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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) hereby amends its regulations governing how jurisdiction is established over Board appeals.

DATES: Effective March 30, 2015, and applicable in any appeal filed on or after March 30, 2015.

FOR FURTHER INFORMATION CONTACT: William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; phone: (202) 653–7200; fax: (202) 653–7130; or email: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION: The Board has been considering for several years changes to its regulations governing how jurisdiction is established over MSPB appeals. On June 7, 2012, the Board proposed amendments to 5 CFR 1201.56. 77 FR 33663. In that proposed rule, the Board noted that 5 CFR 1201.56 is in conflict with a significant body of Board case law holding that certain jurisdictional elements may be established by making nonfrivolous allegations. The Board therefore proposed to amend this regulation to allow the use of nonfrivolous allegations to establish certain jurisdictional elements.

On October 12, 2012, after receiving numerous thoughtful comments concerning the proposed rule, the Board withdrew its proposed amendments to 5 CFR 1201.56 in order to reconsider the matter. 77 FR 62350. The Board thereafter directed the MSPB regulations working group to thoroughly reevaluate the Board's regulations relating to the establishment of jurisdiction. The MSPB regulations working group developed four options (A–D) and on November 8, 2013, the Board published a request for public comments in the **Federal Register**. 78 FR 67076.

On April 3, 2014, after considering each of the four options developed by the MSPB regulations working group and comments from the public, the Board published a proposed rule. 79 FR 18658. This proposed rule included a section-by-section analysis of the proposed amendments to the Board's regulations.

Comments, Responses, and Changes to the Proposed Amendments

In response to publication of the proposed rule, the MSPB received 104 pages of comments from 19 commenters. These comments are available for review by the public at: *www.mspb.gov/regulatoryreview/index.htm.* As explained below, the Board carefully considered all public comments and has decided to adopt the proposed rule as final with several relatively minor changes.

A commenter criticized the MSPB for failing to explain in the proposed rule why it had rejected the other options (A, C, and D). This commenter further suggested that the proposed rule therefore would not be entitled to deference under *Chevron U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.,* 467 U.S. 837, 842–45 (1984) (setting forth the legal test for determining if a court should grant deference to a Federal agency's interpretation of a statute which it administers).

The Board appreciates the commenter's observation. The Board did indeed consider all options, A–D. The Board used the MSPB regulations working group (a committee of seasoned MSPB employees formed for the accomplishment of this important task) to carefully review and present options for the Board's consideration. The options initially developed by the regulations working group were presented to the Board and published for public comment in the **Federal Register** on November 8, 2013. Following several months of additional review by the regulations working group, the options and public comments were presented to the Board Members for a decision regarding how to proceed. Following extensive review, the Board Members unanimously selected a revised option B as the best choice and published it as a proposed rule on April 3, 2014.

The Board Members selected revised option B because it was largely consistent with current precedent and would clarify certain matters without requiring potentially disruptive changes that, in the end, would contribute little to the transparency and efficiency of MSPB adjudications. For these reasons, the Board Members also believed that option B was much less likely than options C and D to be successfully challenged on appeal. Finally, the Board determined that option B was unlikely to cause possible unintended consequences or process disruption that would adversely affect the parties who appear before the Board. Thus, in selecting option B, the Board decided that it was the best option for all parties concerned, including pro se and represented appellants, agencies, unions, attorneys, and the MSPB itself.

Option A set forth a general framework for jurisdictional determinations and informed the parties of only the general rules the Board follows in allocating burdens of proof. This option also stressed the important role that administrative judges play in explaining applicable burdens of proof and requirements for establishing MSPB jurisdiction. As to the latter point, option B likewise envisions an important role for administrative judges. The Board declined to adopt option A because this option, while consistent with current law and practice, included minimal additional information but not the helpful information contained in option B. Therefore, option A did not satisfy the Board's intention to make the Board's regulations more comprehensive and user-friendly.

The Board Members also carefully considered options C and D but decided against adopting them for several reasons. First, as noted above, the Board determined that the numerous major changes suggested in options C and D would change the current scheme in a manner inconsistent with long-standing precedent and procedures without offering any real advantage to the Board or MSPB litigants. The Board also was concerned that adoption of the more radical changes in these two options might not be accorded *Chevron* deference and that the lack of any real

advantage to options C and D made running such a risk unappealing.

The Board Members thus chose the option that they believed would most efficiently serve the Board's critical mission of adjudicating appeals. In addition, the Board, as the promulgator of these regulations, has considerable discretion regarding, and is particularly well-suited to speak to, its intent in adopting these regulations and thus is entitled to *Chevron* deference as to its interpretation of these regulations. *See, e.g., Reizenstein* v. *Shinseki,* 583 F.3d 1331, 1335 (Fed. Cir. 2009); *Gose* v. *U.S. Postal Service,* 451 F.3d 831, 837 (Fed. Cir. 2006).

