the per-acre county rates, see paragraph 2806.52(a)(1). For the acreage rent payment, see paragraph 2806.52(a)(2).

New paragraph 2806.54(a)(3) describes the adjustments to the acreage rent that would be made for a lease. Once the acreage rent is determined for a lease under paragraph (a) of this section, no further adjustments in the annual acreage rent would be made for 10 years and each subsequent 10-year period after that. The first acreage rent adjustment would not be made until year 11 of the lease term, and the next adjustment would not be made until year 21 of the lease term, ending on year 30 of the lease. During the 10-year periods, the acreage rent would remain constant and not be adjusted. The BLM would adjust the per-acre county rates each year based on the average annual change in the IPD–GDP, as determined under paragraph 2806.22(a). Due to the IPD–GDP adjustment, the per-acre county acreage rent also adjusts each year. The BLM would use the most current per-acre county rates to calculate the acreage rent for the next 10-year period of the lease.

Paragraph (b) of this section would identify the MW capacity fee for solar development leases, which is to be calculated in the same way as the MW capacity fee for solar grants outside a designated leasing area. The phase-in of the MW capacity fee is different from grants and is described below. For the MW rate, see paragraph 2806.52(b)(1). For the MW rate schedule, see paragraph 2806.52(b)(2). For periodic

adjustments in the MW rate, see paragraph 2806.52(b)(3).

New paragraph 2806.54(c) would describe the MW rate phase-in for solar energy development leases. The MW rate in effect at the time the lease is issued will be used for the first 20 years of the lease. The MW rate in effect in year 21 of the lease will be used for years 21–30 of the lease.

Paragraph (c)(1) would provide for a 10-year phase-in of the MW capacity fee, plus the initial partial year, if any. The MW capacity fee would be calculated by multiplying the authorized MW capacity by 50 percent of the MW rate for the applicable type of solar technology employed by the project. The MW rate schedule is provided for under paragraph 2806.52(b)(2). The phase-in proposed for solar leases identified would be applied to the MW rate for either solar or wind energy leases (see paragraph 2806.64(c)).

New paragraph 2806.54(c)(2) would apply to the MW rate phase-in for years 11 through 20 of the lease. The MW capacity fee for years 11 through 20 would be calculated by multiplying the MW capacity by 100 percent of the MW rate.

New paragraph 2806.54(c)(3) would apply to the MW rate for years 21 through 30 of the lease. The MW capacity fee for years 21 through 30 would be calculated by multiplying the MW capacity by 100 percent of the MW rate.

If the POD identifies that electricity generation would begin after year 10 of the lease, the MW capacity fee would be calculated under paragraph 2806.54(c)(2) or 2806.54(c)(3), as appropriate.

New paragraph 2806.54(c)(4) would describe the MW capacity fee of the lease if it were to be renewed. The MW capacity fee would be calculated using the current MW rates at the beginning of the new lease period and remain at that rate through the initial 10-year period of the renewal term. The MW capacity fee would be adjusted using the current MW rate at the beginning of each subsequent 10-year period of the renewed lease term.

Under paragraph 2806.54(c)(5), the proposed rule provides for staged development of leases. Such staged development, consistent with proposed paragraph 2805.12(c)(3)(iii), would have no more than three development stages unless the BLM approved more development stages in advance. The MW capacity fee would be calculated using the authorized MW capacity approved for that stage multiplied by the MW rate for that year of the phase-in, plus any previously approved stages multiplied by the MW rate as described in paragraph 2806.54(c).

MW capacity fee-example 1: The MW capacity fee for a 400–MW photovoltaic solar energy right-of-way grant would be $1,419,200 per year (400 MW × $3,548 per MW), implemented over a 3-year period after the start of electricity generation. In the first partial year after start of generation in July for a solar energy right-of-way, the MW capacity fee would be $177,400 (400 MW × $3,548 per MW × 25 percent × 0.5 year); in the second year after the start of electricity generation, the MW capacity fee would be $709,600 (400 MW × $3,548 per MW × 50 percent × 1.0 year); and in the third year after the start of electricity generation, and each year thereafter, the MW capacity fee would be $1,419,200 per year (400 MW × $3,548 per MW × 1 year).

MW capacity fee-example 2: The MW capacity fee for a 400 MW concentrated PV or concentrated solar power right-of-way grant with less than 3 hours of storage capacity would be $1,774,000 per year (400 MW × $4,435 per MW), implemented over a 3-year period after the start of electricity generation. In the first partial year assuming the start of electricity generation in January for a solar energy right-of-way, the MW capacity fee would be $443,500 (400 MW × $4,435 per MW × 25 percent × 1 year); in the second year after the start of electricity generation, the MW capacity fee would be $887,000 (400 MW × $4,435 per MW × 50 percent × 1 year); and in the third year after start of generation and each year thereafter, the MW capacity fee would be $1,774,000 per year (400 MW × $4,435 per MW × 1 year).

MW capacity fee—example 3: The MW capacity fee for a 400 MW concentrated solar power right-of-way grant with a storage capacity of 3 hours or more would be $2,128,800 per year (400 MW × $5,322 per MW), implemented over a 3-year period after the start of electricity generation. Assuming generation began in January, in the first partial year after the start of electricity generation, the MW capacity fee would be $532,200 for a solar energy right-of-way (400 MW × $5,322 per MW × 25 percent × 1 year); in the second year after the start of electricity generation, the MW capacity fee would be $1,064,400 (400 MW × $5,322 per MW × 50 percent × 1 year); and in the third year after the start of electricity generation, and each year thereafter, the MW capacity fee would be $2,128,800 per year (400 MW × $5,322 per MW × 1 year).

Acreage rent and MW capacity fee example for a solar energy development grant: The annual acreage rent and MW capacity fee for 2014 for a 400 MW photovoltaic solar energy development grant located on 4,000 acres in Clark County, NV after the phase-in period would be $2,231,480. (The acreage rent of $812,280 (4,000 acres × $203.07 per acre) plus the MW capacity fee of $1,419,200 (400 MW × $3,548 per MW) equals $2,231,480).

New section 2806.56 would be titled ''Rent for support facilities authorized under separate grant(s).'' Under this section, support facilities for solar development would be authorized under a grant. Support facilities could include administration buildings, groundwater wells, and construction laydown and staging areas. Rent for support facilities authorized under separate grants would be determined using the Per Acre Rent Schedule for linear facilities under existing paragraph 2806.20(c).

New section 2806.60 would be titled ''Rents and fees for wind energy rights-of-way.'' Section 2806.60 would require a holder of a wind energy right-of-way authorization to pay annual rent for right-of-way authorizations both inside and outside of a designated leasing area. Holders of right-of-way authorizations that are located outside of a designated leasing area would pay rent for a grant and holders of right-of-way authorizations that are inside designated leasing areas would pay rent for a lease. Rent for both right-of-way authorizations are the same as that for solar energy rights-of-way under section 2806.50 and would consist of an acreage rent and MW capacity fee.

As noted earlier in this preamble, there are similarities between rents and fees for solar and wind, as well as between rents and fees for lands inside and outside of designated leasing areas. The BLM intentionally designed the rents and fees for solar and wind to match as closely as possible in order to reduce the potential for confusion and misunderstanding of the requirements. The methodology for calculating rents, fees, phase-ins, adjustments, and rate proration are the same for wind as for solar. Many of the terms and conditions of a lease issued under this subpart would also be the same.

Many wind energy rent and fee provisions have identical parallels in the solar energy rent and fee provisions. This analysis will reference the solar energy rent and fee discussion when appropriate and highlight the differences between the regulations for wind and solar rents and fees.

New section 2806.62 parallels proposed section 2806.52, which discusses rents and fees for solar energy development grants. The discussion on all components of the wind energy development grant duplicate the provisions for solar rents and fees, except for paragraph (a)(1) which discusses the per-acre county rates.

Paragraph 2806.62(a) would address the acreage rent for wind energy development. See paragraph 2806.52(a) for a discussion of acreage rent.

New paragraph 2806.62(a)(1) addresses per-acre county rates for wind energy development grants. The methodology for calculating the acreage rent is the same for wind as it is for solar, but wind and solar energy have different encumbrance factors. Solar energy projects encumber 100 percent of the land, while wind energy projects generally only encumber 10 percent of the land. The per-acre county rate is calculated using the BLM's linear rent schedule, which is based on a 50-percent encumbrance factor. While the per-acre county rate for solar would be 200 percent of the linear rent schedule (to represent 100 percent encumbrance), the per-acre county rate for wind energy would be 20 percent of the linear rent schedule (to represent 10 percent encumbrance).

The following chart lists the paragraphs where the wind energy provision parallels the solar energy provision for the same topic. The discussion for each relevant wind energy provision can be found in the preamble under the associated solar energy provision.

Topic	Wind	Solar
Acreage Rent Payments	43 CFR 2806.62(a)(2)	43 CFR 2806.52(a)(2).
Acreage Rent Adjustments	43 CFR 2806.62(a)(3)	43 CFR 2806.52(a)(3).
MW Capacity Fee	43 CFR 2806.62(b)	43 CFR 2806.52(b).
MW Rate	43 CFR 2806.62(b)(1)	43 CFR 2806.52(b)(1).
MW Rate Schedule	43 CFR 2806.62(b)(2)	43 CFR 2806.52(b)(2).
MW Rate Adjustments	43 CFR 2806.62(b)(3)	43 CFR 2806.52(b)(3).
MW Rate Formula	43 CFR 2806.62(b)(3)(i)	43 CFR 2806.52(b)(3)(i).
Rate of Return	43 CFR 2806.62(b(3)(ii)	43 CFR 2806.52(b)(3)(ii).
MW Rate Phase-in	43 CFR 2806.62(b)(4)	43 CFR 2806.52(b)(4).

Paragraph 2806.62(b)(4)(i) would address the term of the MW rate phase-in. Paragraphs (A), (B) and (C) of this section address the percentages of the phase-in. See paragraph 2806.52(b)(4)(i) for a discussion of the term of the MW rate phase-in and its paragraphs (A), (B) and (C) for the percentages of the phase-in.

Paragraph 2806.62(b)(4)(ii) would address the MW rate phase-in for a staged development. Paragraph (A) of this section addresses the percentages of the phase-in and paragraph (B) addresses the calculation of the rent for the phase-in of a staged development. See paragraph 2806.52(b)(4)(ii) for a discussion of the MW rate phase-in for a staged development, its paragraph (A) for the percentages of the phase-in, and its paragraph (B) for the calculation of the rent for the phase-in of a staged development.

New section 2806.64 would be titled ''Rent for wind energy development leases inside designated leasing areas.'' See section 2806.54 for a discussion of all components of rent for a wind energy development grant, except for paragraph (a)(1), which discusses the per-acre county rates, which do not apply to wind energy development grants and leases. Paragraph 2806.64(a) addresses the acreage rent for wind energy leases. See paragraph 2806.54(a) for a discussion of acreage rent.

New paragraph 2806.64(a)(1) would address per-acre county rates for wind energy leases. See paragraph 2806.62(a)(1) for a discussion of acreage rent, which differs from solar energy development. The per-acre rents would be calculated using the methodology discussed in paragraph 2806.62(a)(1), which reflects the 10 percent encumbrance factor of wind energy development.

The following chart lists the paragraphs where the wind energy provision parallels the solar energy provision for the same topic. The discussion for each relevant wind energy provision can be found in the preamble under the associated solar energy provision.

Topic	Wind	Solar
Acreage Rent Payments	43 CFR 2806.64(a)(2)	43 CFR 2806.54(a)(2).
Acreage Rent Adjustments	43 CFR 2806.64(a)(3)	43 CFR 2806.54(a)(3).
MW Capacity Fee	43 CFR 2806.64(b)	43 CFR 2806.54(b).
MW Rate	43 CFR 2806.64(b)(1)	43 CFR 2806.52(b)(1).
MW Rate Schedule	43 CFR 2806.64(b)(2)	43 CFR 2806.52(b)(2).
MW Rate Adjustments	43 CFR 2806.64(b)(3)	43 CFR 2806.52(b)(3).
MW Rate Phase-in	43 CFR 2806.64(c)	43 CFR 2806.54(c).
Years 1–10	43 CFR 2806.64(c)(1)	43 CFR 2806.54(c)(1).
Years 11–20	43 CFR 2806.64(c)(2)	43 CFR 2806.54(c)(2).
Years 21–30	43 CFR 2806.64(c)(3)	43 CFR 2806.54(c)(3).
MW Capacity Fee if Renewed	43 CFR 2806.64(c)(4)	43 CFR 2806.54(c)(4).
MW Capacity for a Staged Development	43 CFR 2806.64(c)(5)	43 CFR 2806.54(c)(5).
Rent for Support Facilities	43 CFR 2806.66	43 CFR 2806.56.

New paragraph 2806.68(a) would describe the rent for a wind energy site-specific testing grant. A minimum rent would be established as $100 per year for each grant issued. Under this section, rent is set by carrying forward the site-specific rent amount from existing IM 2009–043, Wind Energy Development Policy, established by the BLM and described further as follows. Site specific grants are only authorized for one site and would not allow

multiple sites to be authorized under a single grant; however, a single entity may hold more than one grant. If a BLM office has an approved small site rental schedule, that office may use the rent amount established in the small site rental schedule, if the rent in the schedule charges more than the $100 minimum rent per year. Small site rental schedules are provided to the BLM from the Office of Valuation Services and are an appraised valuation of the land. Such schedules are a determination of market value. In lieu of annual payments for a site specific wind testing grant, a grant holder may pay for the entire 3-year term of the grant. See paragraphs 2801.9(d)(1) and 2805.11(b)(2)(i) for further discussion of site-specific wind energy testing grants.

New paragraph 2806.68(b) would describe the rent for a wind energy project area testing grant. A per-year minimum rent would be established at $2,000 per authorization or $2 per acre for the lands authorized by the grant, whichever is greater. Existing rent for wind energy project area testing grants is at a lower rate than proposed in this rule. The appraisal consultation report by the Office of Valuation Services supports the rent established as proposed. Project area grants may authorize multiple meteorological or instrumentation testing sites. There is no additional charge or rent for the number of sites authorized under such grants. See paragraphs 2801.9(d)(2) and 2805.11(b)(2)(ii) for further discussion of project area wind energy testing grants.

New section 2806.70 would be a revision of existing section 2806.50 and would be retitled ''How will BLM determine the rent for a grant or lease when the rent schedules do not apply?'' This section would provide guidance on how the BLM would determine the rent for a grant or lease when the linear rent schedule, the communication use rent schedule, the solar rental provisions, or the wind rental provisions are not applicable. The only change to this redesignated paragraph is that solar and wind energy rights-of-way are included in the listed rent schedules.

Section 2807.11 would be updated to clarify requirements for changing a right-of-way grant. Under the proposed changes to paragraph 2807.11(b), substantial deviations would require an amendment to a right-of-way grant. Substantial deviations include changing the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in use for the right-of-way. Substantial deviations to a grant may require adjustment to a grant or lease rent and fees under part 43 CFR 2806, or bonding requirements under part 43 CFR 2805 and 2809 that reflect proposed changes that are approved by BLM.

New paragraph (d) of this section would require you to contact the BLM when site-specific circumstances or conditions arise resulting in the need for changes to an approved right-of-way grant, POD, site plan, or other procedures that are not substantial deviations in location or use. Examples of minor deviations would be slight changes in location of improvements in the POD or design of facilities that are all within the existing boundaries of an approved right-of-way. Other such nonsubstantial deviations may include the modification of mitigation measures or project materials. Project materials would include the POD, site plan, and other documents that are created or provided by a grant holder. These project materials are a basis for the BLM's inspection and monitoring activities and are often appended to a right-of-way grant. The requested changes would be considered as grant or lease modification requests. Each nonsubstantial deviation would require review and approval by the authorized officer. New paragraph (e) would require right-of-way holders to contact the BLM to correct discrepancies or inconsistencies.

New paragraph 2807.17(d) would consist of the provisions from existing section 2809.10. This language would be moved to section 2807.17 in order to make room for the renewable energy right-of-way leasing provisions.

The title of existing section 2807.21 would be changed to ''May I assign or make other changes to my grant or lease?'' The existing regulations should, but do not, cover all instances where an assignment is necessary and the section also needs to be revised to address situations in which assignments are not required. The proposed changes are necessary to: (1) Add and describe additional changes to a grant other than assignments; (2) Clarify what changes would require an assignment; and (3) Specify that right-of-way leases issued under part 2809 are subject to the regulations in this section. Without the BLM's approval of a right-of-way grant assignment, a private party's business transaction would not be recognized and this lack of recognition could hinder a new holder's management and administration of a right-of-way grant. This rule would clarify the responsibilities of a grant holder should such private party transactions occur.

The proposed rule would add to paragraph (a) two events that may necessitate an assignment: (1) A voluntary transfer by the holder of any right or interest in the right-of-way grant to a third party (e.g., a change in ownership); and (2) A change in control involving the right-of-way grant holder such as a corporate merger or acquisition.

New paragraph (b) would clarify that a change in the holder's name only does not require an assignment and new paragraph (c) would clarify that changes in a holder's articles of incorporation do not require an assignment. As a result, the potential costs of an assignment would not be involved with a name change or the change in the articles of incorporation.

Existing paragraph (b) would be revised and redesignated as new paragraph (d). As revised, this provision would require a potential assignee to pay application fees in addition to processing fees. This revision would establish consistency between applications for assignments and other applications for rights-of-way. For example, this proposed rule (at section 2804.12(a)(8)) would require a nonrefundable application filing fee for solar and wind energy applications. As revised, paragraph (d) would also provide that the BLM will not approve any assignment until the assignor makes any outstanding payments that are due.

Existing paragraph (c) would be redesignated, unchanged, as paragraph (e). Existing paragraph (d) would be revised and redesignated as paragraph (f). As amended, paragraph (f) would except leases issued under revised 43 CFR subpart 2809 (i.e., inside a designated leasing area) from the BLM's authority to modify terms and conditions when it recognizes an assignment. This provision would provide incentives for potential right-of-way holders to develop lands inside designated leasing areas.

New paragraph 2807.21(g) would provide that the BLM would process assignment applications according to the same time and conditions as in existing paragraph 2804.25(c). This provision would apply the BLM's existing customer service standard to processing assignment applications.

New paragraph 2807.21(h) would clarify that only interests in right-of-way grants or leases are assignable. Pending right-of-way applications do not create a property right and thus may not be assigned.

New paragraph (i) would address how a holder would inform the BLM of a name change when the name change is not the result of an underlying change in control of a grant. These procedures are necessary to ensure that the BLM will be able to send rent bills or other

correspondence to the appropriate party. This new provision would address several specific circumstances. For example, it would require any corporation requesting a name change to supply: (1) A copy of the corporate resolution(s) proposing and approving the name change; (2) A copy of the acceptance of the change in name by the State or Territory in which incorporated; and (3) A copy of the appropriate resolution(s), order(s), or other documentation showing the name change. Under this provision, the BLM could also modify a grant, or add bonding and other requirements, including additional terms and conditions when recognizing such changes. However, the only way that the BLM may modify a lease issued under subpart 2809 would be in accordance with paragraph 2805.15(e). Such modifications would be a result of changes in legislation, regulation, or to protect public health, safety, or the environment. Any such name change would be recognized in writing by the BLM.

The title for section 2807.22 would be revised to read ''How do I renew my grant or lease?'' This title would be changed so that the leases issued in subpart 2809 would be covered by this section. Paragraphs (a), (b), and (d) of this section would also be revised to include leases. Paragraphs (c) and (e) remain unchanged.

Under new paragraph (f), if a holder makes timely and sufficient application for renewal, the existing grant or lease does not expire until the BLM acts upon the application for renewal. This provision would protect the interests of existing holders of rights-of-way who have timely and sufficiently made an application for the continued use of an existing authorization (see 5 U.S.C. 558(c)(1)), and is consistent with existing policy. In this situation, the authorized activity does not expire until the BLM evaluates the application and issues a decision.

Existing subpart 2809, which consists of a single regulation (section 2890.10) pertaining to Federal agency right-of-way grants, would be revised and redesignated as new paragraph (d) of section 2807.17. Existing paragraph 2809.10(b) explains that Federal agencies are generally not required to pay rent for a grant. This paragraph would be removed instead of redesignated, since existing paragraph 2806.14(a)(2) already addresses rental exemptions for Federal agencies and it would no longer be necessary. New subpart 2809 would be dedicated to the competitive process for leasing public lands for solar and wind energy development.

Under new section 2809.10, only lands inside designated leasing areas would be available for solar and wind competitive leasing using the procedures under this subpart. Lands outside of designated leasing areas may be offered competitively using the procedures under section 2804.35 of this proposed rule. Under new section 2809.10, the BLM may include lands in a competitive offer on its own initiative or solicit nominations through a call for nominations (see proposed paragraph 2809.11(b)). You would be required to demonstrate that you are qualified to hold a right-of-way grant by meeting the qualifications under section 2803.10. Note, the term ''grant'' is used when referencing section 2803.10 above and in paragraph 2809.11(c). This is because throughout this part, including section 2803.10, the term grant includes all right-of-way authorizations, including leases.

New section 2809.11, ''How will BLM solicit nominations?'' would explain the process by which the BLM would request nominations for parcels of lands inside designated leasing areas to be offered competitively for solar or wind energy development.

Under paragraph 2809.11(a), ''Call for nominations,'' the BLM would solicit expressions of interest and nominations for parcels of land located in a designated leasing area(s). The BLM would publish a notice in a newspaper of general circulation in the area affected by the potential offer of public land for solar and wind energy development, use other notification methods, including the Internet, and publish a notice in the **Federal Register**.

Paragraph 2809.11(b)(1) would require a payment of $5 per acre for the parcel(s) nominated. This payment is nonrefundable, except when paragraph 2809.11(d) is applicable. The average area of solar and wind grant or lease ranges between 4,000 and 6,000 acres. The $5 per-acre fee is derived from an appraisal consultation report prepared by the Department's Office of Valuation Services and would be adjusted for inflation once every 10 years, using the IPD–GDP. The appraisal consultation report provided a range of $10—$27 per acre per year with the nominal range being $15—$17 per acre as the fair market value for these uses of the public lands. The BLM is establishing the nomination fee below the indicated range in the analysis since the submission of a nomination does not ensure that the nominator would be the successful bidder.

The average change in the IPD–GDP from 1994 to 2003 is 1.9 percent, which would be applied through 2015. The fee would be required only at nomination and not on a yearly basis and this is noted under paragraph 2804.12(a)(8). The nomination fee is low to increase interest in the leasing area and encourage nominators to propose efficient use of the public lands. Payment of fair market value would be received through a combination of the bids (not including Federal administrative costs) received during a competitive process and the rents and MW capacity fees described in sections 2806.50 through 2806.68 of this proposed rule.

The submission of a nomination fee may result in a variable offset for an entity if it is determined to be the successful bidder in accordance with section 2809.15. An expression of interest is an informal submission to the BLM, suggesting that a parcel inside a competitive leasing area be considered for a competitive offer (see paragraph 2809.11(c)). An expression of interest only provides a tentative bidder's interest in a parcel(s) of land located inside a designated leasing area. If the expression of interest identifies a specific parcel, it must be submitted in writing, include the legal land description of the parcel, and a rationale for its inclusion in a competitive offer. There is no fee required to make an expression of interest, but submission would not qualify a potential bidder for a variable offset, as would formal nominations.

Under paragraph 2809.11(d), a nomination would not be able to be withdrawn, except by the BLM for cause, in which case all nomination monies would be refunded. This clause parallels language in the BLM's other competitive process regulations and encourages more serious nominations for parcels of public land.

New section 2809.12, ''How will BLM select and prepare parcels?,'' would provide that the BLM would identify parcels suitable for leasing based on nominations and expressions of interest, on its own initiative, or both. Before offering the selected lands competitively, the BLM and other appropriate entities would conduct necessary studies, comply with NEPA and other appropriate laws, and complete other necessary site preparation work. This work is necessary to ensure that the parcels are ready for competitive leasing, to provide appropriate terms and conditions for any issued lease, to appropriately protect valuable resources, and to be

consistent with the BLM's plans for the area.

Under new section 2809.13, ''How will BLM conduct competitive offers?,'' the BLM may use any type of competitive process or procedure to conduct its competitive offer. Several options, such as oral auctions, sealed bidding, combination, oral/sealed bidding, and others are identified in paragraph 2809.13(a). Oral auctions are planned events where bidders are asked to vocally bid for a lease at a predetermined time and location. Sealed bidding would occur when bidders are asked to submit bids in writing by a certain date and time. Combination bidding would be when sealed bids are first opened and then an oral auction would occur, with oral bids having to exceed the highest sealed bid.

Under paragraph (b) of this section, the BLM would publish a notice of the competitive offer in a newspaper of general circulation in the area affected by the potential right-of-way at least 30 days before bidding takes place. A similar notification would be published in the **Federal Register** and through other notification methods, including the Internet. If you nominated lands and paid the nomination fees required by paragraph 2809.11(b)(1), the BLM would notify you of its decision to conduct a competitive offer at least 30 days in advance of the bidding.

A notice of competitive offer would include:

1. The date, time, and location (if any) of the competitive offer;
2. The legal land description of the parcel(s) to be offered. This would also include the total acreage of the parcel(s);
3. The bidding methodology and procedures that would be used in conducting the competitive offer, including any of the applicable competitive procedures identified in paragraph 2809.13(a);
4. The required minimum bid (see paragraph 2809.14(a));
5. The qualification requirements for potential bidders (see section 2809.10);
6. If applicable, the variable offset (see section 2809.16), including:
   a. The percent of each offset;
   b. How bidders may pre-qualify for each offset; and
   c. The documentation required to pre-qualify for each offset; and
7. The terms and conditions to be contained in the lease, including requirements for the successful bidder to submit a plan of development for the lands involved in the competitive offer (see section 2809.18) and the lease mitigation requirements.

New section 2809.14, ''What types of bids are acceptable?,'' would provide that your bid submission would be accepted by the BLM only if it included the minimum bid established in the competitive offer plus at least 20 percent of your bonus bid and you are able to show to the BLM's satisfaction that you are qualified to hold a right-of-way by meeting the requirements in section 2803.10.

Paragraph (b) of this section would provide that a minimum bid would consist of three components. The first component would be for reimbursement of administrative costs incurred by the BLM and other Federal agencies in preparing and conducting the competitive offer. Administrative costs would include all costs required for the agency to comply with NEPA plus any other associated costs, including costs identified by other Federal agencies. As mentioned in the general discussion section of this preamble, administrative costs are not a component of fair market value and would be used to reimburse the Federal Government for its work in processing the sale and performing other necessary work.

The second component of the minimum bid would be an amount determined by the authorized officer specifically for each competitive offer. The BLM would consider known values of the parcel when determining this amount, which include, but are not limited to, the acreage rent, megawatt capacity fee and the costs of habitat mitigation. For example, the BLM may have identified values for the mitigation of the habitat of the desert tortoise in management plans, or other such documents. The authorized officer would identify these factors and explain how they were used to determine this amount. The third component would be a bonus bid submitted by the bidder as part of a bid package. This amount would be determined by the bidder.

In other programs, the minimum bid is often a statutory requirement or is based on fair market value of the resource, but there are no statutory requirements for the minimum bid proposed here. The acreage rent is based on the value of the land, and the MW capacity fee is based on the value of the industrial use of the land. Some other factors that may be considered are habitat mitigation and archaeological clearances or recovery of artifacts. The BLM proposes to base this minimum bid on factors such as these that are known values or limitations of the parcel. The minimum bid amount, how it was determined, and the factors used in this determination would be clearly articulated in the notice of competitive offer for each parcel.

This amount is not a determination of fair market value, but a point at which bidding may start. Fair market value would be received through a combination of the rents, MW capacity fees and the competitive bidding, as the process would determine what the market is willing and able to pay for the parcel. Payment of cost recovery fees would be required, but are not considered to be a part of the minimum bid. The minimum bid would be paid only by the successful bidder and would not be prorated among all of the bidders.

As described in paragraph (c) of this section, a bonus bid would consist of any dollar amount that a bidder wishes to bid, beyond the minimum bid. The total bid equals the minimum bid plus any additional bonus bid amount offered. If you are not the successful bidder as defined in paragraph 2809.15(a), your bid would be refunded.

Section 2809.15, ''How will BLM select the successful bidder?,'' would explain how the successful bidder is determined and what requirements they must meet in order to be offered a lease. A bidder with the highest total bid, prior to any variable offset, would be declared the successful bidder and would be offered a lease in accordance with section 2805.10. The BLM would determine the appropriate variable offset, using the criteria provided in section 2809.16, before issuing final payment terms. If you are the successful bidder, your payment must be submitted to the BLM by the close of official business hours on the day of the offer or at such other time as the BLM may have specified in the offer notice. Your payment would be required to be made by personal check, cashier's check, certified check, bank draft, or money order, or by any other means deemed acceptable by the BLM. Your remittance must be payable to the ''Department of the Interior—Bureau of Land Management.'' Your payment must include: at least 20 percent of the bonus bid prior to the offset described in section 2809.16 and the total amount of the minimum bid specified in paragraph 2809.14(b). Within 15 calendar days after the day of the offer, you must submit to the BLM the balance of the bonus bid less the variable offset (see proposed section 2809.16) and the acreage rent for the first full year of the solar or wind energy lease as provided for in paragraphs 2806.54(a) or 2806.64(a), respectively, to the BLM office conducting the offer or as otherwise directed by the BLM in the offer notice.

Under paragraph 2809.15(e), the BLM would not offer the successful bidder a lease and would keep all money

submitted, if the requirements of paragraph 2809.15(d) are not met. In this circumstance, the BLM may offer the lease to the next highest bidder under paragraph 2809.17(b) or re-offer the lands under paragraph 2809.17(d).

New section 2809.16, ''When do variable offsets apply?,'' would provide that a successful bidder may be eligible for an offset of up to 20 percent of the bonus bid, based on the factors identified in the notice of competitive offer. In providing for these offsets, the BLM intends to promote thoughtful and reasonable development based upon known environmental factors and impacts of different technologies. The BLM believes providing these offsets could increase the likelihood that a project is developed, expedite the development of that project, or minimize resource impacts on the affected right-of-way. The BLM believes these offsets would help encourage the production of clean renewable energy on public lands, which is a benefit to the general public.

The notice of competitive offer would identify each factor of the variable offset and the specific percentage for each factor that would be applied to the bonus bid, up to a maximum of 20 percent. The BLM would also list the documentation required to be submitted to qualify for the offset prior to the day of the offer and determine the amount of the offset prior to the competitive offer. The authorized officer would determine these offsets for each competitive offer based on the parcel(s) to be offered. In setting the offsets, the BLM would consider the parcel and its environmental concerns or technological limitations.

For example, the BLM may offer a 5 percent offset to a bidder that has a PPA. This offset could encourage a bidder to secure an agreement before the offer, which could increase the likelihood of a project being developed and expedite the completion of such development.

In the BLM's experience with solar and wind energy developments, a project is not always developed after a right-of-way is issued. Based on this experience, the BLM believes that a bidder with an agreement in place to sell power would be more likely to develop a project on the right-of-way. This could prevent the unnecessary encumbrance of a right-of-way that is issued to a holder that never develops the intended project.

The BLM may also offer an offset for thoughtful and reasonable development. For example, the BLM may offer a 5 percent offset to a bidder that would use a particular technology. The BLM may identify a preferred technology type to reduce impacts to identified environmental or cultural resources.

The BLM anticipates selected offsets to be in increments of 5 percent to be reviewed at the BLM Washington Office for consistency and relevance prior to each competitive offer made in the first several years after publication of the final rule.

The BLM may offer a different percentage for each offset based on how qualified the bidder is for the offset. For example, the BLM may offer a 3 percent offset for an interim step in the PPA process or a 5 percent offset for a signed PPA. The BLM acknowledges that in some circumstances qualifying for these offsets may be difficult. For this reason, the BLM may offer incremental offsets to bidders who are working towards such qualifications. These offsets would be identified in the notice of competitive offer (see paragraph 2809.13(b)(6)).

The variable offset may include, but is not limited to, the following factors:

1. *Power purchase agreement.* This could be a signed agreement between the potential lessee and an entity that agrees to purchase the power generated from the solar or wind energy facility;

2. *Large generator interconnect agreement.* This would consist of a signed agreement from the holder of an electrical transmission facility and the potential lessee that power would be accepted on the grid controlled by the holder to be transported to a power receiving source;

3. *Preferred solar or wind energy technologies.* This would be an incentive to use technologies for generating or storing solar or wind energy that would efficiently use public lands or reduce impacts to identified resources;

4. *Prior site testing and monitoring inside the designated leasing area.* This would consist of evidence that the potential lessee or others associated with the lessee had previously performed appropriate testing or monitoring to determine the suitability and capability of the site for establishment of a successful solar or wind energy generating facility;

5. *Pending applications inside the designated leasing area.* This would be a situation where the potential lessee had previously filed for authorization to construct facilities inside the designated leasing area;

6. *Submission of nomination fees.* These are required when submitting a formal nomination (see section 2809.11);

7. *Timeliness of project development, financing, and economic factors.* This would include documentation that financing has been arranged for the project and provides an incentive to promote an expedited development timeframe for a project;

8. *Environmental benefits.* This factor would include any positive environmental considerations such as identifying and salvaging archaeological or historical artifacts, additional protection for protected plant or animal species or similar factors;

9. *Holding a solar or wind energy lease on adjacent or mixed land ownership.* This could show the bidder's vested interest in developing the right-of-way;

10. *Public benefits.* These could include documented commitments or agreements to provide jobs or other support for local communities, or supporting local public purposes projects; or

11. *Other similar factors.* This could include support for other Federal Government programs or national security by providing power for defense purposes or meeting government purchase contracts.

New section 2809.17, ''Will BLM ever reject bids or re-conduct a competitive offer?'' would identify situations where the BLM may reject a bid, offer a lease to another bidder, re-offer a parcel, or actions the BLM may take when no bids are received. Under paragraph 2809.17(a), the BLM could reject bids regardless of the amount offered. Bid rejection could be for various reasons, such as discovery of resource values that cannot be mitigated through stipulations (e.g., the only known site of a rare or endangered plant, or for security purposes). If this occurs you would be notified and the notice would explain the reason(s) for the rejection and whether you are entitled to any refunds. If the BLM rejects a bid, the bidder may appeal that decision under § 2801.10.

The BLM has the option to offer the lease to the next highest qualified bidder if the first successful bidder is later disqualified or does not sign and accept the offered lease (paragraph 2809.17(b)).

Under paragraph 2809.17(c), the BLM could re-offer a parcel if it cannot determine a successful bidder, such as in the case of a tie, or when a successful bidder is later determined to be unqualified to hold a lease.

Under proposed paragraph 2809.17(d), if public lands offered under the provisions at section 2809.13 receive no bids, the BLM could reoffer the parcels through the competitive process under section 2809.13 or make the lands available through the non-competitive process found in subparts 2803, 2804,

and 2805. If the lands are then offered on a noncompetitive basis, the successful applicant would receive a right-of-way grant, rather than a lease, and the offsets described in section 2809.16 would not apply.

Section 2809.18 would list the terms and conditions of solar and wind energy leases issued inside designated leasing areas.

Under paragraph (a) of this section, the term of a lease inside designated leasing areas would be 30 years and the lessee may apply for renewal under section 2805.14. While leases outside of designated leasing areas would be for a term up to 30 years, leases inside designated leasing areas would be guaranteed a lease term of 30 years.

Under paragraph (b) of this section, a lessee must pay rent as specified in section 2806.54 if the lease is for solar energy development or section 2806.64 if the lease is for wind energy development. The BLM's authority to collect market value rent is derived from Section 304(a) of FLPMA (43 U.S.C. 1734). Rent is discussed in greater detail in the rental parts of the section-by-section analysis.

Under paragraph (c) of this section, a lessee must submit, within 2 years of the lease issuance date, a POD that: (1) Is consistent with the development schedule and other requirements in the POD template posted on the BLM's Web site (*http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html*); and (2) Addresses all pre-development and development activities. A POD is often required for rights-of-way under existing paragraph 2804.25(b). Due to their complexity, solar and wind energy development projects would always require submittal of a POD. The submitted POD would provide site-specific information that would be reviewed by the BLM and other Federal agencies in accordance with NEPA and other relevant laws.

Under paragraph (d) of this section, cost recovery, a lessee must pay the reasonable costs for the BLM or other Federal agencies to review and process the POD and to monitor the lease. The authority for collecting costs is derived from Section 304(b) of FLPMA (43 U.S.C. 1734) that provides for the deposit of payments to reimburse the BLM for reasonable costs with respect to applications and other documents relating to the public lands. Such costs may be determined based upon consideration of actual costs. A lessee may choose to pay full actual costs for the review of the POD and the monitoring activities of the lease. Through the BLM's experience, a lessee is more likely to choose payment of full actual costs as this expedites the BLM's review and monitoring actions by removing administrative steps in cost estimations and verifying estimated account balances.

Under paragraph (e) of this section, a lessee would have to provide a performance and reclamation bond for a solar or wind energy project. Bond amounts inside designated leasing areas would be set at a standard dollar amount (per acre for solar, or per turbine for wind) for either solar or wind energy development. See section 2805.20 of this preamble for additional information on the determination of these bond amounts. As explained in the general discussion section of this preamble, the BLM does not intend to change the amount of a standard bond after the lease is issued unless there is a change in use.

For a solar energy development project, a lessee would be required to provide a bond in the amount of $10,000 per acre at the time the BLM approves the POD. See the discussion at paragraph 2805.20(b) for additional information. For a wind energy development project, a lessee would be required to provide a bond in the amount of $20,000 per authorized turbine at the time the BLM approves the POD. See the discussion at paragraph 2805.20(c) for additional information.

The BLM would adjust the solar or wind energy development bond amounts for inflation every 10 years by the average annual change in the IPD–GDP for the preceding 10-year period and round it to the nearest $100. This 10 year average would be adjusted at the same time as the Per Acre Rent Schedule for linear rights-of-way under section 2806.22.

Under paragraph (f) of this section, a lessee may assign a lease under section 2807.21, and if an assignment is approved, the BLM would not make any changes to the lease terms or conditions, as provided in paragraph 2807.21(f).

Under paragraph (g) of this section, a lessee must start construction of a project within 5 years and begin generating electricity no later than 7 years from the date of lease issuance, as specified in the approved POD. The approved POD would outline the specific development requirements for the project, but all PODs would require a lessee to start generating electricity within 7 years. The 5 years to start construction and 7 years to begin generating electricity proposed in the rule should allow most lessees time to construct and start generation of electricity and give a leaseholder time to address any concerns that are outside of the BLM's authority. Such concerns include PPAs or private land permitting or site control transactions. A request for an extension may be granted for up to 3 years with a show of good cause and approval by the BLM. Should a leaseholder be unable to meet this due diligence timeframe, the BLM may terminate the lease.

New section 2809.19 would explain how the BLM would process applications in designated leasing areas or on lands that later become designated leasing areas. Under the proposed rule, lands inside designated leasing areas would be offered through the competitive bidding process described in this subpart and applications may not be filed inside these areas after the lands have been designated as such.

Paragraph (a) of this section would explain how the BLM would process applications filed for solar or wind energy development on lands outside of designated leasing areas that subsequently become designated leasing areas. If the application was filed before the BLM published the notice of availability of the draft or proposed land use plan amendment to designate the solar or wind leasing area, the application would continue to be processed by the BLM and it would not be subject to the competitive leasing offer process in this subpart. The notice of availability is the first official public notice of the BLM's intent to designate these lands. After publication of this notice, the public will have been notified of the BLM's intent to create a designated leasing area. If an application is submitted prior to publication of the notice of availability, the applicant would have had no way of knowing the BLM's intent and therefore the BLM would continue to process the application.

If an application is filed after the notice of availability of the draft land use plan amendment to identify the land as a designated leasing area, the application would remain in a pending status, unless it is either withdrawn by the applicant or the BLM denies it. When the subject lands do become available for leasing under this subpart, the applicant could submit a bid for the lands under this subpart. Any entity with an application pending on a parcel that submits a bid on such parcel may qualify for a variable offset as provided for under section 2809.16. The applicant would not receive a refund for any application fees or processing costs incurred if the lands described in the application are later leased to another entity under section 2809.12. The rationale for these provisions is to

ensure that as many parcels as possible are leased and developed appropriately.

Under proposed paragraph (b), the BLM would not accept a new application for solar or wind energy development inside designated leasing areas after the effective date of this rule (see paragraph 2804.10(c)(2)).

Under paragraph (c) of this section, the BLM would be able to authorize short term (3-year) grants for testing and monitoring purposes inside designated leasing areas. These would be processed in accordance with paragraphs 2805.11(b)(2)(i) or 2805.11(b)(2)(ii). These testing grants may qualify an entity for a variable offset under paragraph 2809.16(b)(4).

Section-by-Section Analysis for Part 2880

The BLM is proposing revisions to several subparts of part 2880. These revisions are necessary to ensure consistency of policies, processes, and procedures, where possible, between rights-of-way applied for and administered under part 2800 and those applied for and those rights-of-way administered under part 2880. Specific areas where we are proposing consistency changes include: Bonding requirements; determination of initial rental payment periods; and when you must contact the BLM, including grant, lease, and temporary use permit (TUP) modification requests, assignments, and renewal requests. In addition, the BLM is proposing pre-application requirements and fees for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter (see section 2884.10), similar to those being proposed for all solar energy and wind energy projects. Authorizations for solar or wind energy, for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter, are all generally large-scale operations that require additional steps to help protect the public land.

The heading for subpart 2884 would be revised to read ''Applying for MLA Grants and TUPs.'' This change would more accurately represent the contents of the subpart.

Section 2884.10 would be revised to parallel the changes being made to section 2804.10. These changes include pre-application requirements for applicants for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter. Some changes are the additional pre-application meetings, payment of reasonable costs, and a list of the reasons why the BLM would not accept such applications. For a detailed discussion of these changes, see section 2804.10 of this preamble.

Section 2884.11 would require a POD if an application is for an oil or gas pipeline that is 10 inches or more in diameter. As previously discussed, PODs are often required under section 2804.25. A POD would be required in this paragraph due to the potentially large on-the-ground impacts of these pipelines.

Section 2884.12 would explain fees associated with an application, including those that involve Federal agencies other than the BLM. The applicant may pay either the BLM for work done by those Federal agencies or pay those Federal agencies directly for their work. This authority was recently delegated by Secretarial Order 3327 and would be reflected in the final regulations.

Paragraph (b) of this section would revise the processing fee schedule to remove the 2005 category fees. Amended paragraph (c) would provide instructions on where you may obtain a copy of the current processing fee schedule. These changes parallel those made to section 2804.14, which describe processing fees for grant applications. A further analysis of these changes can be found in that part of the section-by-section analysis.

Section 2884.16 would be revised to require that Master Agreements describe existing agreements with other Federal agencies for cost reimbursement associated with the application. This change parallels changes in proposed section 2804.18, which describes Master Agreements for all other rights-of-way. With the authority recently delegated by Order 3327 to collect costs for other Federal agencies, it is important for the applicant, the BLM, and other Federal agencies to coordinate and be consistent regarding cost reimbursement.

Section 2884.17 would explain how the BLM processes Category 6 applications and these changes would parallel changes in proposed section 2804.19. Under paragraph (e) of this section, the BLM may collect reimbursement for the United States for actual costs with respect to applications and other document processing relating to Federal lands. The authority delegated by Secretarial Order 3327 requires more coordination and promotes consistency between the Federal agencies.

Section 2884.18 would parallel proposed section 2804.23. Under paragraph (a)(1) of this section, the requirement to reimburse the BLM would be expanded to allow for cost reimbursement from all Federal agencies for the processing of these right-of-way authorizations.

Under paragraph (c) of this section, the BLM may offer lands through a competitive process on its own initiative.

Under section 2884.20, the phrase ''or use other notification methods including the Internet'' would be added to paragraphs (a) and (d) to provide for an additional avenue to notify the public of a pending application or to announce any public hearings or meetings. This language would be consistent with changes made to other notification language throughout this proposed rule.

Under section 2884.21, the BLM would not process your application if you have any trespass action pending for any activity on BLM administered lands (see section 2888.11) or have any unpaid debts owed to the Federal Government. The only application the BLM would process to resolve the trespass would be for a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after outstanding debts are paid. This provision is being added to provide incentives for the applicant to resolve outstanding debts or other infractions involving the Federal Government and parallels proposed section 2804.25.

The notification language in paragraph (d)(4) would be amended by adding the phrase ''or use other notification methods including the Internet.'' This language would be consistent with changes made to other notification language throughout this rule.

Section 2884.23 would describe the circumstances under which the BLM may deny an application. Under new paragraph 2884.23(a)(6), the BLM may deny an application if the required POD fails to meet the development schedule and other requirements for oil and gas pipelines. This language is necessary to enforce the requirements of new paragraphs 2884.10(d)(3) and 2884.11(c)(5).

Section 2884.24 would parallel changes made to section 2804.27 and would require an applicant to pay any pre-application costs submitted under paragraph 2884.10(b)(4). See section 2804.27 for further discussion.

Section 2885.11 explains the terms and conditions of a grant. Paragraph (a) of this section would be revised by adding the phrase ''with the initial year of the grant considered to be the first year of the term.'' This revision would clarify, for example, that a 30-year grant issued on September 1, 2013, would expire on December 31, 2042, and have

an effective term of 29 years and 4 months. This is consistent with existing policy and procedure. For all grants issued under this section with terms greater than 3 years, the actual term would include the number of full years including any partial year. The term for a MLA grant differs from a term for rights-of-way authorized under FLPMA, as FLPMA rights-of-way may be issued for periods greater than 30 years, while a MLA right-of-way may be issued for a maximum period of 30 years. If a 30 year FLPMA grant is issued on a date other than the first of a calendar year, that partial year would count as additional time of the grant (see discussion of paragraph 2805.11 earlier in this preamble section).

A new sentence would be added to the end of paragraph 2885.11(b)(7) referencing new section 2805.20. Proposed section 2805.20 would explain the bonding requirements for all rights-of-way. This reference would direct readers to the bonding requirements.

Revisions to section 2885.15 would clarify that there are no reductions of rents for grants or TUPs, except as provided under paragraph 2885.20(b). Paragraph 2885.20(b) is an existing provision under which a grant holder can qualify for phased-in rent. This change is only a clarification and cross-reference to existing regulations.

Revisions to section 2885.16 would clarify that the BLM prorates the initial rental amount based on the number of full months left in the calendar year after the effective date of the grant or TUP. If your grant qualifies for annual payments, the initial rent bill consists of the remaining partial year plus the next full year. For example, the initial rental bill for a grant issued on September 1 would be for 1 year and 3 months if the grant qualifies for annual billing. The initial rental bill for the same grant would be for 9 years and 3 months if the grant does not qualify for annual billing. This is a new provision that would parallel paragraph 2806.24(c) and would create consistency in how all rights-of-way are prorated.

Section 2885.17(e) would parallel proposed section 2806.13(e), which identifies when the BLM would retroactively bill for uncollected or under-collected rent, late payments and administrative fees. The BLM would collect rent if: (1) A clerical error is identified; (2) A rental schedule adjustment is not applied; or (3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

Section 2885.19 would be revised by updating the addresses in paragraph (b). Revisions to section 2885.20 would result in the removal of existing paragraph (b)(1), which provided for a 25 percent reduction in rent for calendar year 2009. This paragraph no longer applies since it specifically mentioned the 2009 Per Acre Rent Schedule.

The proposed changes in section 2885.24 would parallel the proposed changes to other sections of this rule that contain tables with outdated numbers. Specific numbers would be removed from the table. However, the monitoring fee amounts would be available to the public in BLM offices or on the BLM Web site. The proposed rule would add the methodology for adjusting these fees on an annual basis to paragraph (a) of this section. Since this methodology has been added to paragraph (a), a description of how the BLM updates the schedule would be removed from paragraph (b) of this section.