Finally, the MSPB would further note that other commenters, such as the Office of Personnel Management (OPM), lauded the careful consideration exhibited by the Board and had no significant objection to the Board's selection of option B.

A commenter expressed the concern that new section 1201.57 would improperly bar appellants from raising the ''principles'' embodied in affirmative defenses in individual right of action (IRA), Veterans Employment Opportunities Act of 1998 (VEOA), and Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) appeals as required under 5 U.S.C. 7701(c)(2).

This commenter chiefly relies upon a nonprecedential Board decision (*Robinson* v. *Department of Housing and Urban Development,* MSPB Docket No. CH–3330–11–0845–I–1, 119 M.S.P.R. 21 (Table), Nonprecedential Final Order (Dec. 26, 2012)), that appears to state that an affirmative defense under 5 U.S.C. 7701(c)(2) may be raised in a VEOA appeal. Such a holding is, however, inconsistent with longstanding Board precedent. *Ruffin* v. *Department of the Treasury,* 89 M.S.P.R. 396, ¶ 12 (2001) (in a VEOA appeal the Board cannot consider a claim of prohibited discrimination under 5 U.S.C. 2302(b)(1) because VEOA does not grant the Board the authority to consider claims for violations of laws other than veterans' preference rules). Thus, the Board will not amend the proposed rule as suggested by this commenter.

A commenter expressed concern regarding the clarity of MSPB regulations, especially for pro se litigants and inexperienced counsel. The commenter requested that the Board explain in the regulations how a nonfrivolous allegation of jurisdiction under oath or penalty of perjury is done. This commenter also suggested that the MSPB redraft the proposed definitions related to jurisdiction in section 1201.4 and include examples illustrating how an appellant can establish MSPB jurisdiction by making nonfrivolous allegations. The commenter also suggested that such examples should address how to establish MSPB jurisdiction over constructive adverse actions and IRA appeals.

While we are cognizant that the regulations contain legal concepts that may be complex and difficult to understand, especially for pro se litigants, the complexity of the regulations is a product of the complexity of the law itself. The Board has found that attempting to clarify some concepts by restating them in plain English, or by providing illustrative examples of them, may create a misleading or incomplete definition of the concept. In particular, providing examples of some of the circumstances that could support jurisdiction over constructive action appeals raises a danger that they may limit the circumstances that will be described by pro se appellants to establish jurisdiction. Furthermore, the statement in the regulation is not intended to be a detailed substantive description of an appellant's burden in a particular type of appeal. Rather, the regulations generally inform the reader that the appellant is expected to provide specific factual allegations that describe a matter within the Board's jurisdiction. Under court and Board precedent, the Board already expects that MSPB administrative judges will fully inform an appellant with specificity of his or her burden of proving the claim, the burden of going forward with the evidence, and the types of evidence necessary to make a nonfrivolous allegation. *Burgess* v. *Merit Systems Protection Board,* 758 F.2d 641, 643–44 (Fed. Cir. 1985). In addition, the statement that the allegations ''generally'' should be under oath or penalty of perjury is not an absolute evidentiary requirement. Where appropriate, the Board may still find a nonfrivolous allegation of jurisdiction based solely upon the documentation in the appeal file without relying on a verified factual statement from the appellant. Furthermore, making a statement under penalty of perjury is not a significant hurdle. For example, in cases filed using the Board's e-Appeal Online system (*https://e-appeal.mspb.gov*), the appellant can easily meet it by merely checking a box in the initial appeal to verify under penalty of perjury that the information being asserted on the form is true and correct, based on the appellant's information and belief.

In response to sections 1201.56(d) and 1201.57(e), which require the MSPB administrative judge to provide the parties with information relating to the requirements for establishing jurisdiction and other relevant information, a commenter expressed a concern that show cause orders issued by administrative judges are generally not tailored to the facts of the particular appeal or written in plain and easily understood language.

Administrative judges frequently must issue jurisdictional orders that provide complex legal information early in the processing of a case, when they still have only a partial understanding of the factual basis of the appeal. As a result, the orders by necessity often must be general and cannot be tailored to the specific appeal. In addition, as with these regulations, it often is not possible to define the applicable jurisdictional standards with precision, while still using plain English. The administrative judges, however, are expected to provide further explanation of the Board's jurisdictional standard in appropriate cases. *See Parker* v. *Department of Housing and Urban Development,* 106 M.S.P.R. 329, ¶ 7 (2007) (while the general statement on jurisdiction in the acknowledgment order was appropriate when it was issued, the appellant's reply necessitated an additional show cause order setting forth a more explicit explanation about the evidence and arguments he would need to present to nonfrivolously allege that his appeal fell within the Board's jurisdiction).