Section 2886.12 describes when a grant holder must contact the BLM during operations. The changes in this section would parallel the proposed changes to section 2807.11. A grant holder would be required to contact the BLM when site specific circumstances require changes to an approved right-of-way grant, POD, site plan, or other procedures even when they are not substantial deviations in location or use. These types of changes would be considered as grant or TUP modification requests. New paragraph (e) would be added to conform to similar provisions at paragraph 2807.11(e), which would require you to contact the BLM if your authorization requires submission of a certification of construction. See section 2807.11 for further discussion on these topics.

Revisions to section 2887.11 would parallel the changes to section 2807.21, which describes assigning or making other changes to a grant or lease. The title for section 2887.11 would be changed to ''May I assign or make other changes to my grant or TUP?''

The existing regulations do not cover all instances where an assignment is necessary and also omit situations where assignments are not required. The proposed changes are necessary to: (1) Add and describe additional changes to a grant other than assignments; (2) Clarify what changes would require an assignment; and (3) Make right-of-way leases subject to the regulations in this paragraph.

Some of the proposed changes would add to paragraph (a) two events that may require the filing of an assignment: (1) The voluntary transfer by the holder of any right or interest in the right-of-way grant to a third party, e.g., a change in ownership; and (2) Change in control transactions involving the right-of-way grantee. Examples of changes in ownership would be: A transfer by a holder (assignor) of any right or interest in the grant to a third party (assignee); or changes in ownership or other related change involving the BLM right-of-way grant, including a corporate merger or acquisition. Revised paragraph (b) would clarify that a change in the holder's name only does not require an assignment.

Revised paragraph (c) would make it clear that changes in a holder's articles of incorporation do not require an assignment, but if a holder becomes a wholly owned subsidiary of a new third party and still holds the grant, it may need to file new or revised information in conformance with subpart 2803. Paragraph (d) pertains to payments for assignments and would add a requirement to pay application fees in addition to processing fees. Also, the BLM may now condition a grant assignment to require payment of outstanding payments due.

New paragraph (h) would clarify that only interests in right-of-way grants or leases are assignable. Pending right-of-way applications do not create a property right and thus may not be assigned.

New paragraph (i) would add special application requirements to be evaluated if there is a change in the legal name of the right-of-way leaseholder. These include: (1) Requiring any corporation requesting such a change to supply documentation showing the name change; and (2) Acceptance of the name change by the State or Territory in which incorporated. This section would also explain that the BLM may also modify a grant, or add bonding and other requirements, including additional terms and conditions when processing a name change application.

Section 2887.12 would add new paragraph (d), similar to proposed revisions to section 2807.22, explaining that if a holder makes a timely and sufficient application for renewal, the existing grant or lease does not expire until the application for renewal has been finally determined by the BLM. This provision is derived from the Administrative Procedures Act (5 U.S.C. 558(c)(1)) and it protects interests of existing right-of-way holders who have timely and sufficiently made an application for the continued use of an existing authorization. In this situation, the authorized activity does not expire until the application for continued use has been evaluated and a decision on the extension is made by the agency.

This would reiterate and clarify existing policy and procedures.

Under proposed paragraph 2887.12(e), you may appeal the BLM's decision to deny your application under existing section 2881.10. This paragraph would parallel the language under existing paragraph 2807.22(f), which would be redesignated as paragraph 2807.22(g).

V. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this proposed rule is significant because it could raise novel legal or policy issues.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

This proposed rule includes provisions that are intended to facilitate responsible solar and wind energy development and to receive fair market value for such development. These provisions would:

1. Promote the use of preferred areas for solar and wind energy development (i.e., designated leasing areas); and
2. Establish competitive processes, terms, and conditions (including rental and bonding requirements) for solar and wind energy development rights-of-way both inside and outside of designated leasing areas.

These provisions would assist the BLM in meeting goals established in Section 211 of the Energy Policy Act (EPAct) of 2005 and Secretarial Order 3285A1. They would also assist the BLM in implementing recommendations of the Department's Office of the Inspector General regarding renewable energy development.

In addition to provisions that would affect renewable energy specifically, this proposed rule also includes provisions that would affect all rights-of-way, and some that would affect transmission lines with a capacity of 100 kV or more, and pipelines 10 inches or more in diameter. These provisions would clarify existing regulations and codify existing policies.

Economic Impacts

The proposed rule would not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The BLM anticipates the proposed rule would increase total costs to all applicants, lessees, and operators by no more than $5.7 million per year. Of this increase in costs to operators, $4.8 million of this total figure is the amount of the estimated bonus bids. The increase in fees and rentals over the fees and rentals currently set by policy primarily reflect changing market conditions. Increases in the minimum bond amounts also reflect increases in estimated reclamation costs. These impacts are discussed in detail in the Economic and Threshold Analysis for the proposed rule.

Other Agencies

The proposed rule would not create a serious inconsistency or otherwise interfere with another agency's actions or plans. The BLM is the only agency that may promulgate regulations for rights-of-way on public lands.

Budgetary Impacts

This proposed rule would not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

Novel Legal or Policy Issues

This proposed rule could raise novel legal or policy issues. It would codify existing BLM policies and provide additional detail about submitting applications for solar or wind energy development grants outside designated leasing areas, for transmission lines with a capacity of at least 100 kV, and for pipelines 10 inches in diameter or larger. In addition, the proposed rule would provide for a competitive process for seeking solar and wind energy development leases inside of designated leasing areas.

Clarity of the Regulations

Executive Order 12866 also requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

1. Are the requirements in the proposed rule clearly stated?
2. Does the proposed rule contain technical language or jargon that interferes with its clarity?
3. Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?
4. Would the regulations be easier to understand if they were divided into more (but shorter) sections?
5. Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed rule? How could this description be more helpful in making the proposed rule easier to understand?

Please send any comments you have on the clarity of the regulations to the address specified in the **ADDRESSES** section.

National Environmental Policy Act (NEPA)

The proposed regulatory amendments are of an administrative or procedural nature and, therefore, are categorically excluded from the requirement to prepare an environmental assessment (EA) or EIS. See 43 CFR 46.205 and 46.210(i). They do not present any of the extraordinary circumstances listed at 43 CFR 46.215.

Nonetheless, the BLM has drafted an EA to inform agency decision-makers and welcomes input from the public on the draft EA's assessment of the effects of the proposed rule. The draft EA incorporates by reference the Final Solar Energy Development Programmatic Environmental Impact Statement (July 2012) and the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States (June 2005). To obtain single copies of the Programmatic EISs or the draft EA, you may contact the person listed under the section of this rule titled, **FOR FURTHER INFORMATION CONTACT.** You may also view the EA/FONSI and Programmatic Environmental Impact Statements at, respectively, *http://windeis.anl.gov/, http://solareis.anl.gov/,* and *http://www.blm.gov/wo/st/en/prog/energy/renewable_energy.html.*

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. For the purposes of this analysis, the BLM assumes that all entities (all lessees and operators) that may be affected by this rule are small entities, even though that is not actually the case.

This proposed rule would not have a significant economic effect on a substantial number of small entities under the RFA.

The proposed rule would affect new applicants or bidders for authorizations of solar or wind energy development, transmission lines 100 kV or more, and pipelines 10 inches or more in diameter. The BLM reviewed current holders of such authorizations to determine whether they are small businesses as defined by the SBA. The BLM was unable to find financial reports or other information for all potentially affected entities, so this analysis assumes that the rule could potentially affect a substantial number of small entities.

To determine the extent to which the proposed rule would impact these small entities, we took two approaches. First, we attempted to measure the direct costs of the proposed rule as a portion of the net incomes of affected small entities. However, we were unable to obtain the financial records for a representative sample. Next, we estimated the direct costs of the proposed rule as a portion of the total costs of a project.

The analysis showed that a range of potential impacts on the total cost of a project varied from a savings of 0.04 percent to a cost of 1.58 percent of the total project cost. The BLM determined that this was an insignificant impact in the context of developing a project and therefore not a significant economic impact on a substantial number of small businesses. For a more detailed discussion, please see the economic analysis.

Small Business Regulatory Enforcement Fairness Act

For the same reasons as discussed under the Executive Order 12866, Regulatory Planning and Review section of this preamble, this proposed rule is not a ''major rule'' as defined at 5 U.S.C. 804(2). That is, it would not have an annual effect on the economy of $100 million or more; it would not result in major cost or price increases for consumers, industries, government agencies, or regions; and it would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments, in the aggregate, or the private sector of $100 million or more per year; nor would it have a significant or unique effect on State, local, or tribal governments. The amendment of portions of the regulations found at 43 CFR parts 2800 and 2880, redesignated the existing 43 CFR part 2809 in its entirety to a new paragraph found at § 2801.6(a)(2) and promulgation of revised 43 CFR part 2809, and modifying the MLA pipeline regulations in 43 CFR part 2880 would not result in any unfunded mandates. Therefore, the BLM does not need to prepare a statement containing the information required by Sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. 1531 *et seq.* The proposed rule is also not subject to the requirements of Section 203 of UMRA because it contains no regulatory requirements that might uniquely affect small governments, nor does it contain requirements that either apply to such governments or impose obligations upon them.

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

This proposed rule is not a government action that interferes with constitutionally protected property rights. This proposed rule would set out a process that would provide guidance for competitive renewable energy solar and wind energy development processes and certain pipelines and electric transmission facilities on BLM-managed public lands. It establishes a fee schedule for various components of the development of such facilities inside SEZs and sites for wind energy that are conducive to competitive right-of-way leasing and clarifies a process that would rely on the BLM's existing land use planning system to allow for these types of uses. Also, the rule would set out additional requirements for rights-of-way for pipelines exceeding 10 inches in diameter or transmission lines having a capacity of 100 kV or greater. This revised process would promote the orderly administration of the public lands. Because any land use authorizations and resulting development of facilities under this proposed rule would be subject to valid existing rights, it does not interfere with constitutionally protected property rights. Therefore, the Department has determined that this proposed rule does not have significant takings implications and does not require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The BLM has determined that this proposed rule would not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. It would not apply to State or local governments or State or local government entities. Therefore, in accordance with Executive Order 13132, the BLM has determined that this proposed rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Department has determined that this proposed rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Department's Office of the Solicitor has reviewed the proposed rule to eliminate drafting errors and ambiguity. It has been written to minimize litigation, provide clear legal standards for affected conduct rather than general standards, and promote simplification and avoid unnecessary burdens.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that this proposed rule does not have significant tribal implications. On a case-by-case basis, existing regulations require any right-of-way applicant to consult with tribes to discuss the proposed action and other aspects of the proposed project. Designated leasing areas would be identified through the BLM's land use planning process. These areas would be designated using the same process that current regulations use to identify right-of-way corridors and have the same tribal consultation components. In addition to the preliminary review covered in the planning process, the proposed

regulations require site-specific consultation. In lands outside designated leasing areas, site-specific requirements would include pre-application and public meetings. The BLM would be able to deny an application after these meetings based on a variety of criteria, including tribal concerns. The proposed rule would call for further tribal consultation by the BLM and right-of-way applicants, but the rulemaking itself is administrative in nature and does not establish any designated leasing areas, and, therefore, does not require tribal consultation.

Data Quality Act

In developing this proposed rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Section 515 of Public Law 106–554). In accordance with the Data Quality Act, the Department has issued guidance regarding the quality of information that it relies upon for regulatory decisions. This guidance is available at the Department's Web site at: *http://www.doi.gov/archive/ocio/iq.html.*

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

Executive Order 13211 requires Federal agencies to prepare and submit to 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: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; (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.

This proposed rule could raise novel legal or policy issues within the meaning of Executive Order 12866 or any successor order. However, the BLM believes this proposed rule is unlikely to have a significant adverse effect on the supply, distribution, or use of energy, and could have a positive impact on energy supply, distribution, or use. In fact, its intent is to facilitate such development. The rule would codify BLM policies and provide additional detail about the process for submitting applications for solar or wind energy development grants outside designated leasing areas, for solar or wind energy development leases inside designated leasing areas, for transmission lines with a capacity of 100 kV or more, and for pipelines 10 inches or more in diameter.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that this proposed rule would not impede the facilitation of cooperative conservation. The rule takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land or other natural resources; properly accommodates local participation in the Federal decision-making process; and provides that the programs, projects, and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3521) provides that 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 OMB control number. Collections of information include requests and requirements that an individual, partnership, or corporation obtain information, and report it to a Federal agency. See 44 U.S.C. 3502(3); 5 CFR 1320.3(c) and (k).

This proposed rule contains information collection requirements that are subject to review by OMB under the Paperwork Reduction Act (44 U.S.C. 3501–3520). Collections of information include any request or requirement that persons obtain, maintain, retain, or report information to an agency, or disclose information to a third party or to the public (44 U.S.C. 3502(3) and 5 CFR 1320.3(c)).

OMB has approved the existing information collection requirements associated with rights-of-way and has assigned Control Number 0596–0082 to those requirements. That control number is administered by the U.S. Forest Service and authorizes several Federal agencies to use Form SF–299 (Application for Transportation and Utility Systems and Facilities on Federal Lands).

The BLM has requested OMB approval for a new control number and is inviting public comment on its request for:

1. Proposed information collection requirements supplemental to SF–299; and

2. Other proposed information collection requirements.

The information collection activities in this proposed rule are described below along with estimates of the annual burdens. Included in the burden estimates are the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each component of the proposed information collection requirements.

The information collection request for this proposed rule has been submitted to OMB for review under 44 U.S.C. 3507(d). A copy of the request can be obtained from the BLM by electronic mail request to Jayme Lopez at *j06lopez@blm.gov* or by telephone request to 202–912–7547. The information collection request also may be viewed online at *http://www.reginfo.gov/public/do/PRAMain.*

The BLM requests comments on the following subjects:

- Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;
- The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information to be collected; and
- How to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

If you want to comment on the information collection requirements of this proposed rule, please send your comments directly to OMB, with a copy to the BLM, as directed in the **ADDRESSES** section of this preamble. Please identify your comments with ''OMB Control Number 1004–XXXX.'' OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 to 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 by October 30, 2014.

At present, 4,017 responses, and 100,425 burden hours are approved annually for the Bureau of Land Management for SF–299 under control number 0596–0082. No non-hour burdens are approved. The proposed rule would include program changes of an additional 3,127 responses, 47,206 burden hours, and $1,608,992 in application filing fees and processing fees (i.e., non-hour burdens) annually.

Of those totals, the following would be additions to the burdens attributed to the Bureau of Land Management for SF–299 under control number 0596–0082:

- 3,103 responses;
- 47,146 hours; and
- $1,478,992 in application filing fees and processing fees.

The remaining 24 responses, 60 hours, and $130,000 in fees would be included in the new control number for activities in the proposed rule that are not associated with SF–299 and control number 0596–0082.

As explained above, the proposed rule would supplement the existing information collection requirements currently authorized by control number 0596–0082, and add other new information collection requirements.

Summary of Proposed Information Collection Requirements Supplemental to SF–299

The information collection requirements currently approved for SF–299 include the applicant's identity (for example, name, and address, and telephone number), project description, other data about the proposed project (for example, why it is necessary to cross Federal lands and why the project is needed), and probable effects (for example, environmental impacts). In addition, the proposed rule would require applicants to provide the information described below.

1. General Description of Proposed Project and Schedule for Submittal of Plan of Development

New paragraph 2804.10(c)(4) would apply to the application requirements for:

- Solar or wind energy development projects outside designated leasing areas;
- Electric transmission lines with a capacity of 100 kV or more; and
- Pipelines 10 inches or more in diameter.

These types of applications would have to include a general description of the proposed project and a schedule for submittal of a Plan of Development. The new requirements are necessary in order to ensure the timely processing of these types of applications.

2. Application for Wind Energy Testing Grant and Application for Other Short Term Right-of-Way Grant Related to Solar or Wind Energy

Both of these applications are for short term right-of-way grants. ''Short term right-of-way grant'' is a new term that, as defined in a proposed amendment to 43 CFR 2801.5, would mean any grant issued for a term of 3 years or less for such uses as storage sites, construction sites, and short-term site testing and monitoring activities. The proposed rule provides for two general types of short-term right-of-way grants: (A) Short term wind energy testing grants; and (B) Other short-term right-of-way grants.

A. Proposed section 2804.12(a)(8) would require an ''application filing fee'' of $2 per acre for applications for short term wind energy testing grants, both inside and outside designated leasing areas. As defined at section 2801.5 of the proposed rule, the term ''application filing fee'' would mean a nonrefundable filing fee specific to solar and wind energy right-of-way applications.

The BLM would adjust the application filing fee once every 10 years by the average annual change in the Implicit Price Deflator, Gross Domestic Product (IPD–GDP) for the preceding 10-year period and round it to the nearest one-half dollar. This fee would be necessary in order to defray the BLM's expenses in processing these types of applications, and it is in accordance with Section 304 of the Federal Land Policy and Management Act (43 U.S.C. 1734) and the Independent Offices Appropriation Act (31 U.S.C. 9701), which authorize the BLM to recover costs of processing applications and other documents relating to the public lands. Moreover, OMB Circular A–25 (titled ''User Charges'') provides that the Federal policy is to assess a charge against each identifiable recipient for special Federal benefits beyond those received by the general public.

B. Proposed section 2804.30(g) would apply to applications for two types of grants that would authorize testing for wind energy potential outside designated leasing areas: (1) A site-specific grant, which would authorize the installation and operation of a single meteorological tower or other wind study facility; and (2) A project area grant, which would authorize the installation and operation of any number of meteorological towers or other wind study facilities. These applications would be subject to a $2 per-acre application filing fee in accordance with section 2804.12(a)(8).

This regulation would allow only one applicant (i.e., a ''preferred applicant'') to apply for a wind energy testing grant. The preferred applicant would be the successful bidder in a competitive process beginning either with the filing of competing applications for the same facility or system, or with an offer by the BLM of a parcel for competitive bidding. In the latter process, the successful bidder also would have to submit the bonus bid to the BLM within 15 days of the date of the offer. See proposed 43 CFR 2804.30(f). This information collection activity is necessary for the competitive process for lands outside designated leasing areas.

C. Proposed section 2805.11(b)(2)(i) through (b)(2)(iii) would authorize applications for the two types of wind energy testing grants authorized under proposed section 2804.30(g), plus short-term grants for geotechnical testing and other temporary land-disturbing activities associated with solar and wind energy. Applications for wind energy testing grants would be subject to a $2 per-acre application filing fee in accordance with section 2804.12(a)(8). Applications for other types of short term rights-of-way associated with solar or wind energy would be subject to a processing fee in accordance with section 2804.14. This information collection activity is necessary for the orderly management of activities that may precede an application for a longer term solar or wind energy right-of-way.

D. Proposed section 2809.19(c) would provide a process for applying for short-term grants for testing and monitoring purposes inside designated leasing areas. This application would apply to wind energy testing only, and would be subject to a $2 per-acre application filing fee in accordance with section 2804.12(a)(8). This information collection activity is necessary for the competitive process for lands inside designated leasing areas.

3. Application for, or Request To Assign, Solar or Wind Energy Development Right-of-Way

As defined at section 2801.5 of the proposed rule, the term ''application filing fee'' would mean a nonrefundable filing fee specific to solar and wind energy right-of-way applications. This fee would be necessary in order to defray the BLM's expenses in processing these types of applications, and it is accordance with Section 304 of the Federal Land Policy and Management Act (43 U.S.C. 1734) and the Independent Offices Appropriation Act (31 U.S.C. 9701), which authorize the BLM to recover costs of processing applications and other documents relating to the public lands. Moreover, OMB Circular A–25 (titled ''User Charges'') provides that the Federal policy is to assess a charge against each identifiable recipient for special Federal benefits beyond those received by the general public.

Proposed section 2804.30(g) would allow only one applicant (i.e., a ''preferred applicant'') to apply for a right-of-way grant outside a designated leasing area for a solar or wind energy development grant. The preferred applicant would be the successful bidder in a competitive process beginning either with the filing of competing applications for the same

facility or system, or with an offer by the BLM of a parcel for competitive bidding. In the latter process, the successful bidder also would have to submit the bonus bid to the BLM within 15 days of the date of the offer. See proposed 43 CFR 2804.30(f). The information required in such an application is listed at existing 43 CFR 2804.12(a)(1) through (a)(7), which would not be amended in the proposed rule. This collection is necessary for the competitive process for lands outside designated leasing areas.

A. Existing section 2807.21 allows a holder of a right-of-way grant to apply to assign any right or interest in that grant. This regulation also requires the proposed assignee to file an assignment application and follow the same procedures and standards as for a new right-of-way grant.

As amended, section 2807.21 would:

- Apply the requirements for assignments to right-of-way leases as well as grants;
- Add a list of actions that may require an assignment; and
- Provide that a change in the holder's name only does not constitute an assignment.

B. Proposed section 2804.12(a)(8) would require an ''application filing fee'' of $15 per acre for applications for, and requests to assign, solar and wind energy development rights-of-way.

The BLM would adjust the application filing fee once every 10 years by the average annual change in the Implicit Price Deflator, Gross Domestic Product (IPD–GDP) for the preceding 10-year period and round it to the nearest one-half dollar. This information collection activity is necessary for the orderly administration of right-of-way leases and grants.

4. Application for Renewal of Wind Energy Project Area Testing Grant or Other Short Term Grant

Proposed sections 2805.11(b)(2)(ii) and 2805.14(h) would authorize holders of short term grants for wind energy project area testing to apply for a renewal of up to three years, so long as the renewal application is accompanied by a wind energy development application and a Plan of Development. Authorizations for wind energy site specific testing would not be renewable.

Proposed section 2805.11(b)(2)(iii) would authorize holders of other types of short term testing and monitoring grants (for example, geotechnical testing) to apply for a renewal of up to three years. Processing fees in accordance with 43 CFR 2804.14, as amended, would apply to these renewal applications.

These opportunities for renewal of short term grants are necessary in order to enable the completion of complex testing of wind energy potential, and in order to apprise the BLM whether or not the holder of an expiring short term right-of-way intends to proceed with development.

5. Environmental, Technical, and Financial Records, Reports, and Other Information

Proposed 43 CFR 2805.12(a)(15) would authorize the BLM to require a holder of any type of right-of-way to provide, or give the BLM access to, any pertinent environmental, technical, and financial records, reports, and other information. The BLM would use the information for monitoring and inspection activities.

6. Application for Renewal of Solar or Wind Energy Development Grant or Lease

Proposed amendments to 43 CFR 2805.14 and 2807.22 would authorize holders of leases and grants to apply for renewal of their rights-of-way. Processing fees in accordance with 43 CFR 2804.14, as amended, would apply to these renewal applications. The BLM would use the information to decide whether to renew rights-of-way.

7. Request for Amendment or Name Change (FLPMA)

Proposed sections 2807.14(g) and 2807.22 would require a holder of any type of FLPMA right-of-way to contact the BLM:

- Before engaging in any activity that is a ''substantial deviation'' from what is authorized;
- Whenever site-specific circumstances or conditions arise that result in the need for changes that are not substantial deviations;
- Before assigning, in whole or in part, any right or interest in a grant or lease; and
- Before changing the name of a holder (i.e., when the name change is not the result of an underlying change in control of the right-of-way).

A request for an amendment of a right-of-way would be required in cases of a substantial deviation (for example, a change in the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in the use of the right-of-way). Other changes, such as changes in project materials, or changes in mitigation measures within the existing, approved right-of-way area, would be required to be submitted to the BLM for review and approval. In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, as well as pay application and processing fees. In order to request a name change, the holder would be required to file an application and follow the same procedures and standards as for a new grant or lease and pay processing fees, but no application fee would be required. The following documents are also required in the case of a name change:

- A copy of the court order or legal document effectuating the name change of an individual; or
- If the name change is for a corporation, a copy of the corporate resolution proposing and approving the name change, a copy of a document showing acceptance of the name change by the State in which incorporated, and a copy of the appropriate resolution, order, or other document showing the name change.

In all these cases, the BLM would use the information for monitoring and inspection purposes, and to maintain current data on rights-of-way.

7. Plan of Development for Solar Energy Development Lease Inside Designated Leasing Area and Plan of Development for Wind Energy Development Lease Inside Designated Leasing Area

Proposed section 2809.18(c) would require the holder of a wind or solar energy development lease for lands inside a designated leasing area to submit a Plan of Development within two years of the lease issuance date that addresses all pre-development and development activities. This collection activity is necessary to ensure diligent development.

This new provision would be a new use of Item # 7 of SF–299, which calls for the following information:

> Project description (describe in detail): (a) Type of system or facility (e.g., canal, pipeline, road); (b) related structures and facilities; (c) physical specifications (length, width, grading, etc.); (d) term of years needed; (e) time of year of use or operation; (f) volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction.

This collection has been justified and authorized under 0596–0082. In addition, proposed section 2809.18(c) would provide that the minimum requirements for a ''Wind Energy Plan of Development'' or ''Solar Energy Plan of Development'' can be found at a link to a template at *www.blm.gov.* To some extent, that template duplicates the information required by Item # 7 of SF–299. The following requirements do not duplicate the elements listed in SF–299:

• *Operations and maintenance.* This information will assist the BLM in verifying the right-of-way holder's compliance with terms and conditions regarding all aspects of operations and maintenance, including road maintenance and workplace safety;

• *Environmental considerations.* This information will assist the BLM in monitoring compliance with terms and conditions regarding mitigation measures and site-specific issues such as protection of sensitive species and avoidance of conflicts with recreation uses of nearby lands;

• *Maps and drawings.* This information will assist the BLM in monitoring compliance with all terms and conditions; and

• *Supplementary information.* This information, which will be required after submission of the holder's initial Plan of Development, will assist the BLM in reviewing possible alternative designs and mitigation measures for a final Plan of Development.

8. General Description of Proposed Oil or Gas Pipeline 10 inches or More in Diameter and Schedule for Submittal of Plan of Development

Section 2884.10(d)(3) would list conditions for BLM acceptance of an application for an oil or gas pipeline 10 inches or more in diameter. One of these conditions would be the submission of a general description of the proposed project and a schedule for submitting a Plan of Development. The BLM would use the information to assist in its decision whether or not to process an application for a large-scale right-of-way of this type.

9. Request for Amendment, Assignment, or Name Change (MLA)

Proposed sections 2886.12 and 2887.11 would pertain to holders of MLA rights-of-way and temporary use permits. A temporary use permit authorizes a holder of an MLA right-of-way to use land temporarily in order to construct, operate, maintain, or terminate a pipeline, or for purposes of environmental protection or public safety. See 43 CFR 2881.12. The proposed regulations would require these holders to contact the BLM:

• Before engaging in any activity that is a ''substantial deviation'' from what is authorized;

• Whenever site-specific circumstances or conditions arise that result in the need for changes that are not substantial deviations;

• When the holder submits a certification of construction;

• Before assigning, in whole or in part, any right or interest in a grant or lease; and

• Before changing the name of a holder (i.e., when the name change is not the result of an underlying change in control of the right-of-way).

A request for an amendment of a right-of-way or temporary use permit would be required in cases of a substantial deviation (for example, a change in the boundaries of the right-of-way, major improvements not previously approved by the BLM, or a change in the use of the right-of-way). Other changes, such as changes in project materials, or changes in mitigation measures within the existing, approved right-of-way area, would be required to be submitted to the BLM for review and approval. In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, as well as pay processing fees. In order to request a name change, the holder would be required to file an application and follow the same procedures and standards as for a new grant or lease and pay processing fees, but no application fee would be required. The following documents are also required in the case of a name change:

• A copy of the court order or legal document effectuating the name change of an individual; or

• If the name change is for a corporation, a copy of the corporate resolution proposing and approving the name change, a copy of a document showing acceptance of the name change by the State in which incorporated, and a copy of the appropriate resolution, order, or other document showing the name change.

In all these cases, the BLM would use the information for monitoring and inspection purposes, and to maintain current data on rights-of-way.

10. Certification of Construction

A certification of construction is a document a holder of an MLA right-of-way must submit to the BLM after finishing construction of a facility, but before operations begin. The BLM will use the information to verify that the holder has constructed and tested the facility to ensure that it complies with the terms of the right-of-way and is in accordance with applicable Federal and State laws and regulations.

Summary of Information Collection Requirements Met by Existing SF–299

All of the respondents that would be subject to the proposed rule, and that would be required to use SF–299, would be required to provide information about their identity (Item Numbers 1 through 6, as applicable). The following table shows additional ways respondents would use SF–299 as currently approved under control number 0596–0082.

INFORMATION COLLECTION REQUIREMENTS MET BY EXISTING SF–299

Type of response	Number of responses	Key portions of SF–299 to be used by respondents, as applicable
A.	B.	C.
General description of proposed project and schedule for submittal of Plan of Development 43 CFR 2804.10(c)(4).	20	Project description (Item 7); Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15); Technical and financial capability (Item 12); Other governmental approvals (Items 9, 14, and 20); and Probable effects (Items 17 through 19).
Application for wind energy testing grant, 43 CFR 2804.12(a)(8), 2804.30(g), 2805.11(b)(2)(i), 2805.11(b)(2)(ii), and 2809.19(c).	40	Project description (Item 7); Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15); Technical and financial capability (Item 12); Other governmental approvals (Items 9, 14, and 20); and Probable effects (Items 17 through 19).
Application for other short term grant related to solar or wind energy, 43 CFR 2804.14 and 2805.11(b)(2)(iii).	1	Project description (Item 7); Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15); Technical and financial capability (Item 12); Other governmental approvals (Items 9, 14, and 20); and Probable effects (Items 17 through 19).

INFORMATION COLLECTION REQUIREMENTS MET BY EXISTING SF–299—Continued

Type of response	Number of responses	Key portions of SF–299 to be used by respondents, as applicable
A.	B.	C.
Application for, or request to assign, solar or wind energy development right-of-way, 43 CFR 2804.12(a)(8), 2804.30(g), and 2807.21.	11	Project description (Item 7); Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15); Technical and financial capability (Item 12); Other governmental approvals (Items 9, 14, and 20); and Probable effects (Items 17 through 19).
Application for renewal of wind energy project area testing grant or other short term grant, 43 CFR 2804.14, 2805.11(b)(2)(ii), and 2805.14(h).	6	Project description (Item 7); Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15); Technical and financial capability (Item 12); Other governmental approvals (Items 9, 14, and 20); and Probable effects (Items 17 through 19).
Environmental, technical, and financial records, reports, and other information, 43 CFR 2805.12(a)(15).	20	Project description (Item 7); Nature and location of the project (Items 7, 8, 11, 13, and 15); Technical and financial capability (Item 12); Other governmental approvals (Items 9, 14, and 20); and Probable effects (Items 17 through 19).
Application for renewal of solar or wind energy development grant or lease, 43 CFR 2805.14(g) and 2807.22.	1	Project description (Item 7); Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15); Technical and financial capability (Item 12); Other governmental approvals (Items 9, 14, and 20); and Probable effects (Items 17 through 19).
Request for amendment or name change (FLPMA), 43 CFR 2807.11(b) and (d) and 2807.21.	30	Project description (Item 7); and Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15).
Plan of Development for solar energy development lease inside designated leasing area, 43 CFR 2809.18(c).	1	Project description (Item 7); and Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15).
Plan of Development for wind energy development lease inside designated leasing area, 43 CFR 2809.18(c).	1	Project description (Item 7); and Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15).
General description of proposed oil or gas pipeline 10 inches or more in diameter and schedule for submittal of Plan of Development, 43 CFR 2884.10(d)(3).	105	Project description (Item 7); Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15); Technical and financial capability (Item 12); Other governmental approvals (Items 9, 14, and 20); and Probable effects (Items 17 through 19).
Request for amendment, assignment, or name change (MLA), 43 CFR 2886.12(b) and (d) and 43 CFR 2887.11.	2,862	Project description (Item 7); and Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15).
Certification of construction, 43 CFR 2886.12(f).	5	Project description (Item 7); and Other data on the nature and location of the proposed project (Items 8, 11, 13, and 15).
Totals	3,103	

The estimated hour burdens of the proposed supplemental collection requirements are shown in the following table.

PROPOSED INFORMATION COLLECTION REQUIREMENTS SUPPLEMENTAL TO SF–299: ESTIMATED ANNUAL HOUR BURDENS

Type of response	Number of responses	Hours per response	Total hours (column B × column C)
A.	B.	C.	D.
General description of proposed project and schedule for submittal of Plan of Development, 43 CFR 2804.10(c)(4)	20	2	40
Application for wind energy testing grant, 43 CFR 2804.12(a)(8), 2804.30(g), 2805.11(b)(2)(i), 2805.11(b)(2)(ii), and 2809.19(c)	40	8	320
Application for other short term grant associated with solar or wind energy, 43 CFR 2804.14 and 2805.11(b)(2)(iii)	1	8	8
Application for, or request to assign, solar or wind energy development right-of-way, 43 CFR 2804.12(a)(8), 2804.30(g), and 2807.21	11	12	132
Application for renewal of wind energy project area testing grant or other short term grant, 43 CFR 2804.14, 2805.11(b)(2)(ii), and 2805.14(h)	6	6	36
Environmental, technical, and financial records, reports, and other information, 43 CFR 2805.12(a)(15)	20	4	80
Application for renewal of solar or wind energy development grant or lease, 43 CFR 2805.14(g) and 2807.22	1	12	12
Request for amendment or name change (FLPMA), 43 CFR 2807.11(b) and (d) and 2807.21	30	16	480
Plan of Development for solar energy development lease inside designated leasing area, 43 CFR 2809.18(c)	1	8	8

PROPOSED INFORMATION COLLECTION REQUIREMENTS SUPPLEMENTAL TO SF–299: ESTIMATED ANNUAL HOUR BURDENS—Continued

Type of response	Number of responses	Hours per response	Total hours (column B × column C)
A.	B.	C.	D.
Plan of Development for wind energy development lease inside designated leasing area, 43 CFR 2809.18(c)	1	8	8
General description of proposed oil or gas pipeline 10 inches or more in diameter and schedule for submittal of Plan of Development, 43 CFR 2884.10(d)(3)	105	2	210
Request for amendment, assignment, or name change (MLA), 43 CFR 2886.12(b) and (d) and 43 CFR 2887.11	2,862	16	45,792
Certification of construction, 43 CFR 2886.12(f)	5	4	20
Totals	3,103		47,146

Some of these proposed information collection activities would include fees to reimburse the United States for administrative costs. These fees would be collected under the authority of 43 U.S.C. 1734, which authorizes the Secretary of the Interior to establish reasonable filing and service fees ''with respect to applications and other documents relating to the public lands.''

Other information collection requirements in the proposed rule would include fees to discourage speculation by use of frivolous right-of-way applications for solar or wind energy. The amounts of these fees are not intended for cost recovery.

These fees (i.e., non-hour burdens) are itemized in the following table.

PROPOSED INFORMATION COLLECTION REQUIREMENTS SUPPLEMENTAL TO SF–299: ESTIMATED ANNUAL NON-HOUR BURDENS

Type of response	Number of responses	Amount of fee per response	Purpose of fee	Total fees (column B × column C)
A.	B.	C.	D.	E.
Application for wind energy testing grant, 43 CFR 2804.12(a)(8), 2804.30(g), 2805.11(b)(2)(i), 2805.11(b)(2)(ii), and 2809.19(c).	40	$2 per acre × average of 6,000 acres per application = $12,000.	Discourage speculation	$480,000
Application for other short term grant related to solar or wind energy 43 CFR 2804.14 and 2805.11(b)(2)(iii).	1	$1,124 [1]	Cost recovery	1,124
Application for, or request to assign, solar or wind energy development right-of-way 43 CFR 2804.12(a)(8), 2804.30(g), and 2807.21.	11	$15 per acre × average of 6,000 acres per application = $90,000.	Discourage speculation	990,000
Application for renewal of wind energy project area testing grant or other short term grant 43 CFR 2804.14, 2805.11(b)(2)(ii), 2805.11(b)(2)(iii), and 2805.14(h).	6	$1,124 [2]	Cost recovery	6,744
Application for renewal of solar or wind energy development grant or lease 43 CFR 2805.14(g) and 2807.22.	1	$1,124 [3]	Cost recovery	1,124
Totals	59			1,478,992

[1] This estimate is based on the BLM's experience. The amount shown is for Processing Category Four for calendar year 2014, in accordance with 43 CFR 2804.14.

[2] This estimate is based on the BLM's experience. The amount shown is for Processing Category Four for calendar year 2014, in accordance with 43 CFR 2804.14.

[3] This estimate is based on the BLM's experience. The amount shown is for Processing Category Four for calendar year 2014, in accordance with 43 CFR 2804.14.

Summary of Other Proposed Information Collection Requirements

1. Pre-Application Information for Large-Scale Rights-of-Way

In accordance with proposed 43 CFR 2804.10, anyone interested in a right-of-way for a large-scale project (i.e., for solar or wind energy, for a transmission line with a capacity of 100 kV or more, or for any pipeline 10 inches or more in diameter) would be required to hold pre-application meetings. Among other things, these meetings would be opportunities for the proponent of a project to provide information to the BLM, other governmental entities, and various stakeholders. The potential applicant would be required to pay reasonable costs associated with the pre-application requirements, with the option of paying the-actual costs. The information would assist the BLM in protecting public lands and in facilitating application processing for these types of authorizations, which are generally larger and more complex than the average right-of-way authorization.

2. Showing of Good Cause

Any right-of-way for solar and wind energy requires due diligence in development. In accordance with proposed 43 CFR 2805.12(c)(6), the BLM would notify the holder before suspending or terminating the right-of-way for lack of due diligence. This notice would provide the holder with a reasonable opportunity to correct any noncompliance or to start or resume use of the right-of-way. A showing of good cause would be required in response. That showing would have to include:

- Reasonable justification for any delays in construction (for example, delays in equipment delivery, legal challenges, and acts of God);
- The anticipated date of completion of construction and evidence of progress toward the start or resumption of construction; and
- A request for extension of the timelines in the approved POD.

The BLM would use the information to determine whether or not to suspend or terminate the right-of-way for failure to comply with due diligence requirements.

3. Reclamation Cost Estimate for Lands Outside Designated Leasing Area

The proposed rule provides that a bond would be required for each solar and wind energy development outside a designated leasing area. In accordance with proposed section 2305.20(a)(3), the bond amount would be based on the holder's estimate of the costs for reclaiming and restoring the public lands, include the administrative costs for the BLM to administer a contract to reclaim and restore the lands in the authorization. The BLM would use the reclamation cost estimate to determine the appropriate bond amount.

4. Nomination of Parcel of Land Inside Designated Leasing Area

Under proposed section 2809.10, the BLM could: (1) On its own initiative offer lands competitively inside designated leasing areas for solar or wind energy development, or (2) solicit nominations for such development. Proposed section 2809.11 would describe the nomination process.

In order to nominate a parcel under this process, the nominator would be required to be qualified to hold a right-of-way under 43 CFR 2803.10. After publication of a notice by the BLM, anyone meeting the qualifications could submit a nomination for a specific parcel of land to be developed for solar or wind energy. There would be a fee of $5 per acre for each nomination. The following information would be required:

- The nominator's name and personal or business address; and
- The legal land description; and
- A map of the nominated lands.

The BLM would use the information to communicate with the nominator and to determine whether or not to proceed with a competitive offer.

5. Expression of Interest in Parcel of Land Inside Designated Leasing Area

Proposed section 2809.11 would provide that the BLM may consider informal expressions of interest suggesting lands to be included in a competitive offer. The expression would have to include a description of the suggested lands and a rationale for their inclusion in a competitive offer. The information would assist the BLM in determining whether or not to proceed with a competitive offer.

The estimated hour and non-hour burdens of these proposed collection activities are shown in the following tables.

OTHER PROPOSED INFORMATION COLLECTION REQUIREMENTS: ESTIMATED ANNUAL HOUR BURDENS

Type of response	Number of responses	Hours per response	Total hours (column B × column C)	Annual cost (column D × $61.22)
A.	B.	C.	D.	E.
Pre-application information for large-scale rights-of-way, 43 CFR 2804.10(a)(4) and (b)	20	2	40	$2,449
Showing of good cause, 43 CFR 2805.12(c)(6)	1	2	2	122
Reclamation cost estimate for lands outside designated leasing area, 43 CFR 2805.20(a)(3)	1	10	10	612
Nomination of parcel of land inside designated leasing area, 43 CFR 2809.11	1	4	4	245
Expression of interest in parcel of land inside designated leasing area, 43 CFR 2809.11	1	4	4	245
Totals	24	.....	60	3,673

In connection with the submission of pre-application information, the proposed rule would require a cost recovery fee to reimburse the United States for administrative costs. This fee would be collected under the authority of 43 U.S.C. 1734, which authorizes the Secretary of the Interior to establish reasonable filing and service fees ''with respect to applications and other documents relating to the public lands.''

In connection with the nomination of a parcel inside a designated leasing area, the proposed rule would require a fee set at an amount to discourage speculation by use of a frivolous nomination. The amount of this fee is not intended for cost recovery.

OTHER PROPOSED INFORMATION COLLECTION REQUIREMENTS: ESTIMATED ANNUAL NON-HOUR BURDENS

Type of response	Number of responses	Amount of fee per response	Purpose of fee	Total fees (column B × column C)
A.	B.	C.	D.	E.
Pre-application information for large-scale rights-of-way 43 CFR 2804.10(a)(4) and (b).	20	$5,000	Cost recovery	$100,000
Nomination of parcel of land inside designated leasing area 43 CFR 2809.11.	1	$5 per acre × average of 6,000 acres per nomination = $30,000.	Discourage speculation	$30,000
Totals	21			$130,000

Author

The principal author of this rule is Jayme Lopez, Realty Specialist of the National Renewable Energy Coordination Office Washington Office, Bureau of Land Management, Department of the Interior. He was assisted by Jean Sonneman and Charles Yudson of the Division of Regulatory Affairs, Washington Office, Bureau of Land Management, Department of the Interior.

List of Subjects

43 CFR Part 2800

Communications, Electric power, Highways and roads, Penalties, Public lands and rights-of-way, Reporting and recordkeeping requirements.

43 CFR Part 2880

Administrative practice and procedures, Common carriers, Pipelines, Federal lands and rights-of-way, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, the BLM proposes to amend 43 CFR parts 2800 and 2880 as set forth below:

PART 2800—RIGHTS–OF–WAY UNDER THE FEDERAL LAND POLICY AND MANAGEMENT ACT

■ 1. Revise the heading of Part 2800 to read as set forth above.

■ 2. The authority citation for part 2800 continues to read as follows:

Authority: 43 U.S.C. 1733, 1740, 1763, and 1764.

Subpart 2801—General Information

■ 3. Amend § 2801.5(b) by:

■ a. Adding, in alphabetical order, definitions of ''Acreage rent,'' ''Application filing fee,'' ''Assignment,'' ''Designated leasing area,'' ''Megawatt (MW) capacity fee,'' ''Megawatt rate,'' ''Performance and reclamation bond,'' ''Reclamation cost estimate,'' ''Screening criteria for solar and wind energy development,'' and ''Short-term right-of-way grant;'' and

■ b. Revising the definitions of ''Designated right-of-way corridor,'' ''Management overhead costs,'' and ''Right-of-way.''

The additions and revisions read as follows:

§ 2801.5 What acronyms and terms are used in the regulations in this part?

* * * * *

Acreage rent means rent assessed for solar and wind energy development grants and leases that is determined by the number of acres authorized for the grant or lease.

* * * * *

Application filing fee means a filing fee specific to solar and wind energy applications.

Assignment means the transfer, in whole or in part, of any right or interest in a right-of-way grant or lease from the holder (assignor) to a subsequent party (assignee) with the BLM's written approval. A change in ownership of the grant or lease, or other related change-in-control transaction involving the holder, including a merger or acquisition, also constitutes an assignment for purposes of these regulations requiring the BLM's written approval, unless applicable statutory authority provides otherwise.

* * * * *

Designated leasing area means a parcel of land with specific boundaries identified by the BLM land use planning process as being a preferred location for solar or wind energy development that must be leased competitively. Solar energy zones are an example of a designated leasing area for solar energy.

Designated right-of-way corridor means a parcel of land with specific boundaries identified by law, Secretarial order, the land-use planning process, or other management decision, as being a preferred location for existing and future linear rights-of-way and facilities. The corridor may be suitable to accommodate more than one right-of-way use or facility, provided that they are compatible with one another and the corridor designation.

* * * * *

Management overhead costs means Federal expenditures associated with a particular Federal agency's directorate. The BLM's directorate includes all State Directors and the entire Washington Office staff, except where a State Director or Washington Office staff member is required to perform work on a specific right-of-way case.

Megawatt (MW) capacity fee means the fee paid in addition to the acreage rent, for solar and wind energy development grants and leases. The MW capacity fee is the approved MW capacity of the solar or wind energy grant or lease multiplied by the appropriate MW rate. A grant or lease may provide for stages of development and will be charged a fee for each stage by multiplying the MW rate to the approved stage of the project.

Megawatt rate means the price of each MW of capacity for various solar and wind energy technologies as determined by the MW rate formula. Current MW rates are found on the BLM's MW Rate Schedule which can be obtained at any BLM office or at *http://www.blm.gov.* The MW rate is calculated by multiplying the total hours per year by the net capacity factor, by the MW hour (MWh) price, and by the rate of return, where:

(1) ''Net capacity factor'' means the average operational time divided by the average potential operational time of a solar or wind energy development, multiplied by the current technology efficiency rates. The net capacity factor for each technology type is:

(i) Photovoltaic (PV)—20 percent;

(ii) Concentrated photovoltaic (CPV) and concentrated solar power (CSP)—25 percent;

(iii) CSP with storage capacity of 3 hours or more—30 percent; and

(iv) Wind energy—35 percent;

(2) *''Megawatt hour (MWh) price''* means the 5-year average of the annual weighted average wholesale prices per MWh for the major Intercontinental Exchange (ICE) (see *https://beta.theice.com/marketdata/reports/ReportCenter.shtml*), or its successor in interest, at trading hubs serving the 11 western States of the continental United States (U.S.);

(3) ''Rate of return'' means the relationship of income (to the property owner) to revenue generated from authorized solar and wind energy development facilities based on the 10-year average of the 20-year U.S. Treasury bond yield rounded up to the nearest one-half percent; and

(4) ''Hours per year'' means the total number of hours in a year, which, for purposes of this part, means 8,760 hours.

* * * * *

Performance and reclamation bond means the document provided by the holder of a right-of-way grant or lease that provides the appropriate financial guarantees, including cash, to cover potential liabilities or specific requirements identified by the BLM for the construction, operation, decommissioning, and reclamation of an authorized right-of-way on public land.

(1) Acceptable bond instruments include cash, cashier's or certified check, certificate or book entry deposits, negotiable U.S. Treasury securities, and surety bonds from the approved list of sureties (U.S. Treasury Circular 570) payable to the BLM. Irrevocable letters of credit payable to the BLM and issued by banks or financial institutions organized or authorized to transact business in the United States are also acceptable bond instruments. Insurance policies can also qualify as acceptable bond instruments, provided that the BLM determines that the insurance policies will guarantee performance of financial obligations and are issued by insurance carriers that have the authority to issue insurance policies in the applicable jurisdiction and whose insurance operations are organized or authorized to transact business in the U.S.

(2) Unacceptable bond instruments. The BLM will not accept a corporate guarantee as an acceptable form of bond instrument.

* * * * *

Reclamation cost estimate (RCE) means the estimate of costs to restore the land to a condition that will support pre-disturbance land uses. This includes the cost to remove all improvements made under the right-of-way authorization, return the land to approximate original contour, and establish a sustainable vegetative community. The RCE will be used to establish the appropriate amount for financial guarantees of land uses on the public lands, including those uses authorized by right-of-way grants or leases issued under this part.

* * * * *

Right-of-way means the public lands that the BLM authorizes a holder to use or occupy under a particular grant or lease.

* * * * *

Screening criteria for solar and wind energy development refers to the policies and procedures that the BLM uses to prioritize how it processes solar and wind energy development right-of-way applications in order to facilitate the environmentally responsible development of such facilities through the consideration of resource conflicts, land use plans, and applicable statutory and regulatory requirements. Applications with lesser resource conflicts are anticipated to be less costly and time-consuming for the BLM to process and will be prioritized over those with greater resource conflicts.

Short-term right-of-way grant means any grant issued for a term of 3 years or less for such uses as storage sites, construction areas, and site testing and monitoring activities, including site characterization studies and environmental monitoring.