A commenter suggested that the Board include a provision in its regulations setting forth an agency's responsibility to disclose relevant information to an appellant when an issue of jurisdiction or timeliness is raised in a show cause order.

The Board agrees with the commenter that an agency is obligated to disclose information relevant to the issue of jurisdiction. This obligation has already been recognized in MSPB precedent, and appellants are entitled to discovery of matters relevant to jurisdiction. *See Parker,* 106 M.S.P.R. 392, ¶ 8. The Board, however, does not feel it is necessary to codify this precedent in these regulations. With regard to issues of timeliness, the agency generally completes its duty to disclose relevant information once it establishes that it provided the appellant with the appropriate notice of appeal rights.

A commenter stated that it was unrealistic to require an appellant to establish jurisdiction without first engaging in discovery and that the proposed amendments would make it

more difficult to rely upon circumstantial evidence to establish MSPB jurisdiction.

We believe that the proposed amendments will not result in making it more difficult for an appellant to show that the Board has jurisdiction over his appeal. As noted in our response to an earlier comment, administrative judges issue acknowledgement orders and additional orders if needed to inform the parties of their burdens. The Board requires its administrative judges to provide a fair and just adjudication and to rule on relevant evidence. 5 CFR 1201.41; *see also, e.g., Hall* v. *Department of Defense,* 119 M.S.P.R. 180, ¶¶ 4, 5 (2013). Administrative judges also have wide discretion in matters pertaining to discovery, and an administrative judge's discovery rulings will not stand if they are too restrictive. *See, e.g., Jenkins* v. *Environmental Protection Agency,* 118 M.S.P.R. 161, ¶ 27 (2012).

A commenter questioned why the Board did not include USERRA reemployment claims under proposed section 1201.57 and suggested that this section be amended to cover such claims.

From 1979 until 1994, a claim that an agency violated an individual's right under USERRA's predecessor statute to return to civilian employment following military duty was within the Board's appellate jurisdiction under regulations issued by OPM. *See* 1979 through 1993 versions of 5 CFR part 353, subparts C & D. Such reemployment appeals were governed by section 7701 procedures. *See Britton* v. *Department of Agriculture,* 23 M.S.P.R. 170, 173 (1984). USERRA, enacted in 1994, made, among other things, the basis for Board jurisdiction over reemployment appeals statutory. *See* 38 U.S.C. 4324.

The Board has no basis for concluding that in enacting USERRA Congress meant to bring reemployment appeals outside the coverage of 5 U.S.C. 7701; the effect of such a change would have been to place the burden of proof on the merits on the appellant, when under section 7701(c)(2)(B) it is on the agency, *Britton,* 23 M.S.P.R. at 173, and to eliminate an appellant's right to raise an affirmative defense under section 7701(c)(2). Such changes would have been to the detriment of individuals seeking to vindicate their reemployment rights following military duty, and there is no indication that in enacting USERRA Congress intended such changes to Board procedures. Accordingly, the Board will not include USERRA reemployment appeals in section 1201.57, as that section covers appeals in which the appellant bears the burden of proof on the merits and may not raise affirmative defenses.

Nevertheless, the commenter is correct in stating that the Board has taken jurisdiction in USERRA reemployment appeals based on nonfrivolous allegations. *See Silva* v. *Department of Homeland Security,* 112 M.S.P.R. 362, ¶ 19 (2009); *Groom* v. *Department of the Army,* 82 M.S.P.R. 221, ¶ 9 (1999); *accord DePascale* v. *Department of the Air Force,* 59 M.S.P.R. 186, 187 n.1 (1993) (arising under USERRA's predecessor statute). The current regulatory revisions generally aim to codify the case law-based methods for establishing jurisdiction in different types of appeals, however, and there is no reason to use this occasion to place a higher jurisdictional burden than currently exists on appellants in USERRA reemployment appeals. Thus, it is appropriate to except USERRA reemployment appeals from the requirement at section 1201.56(b)(2)(A) that jurisdiction be established by preponderant evidence. The final rule provides an exception to section 1201.56(b)(2)(A) for cases in which the appellant asserts a violation of his right to reemployment following military duty under 38 U.S.C. 4312–4314.

Several commenters expressed a concern that the MSPB was raising jurisdictional standards in constructive adverse action cases without any stated rationale for such action.