* * * * *

■ 4. In § 2801.6, revise paragraph (a)(2) to read as follows:

§ 2801.6 Scope.

(a) * * *

(2) Grants to Federal departments or agencies for all systems and facilities identified in § 2801.9(a), including grants for transporting by pipeline and related facilities, commodities such as oil, natural gas, synthetic liquid or gaseous fuels, and any refined products produced from them; and

* * * * *

■ 5. Amend § 2801.9 by revising paragraphs (a)(4) and (a)(7), and by adding paragraph (d) to read as follows:

§ 2801.9 When do I need a grant?

(a) * * *

(4) Systems for generating, transmitting, and distributing electricity, including solar and wind energy development facilities and associated short-term actions such as site and geotechnical testing for solar and wind energy projects;

* * * * *

(7) Such other necessary transportation or other systems or facilities including any temporary or short-term surface disturbing activities associated with approved systems or facilities and which are in the public interest and which require rights-of-way.

* * * * *

(d) All systems, facilities, and related activities for solar and wind energy projects are specifically authorized as follows:

(1) Wind energy site specific testing activities, including those with individual meteorological towers and instrumentation facilities, are authorized with a short-term right-of-way grant issued for 3 years or less;

(2) Wind energy project area testing activities are authorized with a short-term right-of-way grant for an initial term of 3 years or less with the option to renew for one additional 3-year period under § 2805.14(h) when the renewal application is accompanied by a wind energy development application;

(3) Other associated actions not specifically included in § 2801.9(d)(1) and (2), such as geotechnical testing and other temporary land disturbing activities, are authorized with a short-term right-of-way grant issued for 3 years or less;

(4) Solar and wind energy development facilities located outside designated leasing areas, except as provided for by § 2809.17(d)(2), are authorized with a right-of-way grant issued for up to 30 years (plus the initial partial year of issuance). An application for renewal of the grant may be submitted under § 2805.14(g); and

(5) Solar and wind energy development facilities located inside designated leasing areas are authorized with a solar or wind energy development lease when issued competitively under subpart 2809. The term is fixed for 30 years (plus the initial partial year of issuance). An application for renewal of the lease may be submitted under § 2805.14(g).

Subpart 2802—Lands Available for FLPMA Grants

■ 6. In § 2802.11, revise the section heading and paragraph (a), revise the introductory language of paragraph (b), and revise paragraphs (b)(3), (b)(4), (b)(6), (b)(7), and (d) to read as follows:

§ 2802.11 How does the BLM designate right-of-way corridors and designated leasing areas?

(a) The BLM may determine the locations and boundaries of right-of-way corridors or designated leasing areas during the land use planning process described in part 1600 of this chapter.

During this process, the BLM coordinates with other Federal agencies, State, local, and tribal governments, and the public to identify resource-related issues, concerns, and needs. The process results in a resource management plan or plan amendment, which addresses the extent to which you may use public lands and resources for specific purposes.

(b) When determining which lands may be suitable for right-of-way corridors or designated leasing areas, the factors the BLM considers include, but are not limited to, the following:

* * * * *

(3) Physical effects and constraints on corridor placement or leasing areas due to geology, hydrology, meteorology, soil, or land forms;

(4) Costs of construction, operation, and maintenance and costs of modifying or relocating existing facilities in a proposed right-of-way corridor or designated leasing area (i.e., the economic efficiency of placing a right-of-way within a proposed corridor or providing a lease inside a designated leasing area);

* * * * *

(6) Potential health and safety hazards imposed on the public by facilities or activities located within the proposed right-of-way corridor or designated leasing area;

(7) Social and economic impacts of the right-of-way corridor or designated leasing area on public land users, adjacent landowners, and other groups or individuals;

* * * * *

(d) The resource management plan or plan amendment may also identify areas where the BLM will not allow right-of-way corridors or designated leasing areas for environmental, safety, or other reasons.

Subpart 2804—Applying for FLPMA Grants

■ 7. Amend § 2804.10 by:

■ a. Revising the introductory text of paragraph (a), and revising paragraphs (a)(2) and (a)(4);

■ b. Redesignating paragraph (b) as paragraph (d);

■ c. Adding paragraphs (b) and (c); and

■ d. Revising newly redesignated paragraph (d).

The revisions and additions read as follows:

§ 2804.10 What should I do before I file my application?

(a) Except as provided in paragraph (b) of this section, we encourage you to make an appointment for a pre-application meeting with the appropriate personnel in the BLM office having jurisdiction over the lands you seek to use. During the pre-application meeting, the BLM may:

* * * * *

(2) Determine whether the lands are located inside a designated or existing right-of-way corridor or a designated leasing area;

* * * * *

(4) Inform you of your financial obligations, such as processing and monitoring costs and rents. In addition to such costs, you are required to pay reasonable costs, and may elect to pay the actual costs, that are associated with the pre-application requirements identified in paragraph (b) of this section.

(b) Before submitting an application for any solar energy or wind energy project, for any transmission line with a capacity of 100 kV or more, or for any pipeline 10 inches or more in diameter, you must do all of the following:

(1) Schedule and hold an initial pre-application meeting with the BLM to discuss:

(i) The general project proposal;

(ii) The status of BLM land use planning for the lands involved;

(iii) Potential siting issues or concerns;

(iv) Potential environmental issues or concerns;

(v) Potential alternative site locations; and

(vi) The right-of-way application process.

(2) Schedule and hold, in coordination with the BLM, one additional pre-application meeting with appropriate Federal and State agencies and tribal and local governments to facilitate coordination of potential environmental and siting issues and concerns. The BLM and you may agree mutually to schedule and hold additional pre-application meetings.

(3) Initiate early discussions with any grazing permittees that may be affected by the proposed project in accordance with 43 CFR 4110.4–2(b).

(c) In addition to all other pre-application, application, and holder requirements specified in this part, the BLM will accept an application under this subpart for any solar energy or wind energy development project, for any transmission line with a capacity of 100 kV or more, or any pipeline 10 inches or more in diameter, only if:

(1) The written proposal addresses known potential resource conflicts with sensitive resources and values that are the basis for special designations or protections, and includes applicant-proposed measures to avoid, minimize, and mitigate such resource conflicts;

(2) The proposal for solar energy or wind energy development is not sited on lands inside a designated leasing area, except as provided for by § 2809.19;

(3) The pre-application meetings described in § 2804.10(b)(1) and (2) have been completed to the BLM's satisfaction; and

(4) The proposal is accompanied by a general description of the proposed project and a schedule for the submittal of a plan of development (POD) conforming to the POD template at *http://www.blm.gov.*

(d) Subject to § 2804.13, BLM may share any information you provide under paragraph (a) of this section with Federal, State, tribal, and local government agencies to ensure that:

(1) These agencies are aware of any authorizations you may need from them; and

(2) We initiate effective coordinated planning as soon as possible.

■ 8. In § 2804.12:

■ a. Revise the second sentence of the introductory text of paragraph (a);

■ b. Remove each semicolon at the end of paragraphs (a)(1) through (a)(5) and add in each place a period;

■ c. At the end of paragraph (a)(6), remove the phrase ''; and'' and add in its place a period; and

■ d. Add new paragraphs (a)(8) and (a)(9).

The revisions and additions read as follows:

§ 2804.12 What information must I submit in my application?

(a) * * * Your completed application must include all of the following:

* * * * *

(8) A nonrefundable application filing fee for solar and wind energy applications. The fee is $15 per acre for solar and wind energy development applications and $2 per acre for wind energy project area and site specific testing applications. The BLM will adjust the application filing fee at least once every 10 years by the average annual change in the Implicit Price Deflator, Gross Domestic Product (IPD–GDP) for the preceding 10-year period and round it to the nearest one-half dollar. This 10-year average will be adjusted at the same time as the Per Acre Rent Schedule for linear rights-of-way under § 2806.22.

(9) A schedule for the submittal of a POD conforming to the POD template at *http://www.blm.gov,* should the BLM require you to submit a POD under § 2804.25(b).

* * * * *

■ 9. In § 2804.14, revise paragraphs (a), (b), and (c) to read as follows:

§ 2804.14 What is the processing fee for a grant application?

(a) Unless you are exempt under § 2804.16, you must pay a fee to the BLM for the reasonable costs of processing your application. Subject to applicable laws and regulations, if processing your application involves Federal agencies other than the BLM, your fee may also include the reasonable costs estimated to be incurred by those Federal agencies. Instead of paying the BLM a fee for the reasonable costs incurred by other Federal agencies in processing your application, you may pay other Federal agencies directly for such costs. Reasonable costs are those costs as defined in Section 304(b) of FLPMA (43 U.S.C. 1734(b)). The fees for Processing Categories 1 through 4 (see paragraph (b) of this section) are one-time fees and are not refundable. The fees are categorized based on an estimate of the amount of time that the Federal Government will expend to process your application and issue a decision granting or denying the application.

(b) There is no processing fee if the Federal Government's work is estimated to take 1 hour or less. Processing fees are based on categories. The BLM will update the processing fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD–GDP, as measured second quarter to second quarter rounded to the nearest dollar. The BLM will update Category 5 processing fees as specified in the Master Agreement. These categories and the estimated range of Federal work hours for each category are:

PROCESSING CATEGORIES

Processing category	Federal work hours involved
(1) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are >1 ≤ 8.
(2) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 8 ≤ 24.
(3) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 24 ≤ 36.
(4) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 36 ≤ 50.
(5) Master agreements	Varies.
(6) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 50.

(c) You may obtain a copy of the current year's processing fee schedule from any BLM state, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street, SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current processing fee schedule at *http://www.blm.gov.*

* * * * *

■ 10. Amend § 2804.18 by redesignating paragraphs (a)(6) through (a)(8) as paragraphs (a)(7) through (a)(9) and adding new paragraph (a)(6). The addition reads as follows:

§ 2804.18 What provisions do Master Agreements contain and what are their limitations?

(a) * * *

(6) Describes existing agreements between the BLM and other Federal agencies for cost reimbursement;

* * * * *

■ 11. Amend § 2804.19 by revising paragraph (a) and adding new paragraph (e) to read as follows:

§ 2804.19 How will BLM process my Processing Category 6 application?

(a) For Processing Category 6 applications, you and the BLM must enter into a written agreement that describes how the BLM will process your application. The final agreement consists of a work plan, a financial plan, and a description of any existing agreements you have with other Federal agencies for cost reimbursement associated with your application.

* * * * *

(e) We may collect reimbursement to the U.S. for reasonable costs for processing applications and other documents under this part relating to the public lands.

■ 12. Amend § 2804.20 by revising paragraphs (a)(1) and (a)(5), redesignating paragraph (a)(6) as paragraph (a)(8), and adding new paragraphs (a)(6) and (a)(7). The revisions and additions read as follows:

§ 2804.20 How does BLM determine reasonable costs for Processing Category 6 or Monitoring Category 6 applications?

* * * * *

(a) * * *

(1) Actual costs to the Federal Government (exclusive of management overhead costs) of processing your application and of monitoring construction, operation, maintenance, and termination of a facility authorized by the right-of-way grant;

* * * * *

(5) Any tangible improvements, such as roads, trails, and recreation facilities, which provide significant public service and are expected in connection with constructing and operating the facility;

(6) Existing agreements between the BLM and other Federal agencies for cost reimbursement associated with such application;

(7) Costs associated with the pre-application requirements applicable to your project under § 2804.10; and

* * * * *

■ 13. Amend § 2804.23 by revising the section heading and paragraphs (a)(1) and (c) and adding new paragraphs (d) and (e) to read as follows:

§ 2804.23 When will the BLM use a competitive process?

(a) * * *

(1) *Processing Category 1 through 4.* You must reimburse the Federal Government for processing costs as if the other application or applications had not been filed.

* * * * *

(c) If we determine that competition exists, we will describe the procedures for a competitive bid through a bid announcement in a newspaper of general circulation in the area affected by the potential right-of-way and by a notice in the **Federal Register**. We may also provide notice by other methods, including the Internet. We may offer lands through a competitive process on our own initiative.

(d) *Competitive process for solar and wind energy development outside designated leasing areas.* Lands outside designated leasing areas may be made available for solar and wind energy applications through a competitive

application process established by the BLM under § 2804.30.

(e) *Competitive process for solar and wind energy development inside designated leasing areas.* Lands inside designated leasing areas may be offered competitively under subpart 2809.

■ 14. Amend § 2804.24 by revising paragraph (a), redesignating paragraph (b) as paragraph (c), and adding new paragraph (b) to read as follows:

§ 2804.24 Do I always have to submit an application for a grant using Standard Form 299?

* * * * *

(a) The BLM offers lands competitively under § 2804.23(c) and you have already submitted an application for the facility or system;

(b) The BLM offers lands for competitive lease under subpart 2809 of this part; or

* * * * *

■ 15. Amend § 2804.25 by revising paragraphs (b) and (d) to read as follows:

§ 2804.25 How will BLM process my application?

* * * * *

(b) The BLM may require you to submit additional information necessary to process the application. This information may include a detailed construction, operation, rehabilitation, and environmental protection plan (i.e., a POD), and any needed cultural resource surveys or inventories for threatened or endangered species. If the BLM needs more information, the BLM will identify this information in a written deficiency notice asking you to provide the additional information within a specified period of time. The BLM will notify you of any other grant applications which involve all or part of the lands for which you applied. The BLM will not process your application if you have any trespass action pending against you for any activity on BLM-administered lands (see § 2808.12) or have any unpaid debts owed to the Federal Government. Except as otherwise provided in this paragraph, the only applications the BLM would process to resolve the trespass would be for a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after outstanding debts are paid.

* * * * *

(d) In processing an application, the BLM will:

(1) Hold public meetings if sufficient public interest exists to warrant their time and expense. The BLM will publish a notice in the **Federal Register**, a newspaper of general circulation in the vicinity of the lands involved in the area affected by the potential right-of-way, or use other notification methods including the Internet, to announce in advance any public hearings or meetings.

(2) If your application is for solar or wind energy development:

(i) Hold a public meeting in the area affected by the potential right-of-way;

(ii) Apply screening criteria to prioritize processing applications with lesser resource conflicts priority over applications with greater resource conflicts, and categorize screened applications according to the criteria listed in § 2804.35; and

(iii) Evaluate the application based on the information provided by the applicant and the input of Federal, State, and local government agencies, tribes, and comments received in pre-application meetings held under § 2804.10(b) and the public meeting held under § 2804.25(d)(2)(i). Based on this evaluation, the BLM will either deny your application or continue processing it.

(3) Determine whether the POD schedule submitted with your application for solar or wind energy development, transmission line with a capacity of 100 kV or more, or pipeline 10 inches or more in diameter meets the development schedule and other requirements described in §§ 2804.10(c)(4) and 2804.12(a)(9), or whether the applicant must supply additional information;

(4) Complete a National Environmental Policy Act (NEPA) analysis for the application or approve a NEPA analysis previously completed for the application, as required by 40 CFR parts 1500 through 1508;

(5) Determine whether your proposed use complies with applicable Federal and state laws;

(6) If your application is for a road, determine whether it is in the public interest to require you to grant the U.S. an equivalent authorization across lands that you own;

(7) Consult, as necessary, on a government to government basis with tribes and other governmental entities; and

(8) Take any other action necessary to fully evaluate and decide whether to approve or deny your application.

* * * * *

■ 16. Amend § 2804.26 by revising paragraph (a)(5), redesignating paragraph (a)(6) as paragraph (a)(8), and adding new paragraphs (a)(6) and (a)(7). The revisions read as follows:

§ 2804.26 Under what circumstances may BLM deny my application?

(a) * * *

(5) You do not have or cannot demonstrate the technical or financial capability to construct the project or operate facilities within the right-of-way.

(i) Applicants must have or be able to demonstrate technical and financial capability to construct, operate, maintain, and terminate a project throughout the application process and authorization period. You can demonstrate your financial and technical capability to construct, operate, maintain, and terminate a project by:

(A) Documenting any previous successful experience in construction, operation, and maintenance of similar facilities on either public or non-public lands;

(B) Providing information on the availability of sufficient capitalization to carry out development, including the preliminary study stage of the project and the environmental review and clearance process; or

(C) Providing written copies of conditional commitments of Federal and other loan guarantees; confirmed power purchase agreements; engineering, procurement, and construction contracts; and supply contracts with credible third-party vendors for the manufacture or supply of key components for the project facilities.

(ii) Failure to sustain technical and financial capability is grounds for denying the application or terminating the authorization;

(6) The PODs required by §§ 2804.10(c)(4) and 2804.12(a)(9) do not meet the development schedule or other requirements in the POD template and the applicant is unable to demonstrate why the POD should be approved;

(7) The BLM's evaluation of your solar or wind application made under § 2804.25(d)(2)(iii) provides a basis for a denial; or

* * * * *

■ 17. In § 2804.27, revise the introductory text to read as follows:

§ 2804.27 What fees do I owe if BLM denies my application or if I withdraw my application?

If the BLM denies your application or you withdraw it, you must still pay any pre-application costs under § 2804.10(a)(4), any application filing fees under § 2804.12(a)(8), and any processing fee set forth at § 2804.14, unless you have a Processing Category

5 or 6 application. Then, the following conditions apply:

* * * * *

■ 18. Add § 2804.30 to subpart 2804 to read as follows:

§ 2804.30 What is the competitive process for solar or wind energy development for lands outside of designated leasing areas?

(a) *Available land.* The BLM may offer through a competitive process any land not inside a designated leasing area and open to right-of-way applications under § 2802.10.

(b) *Variety of competitive procedures available.* The BLM may use any type of competitive process or procedure to conduct its competitive offer and any method, including the use of the Internet, to conduct the actual auction or competitive bid procedure. Possible bid procedures could include, but are not limited to: Sealed bidding, oral auctions, modified competitive bidding, electronic bidding, or any combination thereof.

(c) *Competitive offer.* The BLM may identify a parcel for competitive offer if competition exists or may include land in a competitive offer on its own initiative.

(d) *Notice of competitive offer.* The BLM will publish a notice in a newspaper of general circulation in the area affected by the potential right-of-way, use other notification methods, including the Internet, and publish a notice in the **Federal Register** at least 30 days prior to the competitive offer. The notice would explain that the successful bidder would become the preferred applicant (see paragraph (g) of this section) and must apply for a grant. The newspaper and **Federal Register** notices must also include:

(1) The date, time, and location, if any, of the competitive offer;

(2) The legal land description of the parcel to be offered;

(3) The bidding methodology and procedures to be used in conducting the competitive offer, which may include any of the competitive procedures identified in § 2804.30(b);

(4) The minimum bid required (see § 2804.30(e)(2));

(5) The qualification requirements of potential bidders (see § 2803.10); and

(6) The requirements for the successful bidder to submit a schedule for the submittal of a POD for the lands involved in the competitive offer (see § 2804.12(a)(9)).

(e) *Bidding*—(1) *Bid submissions.* The BLM will accept your bid only if it includes payment for the minimum bid and at least 20 percent of the bonus bid.

(2) *Minimum bid.* The minimum bid is not prorated among all bidders, but paid entirely by the successful bidder. The minimum bid consists of:

(i) The administrative costs incurred by the BLM and other Federal agencies in preparing for and conducting the competitive offer, including required environmental reviews; and

(ii) An amount determined by the authorizing officer and disclosed in the notice of competitive offer. This amount will be based on known or potential values of the parcel. In setting this amount, the BLM will consider factors that include, but are not limited to the acreage rent, megawatt capacity fee, and mitigation costs.

(3) *Bonus bid.* The bonus bid consists of any dollar amount that a bidder wishes to bid in addition to the minimum bid.

(4) If you are not the successful bidder, as defined in paragraph (f) of this section, the BLM will refund your bid.

(f) *Successful bidder.* The successful bidder is determined by the highest total bid. If you are the successful bidder, you become the preferred applicant only if, within 15 calendar days after the day of the offer, you submit the balance of the bonus bid to the BLM office conducting the offer. You must make payments by personal check, cashier's check, certified check, bank draft, money order, or by other means deemed acceptable by the BLM, payable to the ''Department of the Interior—Bureau of Land Management.''

(g) *Preferred applicant.* The preferred applicant is the only applicant that may apply for the parcel identified in the offer. The preferred applicant may apply for a wind energy project area testing grant, a wind energy site specific testing grant, or a solar or wind energy development grant. Grant approval is not guaranteed by winning the subject bid and is solely at the BLM's discretion.

(h) *Reservations.* (1) The BLM may reject bids regardless of the amount offered. If the BLM rejects your bid under this provision, you will be notified in writing and such notice will include the reasons for the rejection and what refunds to which you are entitled.

(2) The BLM may make the next highest bidder the preferred applicant if the first successful bidder fails to satisfy the requirements under paragraph (f) of this section.

(3) If the BLM is unable to determine the successful bidder, such as in the case of a tie, the BLM may re-offer the lands competitively to the tied bidders, or to all bidders.

(4) If lands offered under this section receive no bids the BLM may:

(i) Re-offer the lands through the competitive process under this section; or

(ii) Make the lands available through the non-competitive application process found in subparts 2803, 2804, and 2805 of this part, if the BLM determines that doing so is in the public interest.

■ 19. Add § 2804.35 to subpart 2804 to read as follows:

§ 2804.35 How will the BLM prioritize my solar or wind energy application?

The BLM will prioritize your application by placing it into one of three categories and may re-categorize your application based on new information received through surveys, public meetings, or other data collection, or after any changes to the application. The BLM will categorize your application based on the following screening criteria.

(a) High-priority applications are given processing priority over medium- and low-priority applications, and may include lands that meet the following criteria:

(1) Lands specifically identified for solar or wind energy development, other than designated leasing areas;

(2) Previously disturbed sites or areas adjacent to previously disturbed or developed sites;

(3) Lands currently designated as Visual Resource Management Class IV; or

(4) Lands identified as suitable for disposal in BLM land use plans.

(b) Medium-priority applications are given priority over low-priority applications and may include lands that meet the following criteria:

(1) BLM special management areas that provide for limited development, including recreation sites and facilities;

(2) Areas where a project may adversely affect conservation lands, to include lands with wilderness characteristics that have been identified in an updated wilderness characteristics inventory;

(3) Right-of-way avoidance areas;

(4) Areas where project development may adversely affect resources and properties listed nationally such as the National Register of Historic Places, National Natural Landmarks, or National Historic Landmarks;

(5) Sensitive habitat areas, including important eagle use areas, priority sage grouse habitat, riparian areas, or areas of importance for Federal or State sensitive species;

(6) Lands currently designated as Visual Resource Management Class III;

(7) Department of Defense operating areas with land use or operational conflicts; or

(8) Projects with proposed groundwater uses within groundwater basins that have been allocated by state water resource agencies.

(c) Low-priority applications may not be feasible to authorize. These applications may include lands that meet the following criteria:

(1) Lands near or adjacent to lands designated by Congress, the President, or the Secretary for the protection of sensitive viewsheds, resources, and values (e.g., units of the National Park System, Fish and Wildlife Service Refuge System, some National Forest System units, and the BLM National Landscape Conservation System), which may be adversely affected by development;

(2) Lands near or adjacent to Wild, Scenic, and Recreational Rivers and river segments determined suitable for Wild or Scenic River status, if project development may have significant adverse effects on sensitive viewsheds, resources, and values;

(3) Designated critical habitat for federally threatened or endangered species, if project development is likely to result in the destruction or adverse modification of that critical habitat;

(4) Lands currently designated as Visual Resource Management Class I or Class II;

(5) Right-of-way exclusion areas; or

(6) Lands currently designated as no surface occupancy for oil and gas development in BLM land use plans.

Subpart 2805—Terms and Conditions of Grants

■ 20. Amend § 2805.10 as follows:

■ a. Revise the section heading;

■ b. Revise paragraph (a);

■ c. Redesignate paragraph (b) and (c) as paragraphs (c) and (d) respectively; and

■ d. Add new paragraph (b).

The revisions and additions read as follows:

§ 2805.10 How will I know whether the BLM has approved or denied my application or if my bid for a solar or wind energy development grant or lease is successful or unsuccessful?

(a) The BLM will send you a written response when it has made a decision on your application or if you are the successful bidder for a solar or wind energy development grant or lease. If we approve your application, we will send you an unsigned grant for your review and signature. If you are the successful bidder for a solar or wind energy lease inside a designated leasing area under § 2809.15, we will send you an unsigned lease for your review and signature. If your bid is unsuccessful, it will be refunded under §§ 2804.30(e)(4) or 2809.14(d) and you will receive written notice from us.

(b) Your unsigned grant or lease document:

(1) Will include any terms, conditions, and stipulations that we determine to be in the public interest, such as modifying your proposed use or changing the route or location of the facilities;

(2) May include terms that prevent your use of the right-of-way until you have an approved Plan of Development and BLM has issued a Notice to Proceed; and

(3) Will impose a specific term for the grant or lease. Each grant or lease that we issue for 20 or more years will contain a provision requiring periodic review at the end of the twentieth year and subsequently at 10-year intervals. We may change the terms and conditions of the grant or lease, including leases issued under subpart 2809, as a result of these reviews in accordance with § 2805.15(e).

* * * * *

■ 21. Amend § 2805.11 by redesignating paragraph (b)(2) as paragraph (b)(3), adding new paragraph (b)(2), and revising newly redesignated paragraph (b)(3)to read as follows:

§ 2805.11 What does a grant contain?

* * * * *

(b) * * *

(2) Specific terms for solar and wind energy grants and leases are as follows:

(i) For a wind energy site-specific testing grant, the term is 3 years or less, without the option of renewal;

(ii) For a wind energy project area testing grant, the initial term is 3 years or less, with the option to renew for one additional 3-year period when the renewal application is also accompanied by a wind energy development application and a POD as required by § 2804.10(c)(4);

(iii) For a short-term grant for all other associated actions not specifically included in paragraphs (b)(2)(i) and (ii) of this section, such as geotechnical testing and other temporary land disturbing activities, the term is 3 years or less;

(iv) For solar and wind energy development grants located outside of designated leasing areas, the term is for up to 30 years (plus the initial partial year of issuance) with adjustable terms and conditions. The grantee may submit an application for renewal under § 2805.14(g); and

(v) For solar and wind energy development leases located inside designated leasing areas, the term is fixed for 30 years (plus the initial partial year of issuance). The lessee may submit an application for renewal under § 2805.14(g).

(3) All grants and leases, except those issued for a term of 3 years or less and those issued in perpetuity, will expire on December 31 of the final year of the grant or lease. For grants and leases with terms greater than 3 years, the actual term includes the number of full years specified, plus the initial partial year, if any.

* * * * *

■ 22. Revise § 2805.12 to read as follows:

§ 2805.12 What terms and conditions must I comply with?

(a) By accepting a grant or lease, you agree to comply with and be bound by the following terms and conditions. During construction, operation, maintenance, and termination of the project you must:

(1) To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations and State laws and regulations applicable to the authorized use;

(2) Rebuild and repair roads, fences, and established trails destroyed or damaged by the project;

(3) Build and maintain suitable crossings for existing roads and significant trails that intersect the project;

(4) Do everything reasonable to prevent and suppress wildfires on or in the immediate vicinity of the right-of-way area;

(5) Not discriminate against any employee or applicant for employment during any stage of the project because of race, creed, color, sex, sexual orientation, or national origin. You must also require subcontractors to not discriminate;

(6) Pay monitoring fees and rent described in § 2805.16 and subpart 2806;

(7) Assume full liability if third parties are injured or damages occur to property on or near the right-of-way (see § 2807.12);

(8) Comply with project-specific terms, conditions, and stipulations, including requirements to:

(i) Restore, revegetate, and curtail erosion or conduct any other rehabilitation measure the BLM determines necessary;

(ii) Ensure that activities in connection with the grant comply with air and water quality standards or related facility siting standards contained in applicable Federal or State law or regulations;

(iii) Control or prevent damage to:

(A) Scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat;

(B) Public and private property; and

(C) Public health and safety;

(iv) Protect the interests of individuals living in the general area who rely on the area for subsistence uses as that term is used in Title VIII of Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111 *et seq.*);

(v) Ensure that you construct, operate, maintain, and terminate the facilities on the lands in the right-of-way in a manner consistent with the grant or lease, including the approved POD, if one was required;

(vi) When the State standards are more stringent than Federal standards, comply with State standards for public health and safety, environmental protection, and siting, constructing, operating, and maintaining any facilities and improvements on the right-of-way; and

(vii) Grant the BLM an equivalent authorization for an access road across your land if the BLM determines that a reciprocal authorization is needed in the public interest and the authorization the BLM issues to you is also for road access;

(9) Immediately notify all Federal, State, tribal, and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify the BLM at the same time and send the BLM a copy of any written notification you prepared;

(10) Not dispose of or store hazardous material on your right-of-way, except as provided by the terms, conditions, and stipulations of your grant;

(11) Certify your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, (42 U.S.C. 11001 *et seq.*), when you receive, assign, renew, amend, or terminate your grant;

(12) Control and remove any release or discharge of hazardous material on or near the right-of-way arising in connection with your use and occupancy of the right-of-way, whether or not the release or discharge is authorized under the grant. You must also remediate and restore lands and resources affected by the release or discharge to the BLM's satisfaction and to the satisfaction of any other Federal, State, tribal, or local agency having jurisdiction over the land, resource, or hazardous material;

(13) Comply with all liability and indemnification provisions and stipulations in the grant;

(14) As the BLM directs, provide diagrams or maps showing the location of any constructed facility;

(15) The BLM may require you to provide, or give access to, any pertinent environmental, technical, and financial records, reports, and other information, such as Power Purchase and Interconnection Agreements or the production and sale data of electricity generated from the approved facilities on public land. The BLM may use this and similar information for the purpose of monitoring your authorization and for periodic evaluation of financial obligations under the authorization, as appropriate. Any records the BLM obtains will be made available to the public for inspection and duplication under the Freedom of Information Act. Any information marked confidential or proprietary will be kept confidential to the extent allowed by law. Failure to comply with such requirements may, at the discretion of the BLM, result in suspension or termination of the right-of-way authorization; and

(16) Comply with all other stipulations that the BLM may require.

(b) You must comply with the bonding requirements under § 2805.20.

(c) By accepting a grant or lease for solar or wind energy development, you also agree to comply with and be bound by the following terms and conditions. You must:

(1) Not begin any ground disturbing activities until the BLM issues a Notice to Proceed (see § 2807.10) or written approval to proceed with ground disturbing activities;

(2) Complete construction within the timeframes in the approved POD, but no later than 24 months after the start of construction, unless the project has been approved for staged development;

(3) If an approved POD provides for staged development and not otherwise agreed to by BLM:

(i) Begin construction of the initial phase of development within 12 months after issuance of the Notice to Proceed, but no later than 24 months after the effective date of the right-of-way authorization;

(ii) Begin construction of each stage of development (following the first) within 3 years of the start of construction of the previous stage of development, and complete construction no later than 24 months after the start of construction for that stage; and

(iii) Have no more than 3 development stages, unless the BLM approves more development stages in advance.

(4) Maintain all onsite electrical generation equipment and facilities in accordance with the design standards in the approved POD;

(5) Repair, place into service, or remove from the site damaged or abandoned facilities that have been inoperative for any continuous period of 3 months that present an unnecessary hazard to the public lands. You must take appropriate remedial action within 30 days after receipt of a written noncompliance notice, unless you have been provided an extension of time by the BLM. Alternatively, you must show good cause for any delays in repairs, use, or removal; estimate when corrective action will be completed; provide evidence of diligent operation of the facilities; and submit a written request for an extension of the 30-day deadline. If you do not comply with this provision, the BLM may suspend or terminate the authorization under §§ 2807.17 through 2807.19; and

(6) Comply with the diligent development provisions of the authorization or the BLM may suspend or terminate your grant or lease under § 2807.17. Before suspending or terminating the authorization, the BLM will send you a notice that gives you a reasonable opportunity to correct any noncompliance or to start or resume use of the right-of-way (see § 2807.18). In response to this notice, you must:

(i) Provide reasonable justification for any delays in construction (for example, delays in equipment delivery, legal challenges, and acts of God);

(ii) Provide the anticipated date of completion of construction and evidence of progress toward the start or resumption of construction; and

(iii) Submit a written request under § 2807.11(d) for extension of the timelines in the approved POD. If you do not comply with the requirements of § 2804.12(c)(7), the BLM may deny your request for an extension of the timelines in the approved POD.

(7) In addition to the RCE requirements of § 2805.20(a)(5) for a grant, the bond secured for a grant or lease must cover cultural resource and Indian cultural resource identification, protection and mitigation.

(d) For wind energy site or project testing grants:

(1) You must install all monitoring facilities within 12 months after the effective date of the grant or other authorization. If monitoring facilities under a site testing and monitoring right-of-way authorization have not been installed within 12 months after the effective date of the authorization or consistent with the timeframe of the approved POD, you must show good cause for and the nature of any delay, the anticipated date of installation of

facilities, and evidence of progress toward site monitoring activities;

(2) You must maintain all onsite equipment and facilities in accordance with the approved design standards;

(3) You must repair, place into service, or remove from the site damaged or abandoned facilities that have been inoperative for any continuous period of 3 months that present an unnecessary hazard to the public lands; and

(4) If you do not comply with the due diligence terms and conditions of either the wind site testing and monitoring authorization or the wind energy development authorization, the BLM may terminate your authorization under § 2807.17.

■ 23. Amend § 2805.14 by removing ''and'' from the end of paragraph (e), removing the period from the end of paragraph (f) and adding ''; and'' in its place, and adding paragraphs (g) and (h) to read as follows:

§ 2805.14 What rights does a grant convey?

* * * * *

(g) Apply to renew your solar or wind energy development grant or lease, under § 2807.22; and

(h) Apply to renew your wind energy project area testing grant for one additional term of 3 years or less when the renewal application also includes a wind energy development application.

■ 24. In § 2805.15, revise the first sentence of paragraph (b) to read as follows:

§ 2805.15 What rights does the United States retain?

* * * * *

(b) Require common use of your right-of-way, including facilities (see § 2805.14(b)), subsurface and air space, and authorize use of the right-of-way for compatible uses. * * *

* * * * *

■ 25. Revise § 2805.16 to read as follows:

§ 2805.16 If I hold a grant, what monitoring fees must I pay?

(a) You must pay a fee to the BLM for the reasonable costs the Federal Government incurs in monitoring the construction, operation, maintenance, and termination of the project and protection and rehabilitation of the public lands your grant covers. Instead of paying the BLM a fee for the reasonable costs incurred by other Federal agencies in monitoring your grant, you may pay the other Federal agencies directly for such costs. The BLM will annually adjust the Category 1 through 4 monitoring fees in the manner described at § 2804.14(b). The BLM will update Category 5 monitoring fees as specified in the Master Agreement. The BLM categorizes the monitoring fees based on the estimated number of work hours necessary to monitor your grant. Category 1 through 4 monitoring fees are one-time fees and are not refundable. The monitoring categories and work hours are as follows:

MONITORING CATEGORIES

Monitoring category	Federal work hours involved
(1) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 1 ≤ 8.
(2) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 8 ≤ 24.
(3) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 24 ≤ 36.
(4) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours > 36 ≤ 50.
(5) Master Agreements	Varies.
(6) Applications for new grants, assignments, renewals, and amendments to existing grants	Estimated Federal work hours are > 50.

(b) The monitoring cost schedule is available from any BLM state, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at *http://www.blm.gov.*

■ 26. Add § 2805.20 to subpart 2805 to read as follows:

§ 2805.20 Bonding requirements.

If you hold a grant or lease under this part, you must comply with the following bonding requirements.

(a) The BLM may require that you obtain, or certify that you have obtained, a performance and reclamation bond or other acceptable bond instrument to cover any losses, damages, or injury to human health, the environment, and property in connection with your use and occupancy of the right-of-way, including terminating the grant, and to secure all obligations imposed by the grant and applicable laws and regulations. If you plan to use hazardous materials in the operation of your grant, you must provide a bond that covers liability for damages or injuries resulting from releases or discharges of hazardous materials. The BLM may require a new bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or lease.

(1) The BLM must be listed as an additionally named insured on the bond instrument if a State regulatory authority requires a bond to cover some portion of environmental liabilities, such as hazardous material damages or releases, reclamation, or other requirements for the project. The bond must:

(i) Be redeemable by the BLM;

(ii) Be held or approved by a State agency for the same reclamation requirements as specified by our right-of-way authorization; and

(iii) Provide the same or greater financial guarantee that we require for the portion of environmental liabilities covered by the State's bond.

(2) *Bond acceptance.* The BLM authorized officer must review and approve all bonds, including any State bonds, prior to acceptance, and at the time of any right-of-way assignment, amendment, or renewal.

(3) *Bond amount.* Unless you hold a solar or wind energy lease under subpart 2809, the bond amount will be determined based on the preparation of a RCE. We may require you to prepare and submit an acceptable RCE. The estimate must include our cost to administer a reclamation contract.

(4) You must post a bond on or before the deadline that we give you.

(5) Bond components that must be addressed when determining the RCE amount include, but are not limited to:

(i) Environmental liabilities such as use of hazardous materials waste and hazardous substances, herbicide use, the use of petroleum-based fluids, and dust control or soil stabilization materials;

(ii) The decommissioning, removal, and proper disposal, as appropriate, of any improvements and facilities; and

(iii) Interim and final reclamation, re-vegetation, recontouring, and soil stabilization. This component must address the potential for flood events and downstream sedimentation from the site that may result in offsite impacts.

(6) You may ask us to accept a replacement performance and reclamation bond at any time after the approval of the initial bond. We will review the replacement bond for adequacy. A surety company is not released from obligations that accrued while the surety bond was in effect unless the replacement bond covers those obligations to our satisfaction.

(7) You must notify us that reclamation has occurred and you may request that the BLM reevaluate your bond. If we determine that you have completed reclamation, we may release all or part of your bond.

(8) If you hold a grant, you are still liable under § 2807.12 if:

(i) We release all or part of your bond;

(ii) The bond amount does not cover the cost of reclamation; or

(iii) There is no bond in place.

(b) If you hold a grant for solar energy development outside of designated leasing areas, you must provide a performance and reclamation bond (see paragraph (a) of this section). We will determine the bond amount based on the RCE (see paragraph (a)(3) of this section) and it must be no less than $10,000 per acre.

(c) If you hold a grant for wind energy development outside of designated leasing areas, you must provide a performance and reclamation bond (see paragraph (a) of this section). We will determine the bond amount based on the RCE (see paragraph (a)(3) of this section) and must be no less than $20,000 per authorized turbine. For short-term right-of-way grants for wind energy site or project testing, the bond amount must be no less than $2,000 per authorized meteorological tower.

Subpart 2806—Rents

■ 27. Amend § 2806.12 by revising the section heading and paragraphs (a) and (b) and adding paragraph (d) to read as follows:

§ 2806.12 When and where do I pay rent?

(a) You must pay rent for the initial rental period before the BLM issues you a grant or lease.

(1) If your non-linear grant or lease is effective on:

(i) January 1 through September 30 and qualifies for annual payments, your initial rent bill is pro-rated to include only the remaining full months in the initial year; or

(ii) October 1 through December 31 and qualifies for annual payments, your initial rent bill is pro-rated to include the remaining full months in the initial year plus the next full year.

(2) If your non-linear grant allows for multi-year payments, such as a short term grant issued for wind energy site specific testing, you may request that your initial rent bill be for the full term of the grant instead of the initial rent bill periods provided paragraphs (a)(1)(i) or (ii) of this section.

(b) You must make all other rental payments for linear rights-of-way according to the payment plan described in § 2806.24.

* * * * *

(d) You make all rental payments as instructed by us or as provided for by Secretarial order or legislative authority.

■ 28. Amend § 2806.13 by:

a. Revising the section heading and paragraph (a);

b. Redesignating paragraph (e) as paragraph (f); and

c. Adding new paragraphs (e) and (g).

The revisions and additions read as follows:

§ 2806.13 What happens if I do not pay rents and fees or if I pay the rents or fees late?

(a) If the BLM does not receive the rent or fee payment required in this subpart 2806 within 15 calendar days after the payment was due under § 2806.12, we will charge you a late payment fee of $25 or 10 percent of the amount you owe, whichever is greater, per authorization.

* * * * *

(e) Subject to applicable laws and regulations, we will retroactively bill for uncollected or under-collected rent, fees, and late payments, if:

(1) A clerical error is identified;

(2) An adjustment to rental schedules is not applied; or

(3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

* * * * *

(g) We will not approve any further activities associated with your right-of-way until you make any outstanding payments that are due.

■ 29. In § 2806.20, revise paragraph (c) to read as follows:

§ 2806.20 What is the rent for a linear right-of-way grant?

* * * * *

(c) You may obtain a copy of the current Per Acre Rent Schedule from any BLM state, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003. We also post the current rent schedule at *http://www.blm.gov.*

■ 30. In § 2806.22, revise the second sentence of paragraph (a) to read as follows:

§ 2806.22 When and how does the Per Acre Rent Schedule change?

(a) * * * For example, the average annual change in the IPD–GDP from 1994 to 2003 (the 10-year period immediately preceding the year (2004) that the 2002 National Agricultural Statistics Service Census data became available) was 1.9 percent. * * *

* * * * *

■ 31. Amend § 2806.23 by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

■ 32. In § 2806.24, revise paragraph (c) to read as follows:

§ 2806.24 How must I make rental payments for a linear grant?

* * * * *

(c) *Proration of payments.* The BLM prorates the first year rental amount based on the number of months left in the calendar year after the effective date of the grant. If your grant requires, or you chose a 10-year payment term, or multiples thereof, the initial rent bill consists of the remaining partial year plus the next 10 years, or multiple thereof.

■ 33. Amend § 2806.30 by:

■ a. Revising paragraphs (a)(1) and (a)(2);

■ b. Removing paragraph (b); and

■ c. Redesignating paragraph (c) as paragraph (b).

The revisions read as follows:

§ 2806.30 What are the rents for communication site rights-of-way?

(a) *Rent schedule.* (1) The BLM uses a rent schedule for communication site rights-of-way to calculate the rent for communication site rights-of-way. The schedule is based on nine population strata (the population served), as depicted in the most recent version of the Ranally Metro Area (RMA) Population Ranking, and the type of communication use or uses for which we normally grant communication site rights-of-way. These uses are listed as part of the definition of ''communication use rent schedule,'' set out at § 2801.5(b). You may obtain a copy of the current schedule from any BLM state, district, or field office or by

writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003. We also post the current communication use rent schedule at *http://www.blm.gov.*

(2) We update the schedule annually based on two sources: The U.S. Department of Labor Consumer Price Index for All Urban Consumers, U.S. City Average (CPI–U), as of July of each year (difference in CPI–U from July of one year to July of the following year), and the RMA population rankings.

* * * * *

■ 34. In § 2806.34, revise the second sentence of paragraph (b)(4) to read as follows:

§ 2806.34 How will BLM calculate the rent for a grant or lease authorizing a multiple-use communication facility?

* * * * *

(4) * * * This paragraph does not apply to facilities exempt from rent under § 2806.14(a)(4) except when the facility also includes ineligible facilities.

■ 35. In § 2806.43, revise the third sentence of paragraph (a) to read as follows:

§ 2806.43 How does BLM calculate rent for passive reflectors and local exchange networks?

(a) * * * For passive reflectors and local exchange networks not covered by a Forest Service regional schedule, we use the provisions in § 2806.70 to determine rent. * * *

* * * * *

■ 36. Amend § 2806.44 by adding introductory text and revising paragraph (a) to read as follows:

§ 2806.44 How will BLM calculate rent for a facility owner's or facility manager's grant or lease which authorizes communication uses.

This section applies to a grant or lease that authorizes a mixture of communication uses, some of which are subject to the communication use rent schedule and some of which are not. We will determine rent for these leases under the provisions of this section.

(a) The BLM establishes the rent for each of the uses in the facility that are not covered by the communication use rent schedule using § 2806.70.

* * * * *

■ 37. Remove the undesignated centered heading preceding § 2806.50.

■ 38. Redesignate § 2806.50 as § 2806.70.

■ 39. Add an undesignated centered heading and new § 2806.50 to read as follows:

Solar Energy Rights-of-Way

§ 2806.50 Rents and fees for solar energy rights-of-way.

If you hold a solar energy right-of-way authorization, you must pay an annual rent and fee in accordance with this section and subpart. Your solar energy right-of-way authorization will either be a grant (if located outside a designated leasing area) or a lease (if located inside a designated leasing area). Rents and fees for either type of authorization consist of an acreage rent that must be paid prior to issuance of the authorization and a phased-in MW capacity fee. Both the acreage rent and the phased-in MW capacity fee are charged and calculated consistent with § 2806.11 and prorated consistent with § 2806.12(a). The MW capacity fee will vary depending on the size and technology of the solar energy development project.

■ 40. Add new § 2806.52 to read as follows:

§ 2806.52 Rents and fees for solar energy development grants.

You must pay an annual rent and fee for your solar energy development grant as follows:

(a) *Acreage rent.* The acreage rent is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per-acre county rate in effect at the time the authorization is issued;

(1) *Per-acre county rate.* The per-acre county rate is 200 percent of the per-acre rent value for each county using the BLM's linear rent schedule (see § 2806.20(c)). The BLM will adjust the per-acre county rates each year based on the average annual change in the IPD–GDP as determined under § 2806.22(a). Adjusted rates are effective each year on January 1. You may obtain a copy of the current per-acre county rates for solar energy development from any BLM state, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003;

(2) *Acreage rent payment.* You must pay the acreage rent regardless of the stage of development or operations on the entire public land acreage described in the right-of-way authorization. The BLM State Director may approve a rental payment plan consistent with § 2806.15(c);

(3) *Acreage rent adjustments.* For authorizations outside of designated leasing areas, the BLM will adjust the acreage rent annually to reflect the change in the per-acre county rates as specified in paragraph (a)(1) of this section. The BLM will use the most current per-acre county rates to calculate the acreage rent for each year of the grant term. If you hold a solar energy lease, acreage rent will be adjusted under § 2806.54(a)(3);

(b) *MW capacity fee.* The MW capacity fee is calculated by multiplying the approved MW capacity by the MW rate (for the applicable type of technology employed by the project) from the MW Rate Schedule (see paragraph (b)(2) of this section). You must pay the MW capacity fee annually when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first;

(1) *MW rate.* The MW rate is calculated by multiplying the total hours per year, by the net capacity factor, by the MWh price, by the rate of return. For an explanation of each of these terms, see the definition of MW rate in § 2801.5. The MW rate is phased in as described under paragraph (b)(4) of this section.

(2) *MW rate schedule.* You may obtain a copy of the current MW Rate Schedule for solar energy development from any BLM state, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current MW Rate Schedule for solar energy development at *http://www.blm.gov;*

(3) *Periodic adjustments in the MW rate.* The BLM will adjust the MW rate every 5 years, beginning in 2020, by recalculating the following two components of the MW rate formula:

(i) The adjusted MWh price is the 5-year average of the annual weighted average wholesale price per MWh for the major ICE trading hubs serving the 11 Western States of the continental United States for the 5-year period preceding the adjustment, rounded to the nearest five dollar increment; and

(ii) The adjusted rate of return is the 10-year average of the 20-year U.S. Treasury bond yield for the 10-year period preceding the adjustment, rounded up to the nearest one-half percent, with a minimum rate of return of four percent.

(4) *MW rate phase-in.* If you hold a solar energy development grant, the MW rate will be phased in as follows:

(i) There is a 3-year phase-in of the MW rate after generation of electricity starts at the rates of:

(A) 25 percent for the first year. The MW rate for year 1 of the phase-in period is for the first partial calendar

year of operations (at 25 percent of the current MW rate);

(B) 50 percent for the second year; and

(C) 100 percent for the third and subsequent years of operations.

(ii) After generation of electricity starts and an approved POD provides for staged development:

(A) The 3-year phase-in of the MW rate applies to each stage of development; and

(B) The MW capacity fee is calculated using the authorized MW capacity approved for that stage plus any previously approved stages, multiplied by the MW rate.

■ 41. Add new § 2806.54 to read as follows:

§ 2806.54 Rents and fees for solar energy development leases inside designated leasing areas.

If you hold a solar energy development lease obtained through competitive bidding under subpart 2809 of this part, you must pay an annual rent and fee in accordance with this section and subpart, in addition to the one-time, upfront bonus bid you paid to obtain the lease. The annual rent and fee includes an acreage rent for the number of acres included within the solar energy lease and an additional MW capacity fee based on the total authorized MW capacity for the approved solar energy project on the public land.

(a) *Acreage rent.* The BLM will calculate and bill you an acreage rent that must be paid prior to issuance of your lease as described in § 2806.52(a).

(1) *Per-acre county rate.* See § 2806.52 (a)(1).

(2) *Acreage rent payment.* See § 2806.52(a)(2).

(3) *Acreage rent adjustments.* Once the acreage rent is determined under § 2806.52(a), no further adjustments in the annual acreage rent will be made until year 11 of the lease term and each subsequent 10-year period thereafter. The BLM will use the per-acre county rates in effect when it adjusts the annual acreage rent at those 10-year intervals.

(b) *MW capacity fee.* See § 2806.52 (b)(1), (2), and (3).

(c) *MW rate phase-in.* If you hold a solar energy development lease, the MW capacity fee will be phased in, starting when electricity begins to be generated. The MW capacity fee for years 1–20 will be calculated using the MW rate in effect when the lease is issued. The MW capacity fee for years 21–30 will be calculated using the MW rate in effect in year 21 of the lease. These rates will be phased-in as follows:

(1) For years 1 through 10 of the lease, plus any initial partial year, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 50 percent of the applicable solar technology MW rate, as described in § 2806.52(b);

(2) For years 11 through 20 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the applicable solar technology MW rate, as described in § 2806.52(b).

(3) For years 21 through 30 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the applicable solar technology MW rate, as described in § 2806.52(b)(2).

(4) If the lease is renewed, the MW capacity fee is calculated using the MW rates at the beginning of the renewed lease period and will remain at that rate through the initial 10-year period of the renewal term. The MW capacity fee will be adjusted using the MW rate at the beginning of each subsequent 10-year period of the renewed lease term.

(5) If an approved POD provides for staged development, the MW capacity fee is calculated using the MW capacity approved for that stage plus any previously approved stages, multiplied by the MW rate as described under this section.

■ 42. Add new § 2806.56 to read as follows:

§ 2806.56 Rent for support facilities authorized under separate grant(s).

If a solar energy development project includes separate right-of-way authorizations issued for support facilities only (administration building, groundwater wells, construction lay down and staging areas, surface water management and control structures, etc.) or linear right-of-way facilities (pipelines, roads, power lines, etc.), rent is determined using the Per Acre Rent Schedule for linear facilities (see § 2806.20(c)).

■ 43. Add an undesignated centered heading and new §§ 2806.60, 2806.62, 2806.64, 2806.66, and 2806.68, to read as follows:

Wind Energy Rights-of-Way

§ 2806.60 Rents and fees for wind energy rights-of-way.

If you hold a grant for wind energy site-specific testing or project-area testing or if you hold a wind energy development right-of-way authorization, you must pay an annual rent and fee in accordance with this section and subpart. Your wind energy development right-of-way authorization will either be a grant (if located outside a designated leasing area) or a lease (if located inside a designated leasing area). Rents and fees for either type of authorization consist of an acreage rent that must be paid prior to issuance of the authorization and a phased-in MW capacity fee. Both the acreage rent and the phased-in MW capacity fee are charged and calculated consistent with § 2806.11 and prorated consistent with § 2806.12(a). The MW capacity fee will vary depending on the size of the wind energy development project.

§ 2806.62 Rents and fees for wind energy development grants.

You must pay an annual rent and fee for your wind energy development grant as follows:

(a) *Acreage rent.* The acreage rent is calculated by multiplying the number of acres (rounded up to the nearest tenth of an acre) within the authorized area times the per-acre county rate in effect at the time the authorization is issued;

(1) *Per-acre county rate.* The per-acre county rate is 20 percent of the per acre rent value for each county using the BLM's Per Acre Rent Schedule (see § 2806.20(c)). We will adjust the per-acre county rates each year based on the average annual change in the IPD–GDP as determined under § 2806.22(a). Adjusted rates are effective each year on January 1. You may obtain a copy of the current per-acre county rates for wind energy development from any BLM state, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current per-acre county rate for wind energy development at *http://www.blm.gov.*

(2) *Acreage rent payment.* You must pay the acreage rent regardless of the stage of development or operations on the entire public land acreage described in the right-of-way authorization. The BLM State Director may approve a rental payment plan consistent with § 2806.15(c); and

(3) *Acreage rent adjustments.* We will adjust the acreage rent annually to reflect the change in the per-acre county rates as specified in paragraph (a)(1) of this section. The BLM will use the most current per-acre county rates to calculate the acreage rent for each year of the grant term. If you hold a wind energy lease, acreage rent will be adjusted under § 2806.64(a)(3).

(b) *MW capacity fee.* The MW capacity fee is calculated by multiplying the approved MW capacity by the MW rate. You must pay the MW capacity fee annually when electricity generation begins or is scheduled to begin in the approved POD, whichever comes first.

(1) *MW rate.* The MW rate is calculated by multiplying the total hours per year by the net capacity factor, by the MWh price, by the rate of return. For an explanation of each of these terms, see the definition of MW rate in § 2801.5. If your right-of-way includes approved stages of development, your rate will be phased in as described under paragraph (b)(4) of this section.

(2) *MW rate schedule.* You may obtain a copy of the current MW rate schedule for wind energy development from any BLM state, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: Renewable Energy Coordination Office, Washington, DC 20003. The BLM also posts the current MW Rate Schedule for wind energy development at *http://www.blm.gov;*

(3) *Periodic adjustments in the MW rate.* We will adjust the MW rate every 5 years, beginning in 2020, by recalculating the following two components of the MW rate formula:

(i) The adjusted MWh price is the 5-year average of the annual weighted average wholesale price per MWh for the major ICE trading hubs serving the 11 Western States of the continental United States for the 5-year period preceding the adjustment, rounded to the nearest five dollar increment; and

(ii) The adjusted rate of return is the 10-year average of the 20-year U.S. Treasury bond yield for the 10-year period preceding the adjustment, rounded up to the nearest one-half percent, with a minimum rate of return of four percent.

(4) *MW rate phase-in.* If you hold a wind energy development grant, the MW rate will be phased in as follows:

(i) There is a 3-year phase-in of the MW rate after generation of electricity starts at the rates of:

(A) 25 percent for the first year. The MW rate for year 1 of the phase-in period is for the first partial calendar year of operations (at 25 percent of the current MW rate);

(B) 50 percent for the second year; and

(C) 100 percent for the third and subsequent years of operations.

(ii) After generation of electricity starts and an approved POD provides for staged development:

(A) The 3-year phase-in of the MW rate applies to each stage of development; and

(B) The MW capacity fee is calculated using the authorized MW capacity approved for that stage plus any previously approved stages, multiplied by the MW rate.

§ 2806.64 Rents and fees for wind energy development leases inside designated leasing areas.

If you hold a wind energy development lease obtained through competitive bidding under subpart 2809 of this part, you must pay an annual rent and fee in accordance with this section and subpart, in addition to the one-time, up front bonus bid you paid to obtain the lease. The annual rent includes an acreage rent for the number of acres included within the wind energy lease and an additional MW capacity fee based on the total authorized MW capacity for the approved wind energy project on the public land.

(a) *Acreage rent.* The BLM will calculate and bill you an acreage rent that must be paid prior to issuance of your lease as described in § 2806.62(a).

(1) *Per-acre county rate.* See § 2806.62(a)(1).

(2) *Acreage rent payment.* See § 2806.62(a)(2).

(3) *Acreage rent adjustments.* Once the acreage rent is determined under § 2806.62(a), no further adjustments in the annual acreage rent will be made until year 11 of the lease term and each subsequent 10-year period thereafter. We will use the per-acre county rates in effect at the time the acreage rent is due (at the beginning of each 10-year period) to calculate the annual acreage rent for each of the subsequent 10-year periods.

(b) *MW capacity fee.* See § 2806.62(b)(1), (2), and (3).

(c) *MW rate phase-in.* If you hold a wind energy development lease, the MW capacity fee will be phased in, starting when electricity begins to be generated. The MW capacity fee for years 1–20 will be calculated using the MW rate in effect when the lease is issued. The MW capacity fee for years 21–30 will be calculated using the MW rate in effect in year 21 of the lease. These rates will be phased-in as follows:

(1) For years 1 through 10 of the lease, plus any initial partial year, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 50 percent of the wind energy technology MW rate, as described in § 2806.62(b);

(2) For years 11 through 20 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the wind energy technology MW rate described in § 2806.62(b);

(3) For years 21 through 30 of the lease, the MW capacity fee is calculated by multiplying the project's authorized MW capacity by 100 percent of the wind energy technology MW rate as described in § 2806.62(b).

(4) If the lease is renewed, the MW capacity fee is calculated using the MW rates at the beginning of the renewed lease period and will remain at that rate through the initial 10 year period of the renewal term. The MW capacity fee will continue to adjust at the beginning of each subsequent 10 year period of the renewed lease term to reflect the then currently applicable MW rates.

(5) If an approved POD provides for staged development, the MW capacity fee is calculated using the MW capacity approved for that stage plus any previously approved stage, multiplied by the MW rate, as described in this section.

§ 2806.66 Rent for support facilities authorized under separate grant(s).

If a wind energy development project includes separate right-of-way authorizations issued for support facilities only (administration building, groundwater wells, construction lay down and staging areas, surface water management, and control structures, etc.) or linear right-of-way facilities (pipelines, roads, power lines, etc.), rent is determined using the Per Acre Rent Schedule for linear facilities (see § 2806.20(c)).

§ 2806.68 Rent for wind energy development testing grant(s).

(a) *Grant for wind energy site specific testing.* You must pay $100 per year for each meteorological tower or instrumentation facility location. BLM offices with approved small site rental schedules may use those fee structures if the fees in those schedules charge more than $100 per meteorological tower per year. In lieu of annual payments, you may instead pay for the entire term of the grant (3 years or less).

(b) *Grant for wind energy project area testing.* You must pay $2,000 per year or $2 per acre per year for the lands authorized by the grant, whichever is greater. There is no additional rent for the installation of each meteorological tower or instrumentation facility located within the site testing and monitoring project area.

■ 44. Add an undesignated centered heading between §§ 2806.68 and 2806.70 to read as follows:

Other Rights-of-Way

■ 45. Revise newly redesignated § 2806.70 to read as follows:

§ 2806.70 How will the BLM determine the rent for a grant or lease when the linear, communication use, solar energy, or wind energy rent schedules do not apply?

When we determine that the linear, communication use, solar, or wind energy rent schedules do not apply, we

may determine your rent through a process based on comparable commercial practices, appraisals, competitive bids, or other reasonable methods. We will notify you in writing of the rent determination. If you disagree with the rent determination, you may appeal our final determination under § 2801.10.

Subpart 2807—Grant Administration and Operation

■ 46. Amend § 2807.11 by:
■ a. Revising paragraph (b);
■ b. Redesignating paragraphs (d) and (e) as paragraphs (f) and (g); and
■ c. Adding new paragraphs (d) and (e).

The revisions and additions read as follows:

§ 2807.11 When must I contact BLM during operations?

* * * * *

(b) When your use requires a substantial deviation from the grant. You must seek an amendment to your grant under § 2807.20 and obtain our approval before you begin any activity that is a substantial deviation;

* * * * *

(d) Whenever site-specific circumstances or conditions result in the need for changes to an approved right-of-way grant or lease, POD, site plan, mitigation measures, or construction, operation, or termination procedures that are not substantial deviations in location or use authorized by a right-of-way grant or lease. Changes for authorized actions, project materials, or adopted mitigation measures within the existing, approved right-of-way area must be submitted to us for review and approval.

(e) To identify and correct discrepancies or inconsistencies.

* * * * *

■ 47. Amend § 2807.17 by redesignating existing paragraph (d) as paragraph (e) and adding new paragraph (d) to read as follows:

§ 2807.17 Under what conditions may the BLM suspend or terminate my grant?

* * * * *

(d) The BLM may suspend or terminate another Federal agency's grant only if:

(1) The terms and conditions of the Federal agency's grant allow it; or

(2) The agency head holding the grant consents to it.

* * * * *

■ 48. Amend § 2807.21 as follows:
■ a. Revise the section heading;
■ b. Revise paragraph (a);
■ c. Redesignate paragraphs (b), (c), (d) and (e) as paragraphs (d), (e), (f) and (g);
■ d. Add paragraphs (b), (c), (h), and (i); and
■ e. Revise redesignated paragraphs (d) and (f).

The revisions and additions read as follows:

§ 2807.21 May I assign or make other changes to my grant or lease?

(a) With the BLM's approval, you may assign, in whole or in part, any right or interest in a grant or lease. Actions that may require an assignment include, but are not limited to, the following:

(1) The voluntary transfer by the holder (assignor) of any right or interest in the grant or lease to a third party (assignee); and

(2) Changes in ownership or other related change in control transactions involving the BLM right-of-way holder and another business entity (assignee), including corporate mergers or acquisitions. In those instances where the grant or lease holder becomes a wholly owned subsidiary of a new third party, but still holds the grant and does business under its original name, it may only need to file new or revised information in conformance with subpart 2803, § 2804.12(b), and § 2807.11 in order to obtain our approval of the change in the grant or lease.

(b) Changes in the holder's name only (see paragraph (i) of this section) do not constitute an assignment.

(c) Changes in the holder's articles of incorporation do not constitute an assignment.

(d) In order to assign a grant, the proposed assignee must file an assignment application and follow the same procedures and standards as for a new grant or lease, including paying application and processing fees, and the grant must be in compliance with the terms and conditions of § 2805.12. We will not approve any assignment until the assignor makes any outstanding payments that are due (see § 2806.13(g)).

* * * * *

(f) We will not recognize an assignment until we approve it in writing. We will approve the assignment if doing so is in the public interest. Except for leases issued under subpart 2809 of this part, we may modify the grant or lease or add bonding and other requirements, including additional terms and conditions, to the grant when approving the assignment. We may decrease rents if the new holder qualifies for an exemption (see § 2806.14), or waiver or reduction (see § 2806.15) and the previous holder did not. Similarly, we may increase rents if the previous holder qualified for an exemption or waiver or reduction and the new holder does not. If we approve the assignment, the benefits and liabilities of the grant apply to the new grant or lease holder.

* * * * *

(h) Only interests in issued right-of-way grants and leases are assignable. Pending right-of-way applications do not create any property rights or other interest and may not be assigned from one entity to another, except that an entity with a pending application may continue to pursue that application even if that entity becomes a wholly owned subsidiary of a new third party.

(i) To complete a change in name only, (i.e., when the name change in question is not the result of an underlying change in control of the right-of-way grant), the following requirements must be met:

(1) The holder must file an application requesting a name change and follow the same procedures as for a new grant, including paying processing fees, but not application fees (see subpart 2804 of this part). The name change request must include:

(i) If the name change is for an individual, a copy of the court order or other legal document effectuating the name change; or

(ii) If the name change is for a corporation, a copy of the corporate resolution(s) proposing and approving the name change, a copy of the acceptance of the change in name by the State or Territory in which incorporated, and a copy of the appropriate resolution, order or other documentation showing the name change.

(2) In connection with its processing of a name change only, we may, under § 2805.15, modify the grant or lease or add bonding and other requirements, including additional terms and conditions to the grant. We may only modify a lease issued under subpart 2809 in accordance with § 2805.15(e).

(3) We will recognize a name change in writing.

■ 49. Amend § 2807.22 by:
■ a. Revising the section heading and paragraphs (a), (b), and (d);
■ b. Redesignating paragraph (f) as paragraph (g); and
■ c. Adding new paragraph (f).

The revisions and additions read as follows:

§ 2807.22 How do I renew my grant or lease?

(a) If your grant or lease specifies the terms and conditions for its renewal, and you choose to renew it, you must request a renewal from the BLM at least 120 calendar days before your grant or lease expires consistent with the

renewal terms and conditions specified in your grant or lease. We will renew the grant or lease if you are in compliance with the renewal terms and conditions; the other terms, conditions, and stipulations of the grant or lease; and other applicable laws and regulations.

(b) If your grant or lease does not specify the terms and conditions for its renewal, you may apply to us to renew the grant or lease. You must send us your application at least 120 calendar days before your grant or lease expires. In your application you must show that you are in compliance with the terms, conditions, and stipulations of the grant or lease and other applicable laws and regulations, and explain why a renewal of your grant or lease is necessary. We may approve or deny your application to renew your grant or lease.

* * * * *

(d) We will review your application and determine the applicable terms and conditions of any renewed grant or lease.

* * * * *

(f) If you make timely and sufficient application for a renewal of your existing grant or lease, or for a new grant or lease in accordance with this section, the existing grant does not expire until we have issued a decision to approve or deny the application.

* * * * *

■ 50. Revise subpart 2809 to read as follows:

Subpart 2809—Competitive Process for Leasing Public Lands for Solar and Wind Energy Development Inside Designated Leasing Areas

Sec.
2809.10 General.
2809.11 How will BLM solicit nominations?
2809.12 How will BLM select and prepare parcels?
2809.13 How will BLM conduct competitive offers?
2809.14 What types of bids are acceptable?
2809.15 How will BLM select the successful bidder?
2809.16 When do variable offsets apply?
2809.17 Will BLM ever reject bids or re-conduct a competitive offer?
2809.18 What terms and conditions apply to leases?
2809.19 Applications in designated leasing areas, or on lands that later become designated leasing areas.

Subpart 2809—Competitive Process for Leasing Public Lands for Solar and Wind Energy Development Inside Designated Leasing Areas

§ 2809.10 General.

(a) Lands inside designated leasing areas may be made available for solar and wind energy development through a competitive leasing offer process established by the BLM under this subpart.

(b) The BLM may include lands in a competitive offer on its own initiative.

(c) The BLM may solicit nominations by publishing a call for nominations under § 2809.11(b).

§ 2809.11 How will BLM solicit nominations?

(a) *Call for nominations.* The BLM will publish a notice in a newspaper of general circulation in the area affected by the potential offer of public land for solar and wind energy development; use other notification methods, including the Internet; and publish a notice in the **Federal Register** to solicit nominations and expressions of interest for parcels of land inside designated leasing areas for solar or wind energy development.

(b) *Nomination submission.* A nomination must be in writing and must include the following:

(1) *Nomination fee.* If you nominate a specific parcel of land under paragraph (a) of this section, you must also include a non-refundable nomination fee of $5 per acre. We will adjust the nomination fee once every 10 years by the average annual change in the IPD–GDP for the preceding 10-year period and round it to the nearest half dollar. This 10 year average will be adjusted at the same time as the Per Acre Rent Schedule for linear rights-of-way under § 2806.22.

(2) *Nominator's name and personal or business address.* The name of only one citizen, association, partnership, corporation, or municipality may appear as the nominator. All communications relating to leasing will be sent to that name and address, which constitutes the nominator's name and address of record.

(3) The legal land description and a map of the nominated lands.

(c) We may consider informal expressions of interest suggesting lands to be included in a competitive offer. If you submit a written expression of interest, you must provide a description of the suggested lands and rationale for their inclusion in a competitive offer.

(d) In order to submit a nomination, you must be qualified to hold a grant or lease under § 2803.10.

(e) *Nomination withdrawals.* A nomination cannot be withdrawn, except by the BLM for cause, in which case all nomination monies will be refunded to the nominator.

§ 2809.12 How will BLM select and prepare parcels?

(a) The BLM will identify parcels for competitive offer based on nominations and expressions of interest or on its own initiative.

(b) The BLM and other Federal agencies will conduct necessary studies and site evaluation work, including applicable environmental reviews and public meetings, before offering lands competitively.

§ 2809.13 How will BLM conduct competitive offers?

(a) *Variety of competitive procedures available.* The BLM may use any type of competitive process or procedure to conduct its competitive offer, and any method, including the use of the Internet, to conduct the actual auction or competitive bid procedure. Possible bid procedures could include, but are not limited to: Sealed bidding, oral auctions, modified competitive bidding, electronic bidding, or any combination thereof.

(b) *Notice of competitive offer.* We will publish a notice in a newspaper of general circulation in the area affected by the potential right-of-way; use other notification methods, including the Internet; and publish a notice in the **Federal Register** at least 30 days prior to the competitive offer. The newspaper and **Federal Register** notices will include:

(1) The date, time, and location, if any, of the competitive offer;

(2) The legal land description of the parcel to be offered;

(3) The bidding methodology and procedures to be used in conducting the competitive offer, which may include any of the competitive procedures identified in paragraph (a) of this section;

(4) The minimum bid required (see § 2809.14(a)), including an explanation of how we determined this amount;

(5) The qualification requirements of potential bidders (see § 2803.10);

(6) If a variable offset (see § 2809.16) is offered;

(i) The percent of each offset;

(ii) How bidders may pre-qualify for each offset; and

(iii) The documentation required to pre-qualify for each offset; and

(7) The terms and conditions of the lease, including the requirements for the successful bidder to submit a POD for the lands involved in the competitive offer (see § 2809.18) and the lease mitigation requirements.

(c) We will notify you in writing of our decision to conduct a competitive offer at least 30 days prior to the competitive offer if you nominated lands and paid the nomination fees required by § 2809.11(b)(1).

§ 2809.14 What types of bids are acceptable?

(a) *Bid submissions.* The BLM will accept your bid only if:

(1) It includes the minimum bid and at least 20 percent of the bonus bid; and

(2) The BLM determines that you are qualified to hold a grant under § 2803.10. You must include documentation of your qualifications with your bid, unless we have previously approved your qualifications under §§ 2809.10(d) or 2809.11(d).

(b) *Minimum bid.* The minimum bid is not prorated among all bidders, but must be paid entirely by the successful bidder. The minimum bid consists of:

(1) The administrative costs incurred by the BLM and other Federal agencies in preparing for and conducting the competitive offer, including required environmental reviews; and

(2) An amount determined by the authorized officer and disclosed in the notice of competitive offer. This amount will be based on known or potential values of the parcel. In setting this amount, the BLM will consider factors that include, but are not limited to, the acreage rent, megawatt capacity fee, and mitigation costs.

(c) *Bonus bid.* The bonus bid consists of any dollar amount that a bidder wishes to bid in addition to the minimum bid.

(d) If you are not the successful bidder, as defined in § 2809.15(a), the BLM will refund your bid.

§ 2809.15 How will BLM select the successful bidder?

(a) The bidder with the highest total bid, prior to any variable offset, is the successful bidder and will be offered a lease in accordance with § 2805.10.

(b) The BLM will determine the variable offsets for the successful bidder in accordance with § 2809.16 before issuing final payment terms.

(c) *Payment terms.* If you are the successful bidder, you must:

(1) Make payments by personal check, cashier's check, certified check, bank draft, or money order, or by other means deemed acceptable by the BLM, payable to the Department of the Interior—Bureau of Land Management; and

(2) By the close of official business hours on the day of the offer or such other time as the BLM may have specified in the offer notices, submit for each parcel:

(i) Twenty percent of the bonus bid (before the offsets are applied under paragraph (b) of this section);

(ii) The total amount of the minimum bid specified in § 2809.14(b); and

(3) Within 15 calendar days after the day of the offer, submit the balance of the bonus bid (after the variable offsets are applied under paragraph (b) of this section) to the BLM office conducting the offer; and

(4) Within 15 calendar days after the day of the offer, submit the acreage rent for the first full year of the solar or wind energy development lease as provided in §§ 2806.54(a) or 2806.64(a), respectively. This amount will be applied toward the first 12 months acreage rent, if the successful bidder becomes the lessee.

(d) The BLM will approve your right-of-way lease if you are the successful bidder and:

(1) Satisfy the qualifications in § 2803.10;

(2) Make the payments required under paragraph (c) of this section; and

(3) Do not have any trespass action pending against you for any activity on BLM-administered lands (see § 2808.12) or have any unpaid debts owed to the Federal Government.

(e) The BLM will not offer a lease to the successful bidder and will keep all money that has been submitted, if the successful bidder does not satisfy the requirements of § paragraph (d) of this section. In this case, the BLM may offer the lease to the next highest bidder under § 2809.17(b) or re-offer the lands under § 2809.17(d).

§ 2809.16 When do variable offsets apply?

(a) The successful bidder may be eligible for an offset of up to 20 percent of the bonus bid based on the factors identified in the notice of competitive offer.

(b) The BLM may apply a variable offset to the bonus bid of the successful bidder. The notice of competitive offer will identify each factor of the variable offset, the specific percentage for each factor that would be applied to the bonus bid, and the documentation required to be provided to the BLM prior to the day of the offer to qualify for the offset. The total variable offset cannot be larger than 20 percent of the bonus bid.

(c) The variable offset may be based on any of the following factors:

(1) Power purchase agreement;

(2) Large generator interconnect agreement;

(3) Preferred solar or wind energy technologies;

(4) Prior site testing and monitoring inside the designated leasing area;

(5) Pending applications inside the designated leasing area;

(6) Submission of nomination fees;

(7) Timeliness of project development, financing, and economic factors;

(8) Environmental benefits;

(9) Holding a solar or wind energy lease on adjacent or mixed land ownership;

(10) Public benefits; and

(11) Other similar factors.

(d) The BLM will determine your variable offset prior to the competitive offer.

§ 2809.17 Will BLM ever reject bids or re-conduct a competitive offer?

(a) The BLM may reject bids regardless of the amount offered. If the BLM rejects your bid under this provision, you will be notified in writing and such notice will include the reason(s) for the rejection and what refunds to which you are entitled. If the BLM rejects a bid, the bidder may appeal that decision under § 2801.10.

(b) We may offer the lease to the next highest qualified bidder if the successful bidder does not execute the lease or is for any reason disqualified from holding the lease.

(c) If we are unable to determine the successful bidder, such as in the case of a tie, we may re-offer the lands competitively (under § 2809.13) to the tied bidders, or to all prospective bidders.

(d) If lands offered under § 2809.13 receive no bids, we may:

(1) Re-offer the lands through the competitive process under § 2809.13; or

(2) Make the lands available through the non-competitive application process found in subparts 2803, 2804, and 2805 of this part, if we determine that doing so is in the public interest.

§ 2809.18 What terms and conditions apply to leases?

The lease will be issued subject to the following terms and conditions:

(a) *Lease term.* The term of your lease includes the initial partial year in which it is issued, plus 30 additional full years. The lease will terminate on December 31 of the final year of the lease term. You may submit an application for renewal under § 2805.14(g).

(b) *Rent.* You must pay rent as specified in:

(1) Section 2806.54 if your lease is for solar energy development; or

(2) Section 2806.64 if your lease is for wind energy development.

(c) *POD.* You must submit, within 2 years of the lease issuance date, a POD that:

(1) Is consistent with the development schedule and other requirements in the POD template posted at *http://www.blm.gov;* and

(2) Addresses all pre-development and development activities.

(d) *Cost recovery.* You must pay the reasonable costs for the BLM or other

Federal agencies to review and approve your POD and to monitor your lease. To expedite review of your POD and monitoring of your lease, you may notify BLM in writing that you are waiving paying reasonable costs and are electing to pay the full actual costs incurred by the BLM.

(e) *Performance and reclamation bond.* (1) For Solar Energy Development, you must provide a bond in the amount of $10,000 per acre prior to written approval to proceed with ground disturbing activities.

(2) For Wind Energy Development, you must provide a bond in the amount of $20,000 per authorized turbine prior to written approval to proceed with ground disturbing activities.

(3) The BLM will adjust the solar and wind energy development bond amounts every 10 years by the average annual change in the IPD–GDP for the preceding 10-year period rounded to the nearest $100. This 10-year average will be adjusted at the same time as the Per Acre Rent Schedule for linear rights-of-way under § 2806.22.

(f) *Assignments.* You may assign your lease under § 2807.21, and if an assignment is approved, the BLM will not make any changes to the lease terms or conditions, as provided for by § 2807.21(f).

(g) *Due diligence of operations.* You must start construction within 5 years and begin generation of electricity no later than 7 years from the date of lease issuance, as specified in your approved POD. A request for an extension may be granted for up to 3 years with a show of good cause and approval by the BLM.

§ 2809.19 Applications in designated leasing areas, or on lands that later become designated leasing areas.

(a) Applications for solar or wind energy development filed on lands outside of designated leasing areas, which subsequently become designated leasing areas:

(1) Will continue to be processed by the BLM and are not subject to the competitive leasing offer process of this subpart, if such applications are filed prior to the publication of the notice of availability of the draft or proposed land use plan amendment to designate the solar or wind leasing area; or

(2) Will remain in pending status unless withdrawn by the applicant or denied by the BLM, or the subject lands become available for application or leasing under this part, if such applications are filed on or after the date of publication of the notice of availability of the draft or proposed land use plan amendment to designate the solar or wind leasing area. An applicant that submits a bid on a parcel of land for which an application is pending:

(i) May qualify for a variable offset under § 2809.16; and

(ii) Will not receive a refund for any application fees or processing costs incurred if the lands identified in the application are subsequently leased to another entity under § 2809.12.

(b) After the effective date of this regulation, the BLM will not accept a new application for solar or wind energy development inside designated leasing areas (see § 2804.10(c)(2)).

(c) You may file a new application under part 2804 for testing and monitoring purposes inside designated leasing areas. If the BLM approves your application, you will receive a short term grant in accordance with §§ 2805.11(b)(2)(i) or (ii), which may qualify you for an offset under § 2809.16.

PART 2880—RIGHTS–OF–WAY UNDER THE MINERAL LEASING ACT

■ 51. The authority citation for part 2880 continues to read as follows:

Authority: 30 U.S.C. 185 and 189.

Subpart 2884—Applying for MLA Grants or TUPs

■ 52. Amend § 2884.10 by:

■ a. Revising the introductory text in paragraph (b) and revising paragraph (b)(4);

■ b. Redesignating paragraphs (c) and (d) as paragraphs (e) and (f); and

■ c. Adding new paragraphs (c) and (d).

The revisions and additions read as follows:

§ 2884.10 What should I do before I file my application?

* * * * *

(b) Before filing an application with the BLM, we encourage you to make an appointment for a pre-application meeting with the appropriate personnel in the BLM state, district, or field office nearest the lands you seek to use. Pre-application meetings are mandatory for applications for any oil and gas pipeline 10 inches or more in diameter under paragraph (c) of this section. During the pre-application meeting the BLM can:

* * * * *

(4) Provide you information about qualifications for holding grants and TUPs and inform you of your financial obligations, such as processing and monitoring costs and rents. In addition to such costs, you are required to pay the reasonable costs, and may elect to pay the actual costs that are associated with the pre-application requirements identified in paragraph (c) of this section; and

* * * * *

(c) Prior to submitting an application for any oil and gas pipeline 10 inches or more in diameter, you must:

(1) Schedule and hold an initial pre-application meeting with us to discuss:

(i) The general project proposal;

(ii) The status of BLM land use planning for the lands involved;

(iii) Potential siting issues or concerns;

(iv) Potential environmental issues or concerns at the landscape scale;

(v) Potential alternative site locations; and

(vi) The right-of-way application process;

(2) Schedule and hold, in coordination with the BLM, one additional pre-application meeting with appropriate Federal and State agencies, tribal, and local governments to facilitate coordination of potential environmental and siting issues and concerns. The BLM and you may agree mutually to schedule and hold additional pre-application meetings; and

(3) Initiate early discussions with grazing permittees that may be affected by the proposed project in accordance with 43 CFR 4110.4–2(b).

(d) In addition to all other pre-application, application, and holder requirements specified in this part, we will accept an application for oil and gas pipelines 10 inches or more in diameter only if the:

(1) Proposal avoids areas where development could cause significant impacts to sensitive resources and values that are the basis for special designations or protections;

(2) The pre-application meetings described in paragraphs (c)(1) and (2) of this section have been completed to our satisfaction; and

(3) Application is accompanied by a general description of the proposed project and a schedule for the submittal of a POD conforming to the POD template at *http://www.blm.gov.*

■ 53. In § 2884.11, revise paragraph (c)(5) to read as follows:

§ 2884.11 What information must I submit in my application?

* * * * *

(c) * * *

(5) The estimated schedule for constructing, operating, maintaining, and terminating the project (a POD). Your POD must be consistent with the development schedule and other requirements as noted on the POD template for oil and gas pipelines at *http://www.blm.gov;*

* * * * *

■ 54. In § 2884.12, revise paragraphs (a), (b), and (c) to read as follows:

§ 2884.12 What is the processing fee for a grant or TUP application?

(a) You must pay a processing fee with the application to cover the costs to the Federal Government of processing your application before the Federal Government incurs them. Subject to applicable laws and regulations, if processing your application will involve Federal agencies other than the BLM, your fee may also include the reasonable costs estimated to be incurred by those Federal agencies. Instead of paying the BLM a fee for the estimated work of other Federal agencies in processing your application, you may pay other Federal agencies directly for the costs estimated to be incurred by them in processing your application. The fees for Processing Categories 1 through 4 are one-time fees and are not refundable. The fees are categorized based on an estimate of the amount of time that the Federal Government will expend to process your application and issue a decision granting or denying the application.

(b) There is no processing fee if work is estimated to take 1 hour or less. Processing fees are based on categories. We update the processing fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD–GDP, as measured second quarter to second quarter. We will round these changes to the nearest dollar. We will update Category 5 processing fees as specified in the Master Agreement. These processing categories and the estimated range of Federal work hours for each category are:

PROCESSING CATEGORIES

Processing category	Federal work hours involved
(1) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs.	Estimated Federal work hours are >1 ≤8.
(2) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs.	Estimated Federal work hours are >8 ≤24.
(3) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs.	Estimated Federal work hours are >24 ≤36.
(4) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs.	Estimated Federal work hours are >36 ≤50.
(5) Master Agreements.	Varies.
(6) Applications for new grants or TUPs, assignments, renewals, and amendments to existing grants or TUPs.	Estimated Federal work hours are >50.

(c) You may obtain a copy of the current schedule from any BLM state, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at *http://www.blm.gov.*

* * * * *

■ 55. Amend § 2884.16 by redesignating paragraphs (a)(6), (a)(7), and (a)(8) as paragraphs (a)(7), (a)(8), and (a)(9), and adding new paragraph (a)(6). The addition reads as follows:

§ 2884.16 What provisions do Master Agreements contain and what are their limitations?

(a) * * *

(6) Describes existing agreements between the BLM and other Federal agencies for cost reimbursement;

* * * * *

■ 56. Amend § 2884.17 by revising paragraph (a) and adding new paragraph (e) to read as follows:

§ 2884.17 How will BLM process my Processing Category 6 application?

(a) For Processing Category 6 applications, you and the BLM must enter into a written agreement that describes how we will process your application. The final agreement consists of a work plan, a financial plan, and a description of any existing agreements you have with other Federal agencies for cost reimbursement associated with such application.

* * * * *

(e) We may collect funds to reimburse the Federal Government for reasonable costs for processing applications and other documents under this part relating to the Federal lands.

■ 57. In § 2884.18, revise revising paragraphs (a)(1) and (c) to read as follows:

§ 2884.18 What if there are two or more competing applications for the same pipeline?

(a) * * *

(1) *Processing Categories 1 through 4.* You must reimburse the Federal Government for processing costs as if the other application or applications had not been filed.

* * * * *

(c) If we determine that competition exists, we will describe the procedures for a competitive bid through a bid announcement in a newspaper of general circulation; use other notification methods, including the Internet, in the area affected by the potential right-of-way; and by publishing a notice in the **Federal Register**. We may offer lands through a competitive process on our own initiative.

■ 58. Amend § 2884.20 by revising the introductory text of paragraph (a) and revising paragraph (d) to read as follows:

§ 2884.20 What are the public notification requirements for my application?

(a) When the BLM receives your application, it will publish a notice in the **Federal Register**, a newspaper of general circulation in the vicinity of the lands involved, or use other notification methods, including the Internet. If we determine the pipeline(s) will have only minor environmental impacts, we are not required to publish this notice. The notice will, at a minimum, contain:

* * * * *

(d) We may hold public hearings or meetings on your application if we determine that there is sufficient interest to warrant the time and expense of such hearings or meetings. We will publish a notice in the **Federal Register**, in a newspaper of general circulation in the vicinity of the lands involved, or use other notification methods, including the Internet, to announce in advance any public hearings or meetings.

■ 59. Amend § 2884.21 by:

■ a. Redesignating paragraphs (b) and (c) as paragraphs (c) and (d);

■ b. Adding new paragraph (b); and

■ c. Revising redesignated paragraph (d)(4).

The revisions and additions read as follows:

§ 2884.21 How will BLM process my application?

* * * * *

(b) Except as otherwise provided in this paragraph, the BLM will not process your application if you have any trespass action pending for any activity on BLM-administered lands (see § 2888.11) or have any unpaid debts owed to the Federal Government. The only applications the BLM would process to resolve the trespass would be for a right-of-way as authorized in this part, or a lease or permit under the regulations found at 43 CFR part 2920, but only after outstanding debts are paid.

* * * * *

(d) * * *

(4) Hold public meetings, if sufficient public interest exists to warrant their time and expense. The BLM will publish a notice in the **Federal Register**, in a newspaper of general circulation in the vicinity of the lands involved, or use other methods, including the Internet, to announce in advance any public hearings or meetings; and

* * * * *

■ 60. Amend § 2884.23 by redesignating paragraph (a)(6) as paragraph (a)(7), adding new paragraph (a)(6), and revising newly redesignated paragraph (a)(7) to read as follows:

§ 2884.23 Under what circumstances may BLM deny my application?

(a) * * *

(6) The POD required by §§ 2884.10(d)(3) and 2884.11(c)(5) does not meet the development schedule and other requirements as noted on the POD template and the applicant is unable to demonstrate why the POD should be approved; or

(7) You do not adequately comply with a deficiency notice (see § 2804.25(b) of this chapter) or with any requests from the BLM for additional information needed to process the application.

* * * * *

■ 61. Amend § 2884.24 by revising the first sentence of the introductory text to read as follows:

§ 2884.24 What fees do I owe if BLM denies my application or if I withdraw my application?

If the BLM denies your application, or you withdraw it, you must pay costs incurred under § 2884.10(b)(4) and the processing fee set forth at § 2884.12(b), unless you have a Processing Category 5 or 6 application.* * *

* * * * *

■ 62. Amend § 2885.11 by revising the introductory text of paragraph (a) and revising paragraph (b)(7) to read as follows:

§ 2885.11 What terms and conditions must I comply with?

(a) *Duration.* All grants, except those issued for a term of 3 years or less, will expire on December 31 of the final year of the grant. The term of a grant may not exceed 30 years, with the initial partial year of the grant considered to be the first year of the term. The term of a TUP may not exceed 3 years. The BLM will consider the following factors in establishing a reasonable term:

* * * * *

(b) * * *

(7) If we require, obtain or certify that you have obtained a performance and reclamation bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property incurred in connection with your use and occupancy of the right-of-way or TUP area, including terminating the grant or TUP, and to secure all obligations imposed by the grant or TUP and applicable laws and regulations. Your bond must cover liability for damages or injuries resulting from releases or discharges of hazardous materials. We may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or TUP. This bond is in addition to any individual lease, statewide, or nationwide oil and gas bonds you may have. All other provisions noted at § 2805.12(b) of this chapter regarding bond requirements for grants and leases issued under FLPMA also apply to oil and gas pipelines issued under this part;

* * * * *

■ 63. Amend § 2885.15 by revising paragraph (b) to read as follows:

§ 2885.15 How will BLM charge me rent?

* * * * *

(b) There are no reductions or waivers of rent for grants or TUPs, except as provided under § 2885.20(b).

* * * * *

■ 64. Amend § 2885.16 by revising paragraph (a) to read as follows:

§ 2885.16 When do I pay rent?

(a) You must pay rent for the initial rental period before we issue you a grant or TUP. We prorate the initial rental amount based on the number of full months left in the calendar year after the effective date of the grant or TUP. If your grant qualifies for annual payments, the initial rent consists of the remaining partial year plus the next full year. If your grant or TUP allows for multi-year payments, your initial rent payment may be for the full term of the grant or TUP. See § 2885.21 for additional information on payment of rent.

* * * * *

■ 65. Amend § 2885.17 by revising the section heading, redesignating paragraph (e) as paragraph (f), and by adding new paragraph (e) to read as follows:

§ 2885.17 What happens if I do not pay rent or if I pay the rent late?

* * * * *

(e) We will retroactively bill for uncollected or under-collected rent, including late payment and administrative fees, upon discovery if:

(1) A clerical error is identified;

(2) An adjustment to rental schedules is not applied; or

(3) An omission or error in complying with the terms and conditions of the authorized right-of-way is identified.

* * * * *

■ 66. In § 2885.19, revise paragraph (b) to read as follows:

§ 2885.19 What is the rent for a linear right-of-way grant?

* * * * *

(b) You may obtain a copy of the current Per Acre Rent Schedule from any BLM state, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current rent schedule at *http://www.blm.gov.*

■ 67. In § 2885.20, revise paragraph (b) to read as follows:

§ 2885.20 How will the BLM calculate my rent for linear rights-of-way the Per Acre Rent Schedule covers?

(a) * * *

(b) *Phase-in provisions:* If, as the result of any revisions made to the Per Acre Rent Schedule under § 2885.19(a)(2), the payment of your new annual rental amount would cause you undue hardship, you may qualify for a 2-year phase-in period if you are a small business entity as that term is defined in Small Business Administration regulations and if it is in the public interest. We will require you to submit information to support your claim. If approved by the BLM State Director, payment of the amount in excess of the previous year's rent may be phased-in by equal increments over a 2-year period. In addition, the BLM will adjust the total calculated rent for year 2 of the phase-in period by the annual index provided by § 2885.19(a)(1).

* * * * *

■ 68. Revise § 2885.24 to read as follows:

§ 2885.24 If I hold a grant or TUP, what monitoring fees must I pay?

(a) *Monitoring fees.* Subject to § 2886.11, you must pay a fee to the BLM for any costs the Federal Government incurs in monitoring the construction, operation, maintenance, and termination of the pipeline and protection and rehabilitation of the affected public lands your grant or TUP covers. We update the monitoring fees for Categories 1 through 4 in the schedule each calendar year, based on the previous year's change in the IPD–GDP, as measured second quarter to second quarter. We will round these changes to the nearest dollar. We will update Category 5 monitoring fees as specified in the Master Agreement. We categorize the monitoring fees based on the estimated number of work hours necessary to monitor your grant or TUP. Monitoring fees for Categories 1 through 4 are one-time fees and are not refundable. These monitoring categories and the estimated range of Federal work hours for each category are:

MONITORING CATEGORIES

Monitoring category	Federal work hours involved
(1) Applications for new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs.	Estimated Federal work hours are >1 ≤8.
(2) Applications for new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs.	Estimated Federal work hours are >8 ≤24.
(3) Applications for new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs.	Estimated Federal work hours are >24 ≤36.
(4) Applications for new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPS.	Estimated Federal work hours are >36 ≤50.
(5) Master Agreements	Varies.
(6) Applications for new grants and TUPs, assignments, renewals, and amendments to existing grants and TUPs.	Estimated Federal work hours >50.

(b) The current monitoring cost schedule is available from any BLM state, district, or field office or by writing: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Washington, DC 20003. The BLM also posts the current schedule at *http://www.blm.gov.*

■ 69. Amend § 2886.12 by:

■ a. Revising paragraph (b);

■ b. Redesignating paragraph (d) as paragraph (g); and

■ c. Adding new paragraphs (d), (e), and (f).

The revisions and additions read as follows:

§ 2886.12 When must I contact BLM during operations?

* * * * *

(b) When your use requires a substantial deviation from the grant or TUP. You must seek an amendment to your grant or TUP under § 2887.10 and obtain our approval before you begin any activity that is a substantial deviation;

* * * * *

(d) Whenever site-specific circumstances or conditions arise that result in the need for changes to an approved right-of-way grant or TUP, POD, site plan, mitigation measures, or construction, operation, or termination procedures that are not substantial deviations in location or use authorized by a right-of-way grant or TUP. Changes for authorized actions, project materials, or adopted mitigation measures within the existing, approved right-of-way or TUP area must be submitted to the BLM for review and approval;

(e) To identify and correct discrepancies or inconsistencies;

(f) When you submit a certification of construction, if the terms of your grant require it. A certification of construction is a document you submit to the BLM after you have finished constructing a facility, but before you begin operating it, verifying that you have constructed and tested the facility to ensure that it complies with the terms of the grant and with applicable Federal and State laws and regulations; and

* * * * *

Subpart 2887—Amending, Assigning, or Renewing MLA Grants and TUPs

■ 70. Revise § 2887.11 to read as follows:

§ 2887.11 May I assign or make other changes to my grant or TUP?

(a) With the BLM's approval, you may assign, in whole or in part, any right or interest in a grant or TUP. Actions that may require an assignment include, but are not limited to, the following:

(1) The voluntary transfer by the holder (assignor) of any right or interest in the grant or TUP to a third party (assignee); and

(2) Changes in ownership or other related change in control transactions involving the BLM right-of-way grant holder or TUP holder and another business entity (assignee), including corporate mergers or acquisitions. In those instances where the grant or TUP holder becomes a wholly owned subsidiary of a new third party, but still holds the grant or TUP and does business under its original name, it may only need to file new or revised information in conformance with subpart 2883, §§ 2884.11(c) and 2886.12 in order to obtain the BLM's approval of the changes in the grant or TUP.

(b) Changes in the holder's name only (see paragraph (i) of this section) do not constitute an assignment.

(c) Changes in the holder's articles of incorporation do not constitute an assignment.

(d) In order to assign a grant or TUP, the proposed assignee, subject to § 2886.11, must file an application and follow the same procedures and standards as for a new grant or TUP, including paying processing fees (see § 2884.12).

(e) The assignment application must also include:

(1) Documentation that the assignor agrees to the assignment; and

(2) A signed statement that the proposed assignee agrees to comply with and to be bound by the terms and conditions of the grant or TUP that is being assigned and all applicable laws and regulations.

(f) We will not recognize an assignment until we approve it in writing. We will approve the assignment if doing so is in the public interest. The BLM may modify the grant or TUP or add bonding and other requirements, including terms and conditions, to the grant or TUP when approving the assignment. If we approve the assignment, the benefits and liabilities of the grant or TUP apply to the new grant or TUP holder.

(g) The processing time and conditions described at § 2884.21 apply to assignment applications.

(h) Only interests in issued right-of-way grants and TUPs are assignable. Pending right-of-way and TUP applications do not create any property rights or other interest and may not be assigned from one entity to another, except that an entity with a pending application may continue to pursue that application even if that entity becomes a wholly owned subsidiary of a new third party.

(i) *Change in name only of holder.* Name only changes are made by individuals, partnerships, corporations, and other right-of-way and TUP holders for a variety of business or legal reasons. To complete a change in name only, (i.e., when the name change in question is not the result of an underlying change in control of the right-of-way grant or TUP), the following requirements must be met:

(1) The holder must file an application requesting a name change and follow the same procedures as for a new grant or TUP, including paying processing fees (see subpart 2884 of this part). The name change request must include:

(i) If the name change is for an individual, a copy of the court order or other legal document effectuating the name change; or

(ii) If the name change is for a corporation, a copy of the corporate resolution(s) proposing and approving the name change, a copy of the filing/acceptance of the change in name by the State or territory in which incorporated, and a copy of the appropriate resolution(s), order(s), or other documentation showing the name change.

(2) In connection with its processing of a name change only, the BLM retains the authority under § 2885.13 to modify the grant or TUP, or add bonding and other requirements, including additional terms and conditions, to the grant or TUP.

(3) The BLM will recognize a name change in writing.

■ 71. In § 2887.12, add new paragraphs (d) and (e) to read as follows:

§ 2887.12 How do I renew my grant?

* * * * *

(d) If you make timely and sufficient application for a renewal of your existing grant or for a new grant in accordance with this section, the existing grant does not expire until we have issued a decision to approve or deny the application.

(e) If we deny your application, you may appeal the decision under § 2881.10.

Dated: September 23, 2014.

Janice M. Schneider,

Assistant Secretary, Land and Minerals Management, U.S. Department of the Interior.

[FR Doc. 2014–23089 Filed 9–26–14; 11:15 am]

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