The Board understands the commenters' concerns regarding the proposed rule § 1201.4(s), but the rule neither raises jurisdictional standards in cases before the Board, nor alters Board precedent concerning the type of documentation that can be used to satisfy the burden of making a nonfrivolous allegation. It is merely to remind the parties of obligations imposed by 18 U.S.C. 1001(a). The definition of ''nonfrivolous allegation'' in the first sentence of proposed rule § 1201.4(s) is based on longstanding Board precedent. The second sentence in the proposed rule further explains that, when an allegation is made under oath or penalty of perjury, it will generally be considered nonfrivolous if it is more than conclusory, plausible on its face and material to the legal issues in the appeal. The Board furthers note that, in this context, an allegation is made under oath or penalty of perjury if it is accompanied by the following: ''I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed on (date). (Signature).'' *See* 28 U.S.C. 1746; *Cobel* v. *Norton,* 391 F.3d 251, 260 (D.C. Cir. 2004).

Several commenters stated that the MSPB was inappropriately limiting the type of evidence that could be used for satisfying the burden of making a nonfrivolous allegation. A commenter was concerned that the Board was improperly limiting such evidence to a statement under penalty of perjury while disallowing the use of evidence, such as an email.

We disagree with the commenter's statement that the Board is inappropriately limiting the type of evidence that could be used for satisfying the burden of making a nonfrivolous allegation.

Several commenters questioned whether the MSPB could modify the definition of ''nonfrivolous allegation'' in a regulation because that term has already been defined in controlling U.S. Court of Appeals for the Federal Circuit precedent interpreting jurisdiction-conferring statutes and OPM regulations.

As previously stated, the definition of ''nonfrivolous allegation'' in proposed rule 1201.4(s) is based on longstanding Board precedent. Further, while we are cognizant of the U.S. Court of Appeals for the Federal Circuit's precedent analyzing the Board's case law applying nonfrivolous allegation standards, we disagree with the commenters' conclusion that this precedent is binding. The court has routinely held that the Board has properly applied the nonfrivolous allegation standard. We believe this court review is instructive, rather than directive. In addition, we believe it is not appropriate to determine here whether the court owes deference to the Board's interpretation of its own jurisdiction under this particular regulation and instead believe such matters should properly be handled in due course on a case-by-case basis. *See Chevron*, 467 U.S. at 842–45.

Several commenters asked the Board to amend 5 CFR 1201.56 to add a new subparagraph (e) addressing when an appellant is entitled to a jurisdictional hearing. A commenter also suggested that the MSPB include in the final rule a procedure under which the Board would not be required to hold an evidentiary hearing on matters on which an appellant bears the burden of proof when there is no genuine issue of material fact to be resolved.

The Board believes that this proposed amendment is not necessary because the general definition of a nonfrivolous allegation in the proposed regulations and the show cause orders that administrative judges routinely issue in appeals tailored to a specific case are sufficient to inform an appellant of what

he or she will be required to do to obtain a jurisdictional hearing.

A commenter suggested that the MSPB reconsider drafting section 1201.5 from option C because in the commenter's opinion option C more clearly identified matters that must be proven by preponderance of the evidence.

The Board carefully considered the four options (A–D) and decided against incorporating the referenced language contained in option C because (a) such information is already communicated to appellants in show cause orders, and (b) the inclusion of the level of detail set forth in the referenced section of option C would require frequent updates to the Board's regulations to reflect changes in the law and bind the Board to the contents of its regulations when the flexibility to reconsider past decisions is sometimes needed.

A commenter identified the jurisdiction matrix produced by the MSPB regulations working group as a useful tool and proposed that the MSPB include this document in its regulations or on its Web site.

The Board appreciates that the commenter found this table so useful and will undertake to maintain a similar document summarizing MSPB jurisdiction on the MSPB Web site.

A commenter suggested that the Board should replace the term ''nonfrivolous allegation'' with a term that, according to the commenter, could be more easily understood and which has the same meaning.

While the Board understands the commenter's concern, it believes that it would simply be impractical to change this well-established legal term at this stage. The term has been adopted in case law by both the Board and the U.S. Court of Appeals for the Federal Circuit. Moreover, revised 5 CFR 1201.4(s) provides a definition for this term that the Board expects will be easily understood by practitioners and appellants, including pro se appellants.

A commenter suggested section 1201.4(s) would be improved if the MSPB added examples of a ''conclusory statement'' and a statement that the MSPB would consider to be ''more than conclusory.''

The Board appreciates that examples are often an effective means of communicating legal concepts and so has included examples elsewhere in its regulations. However, at the present time, the Board believes it most appropriate to develop the meaning of these terms through case law and perhaps add examples to its regulations at a later date.

A commenter criticized the proposed rule for failing to recognize that all MSPB appeals include ''what'' and ''who'' jurisdictional elements that always require proof by preponderant evidence.

This comment appears to recommend that the Board adopt a major structural element of option C, a potential approach to making jurisdictional determinations that was previously published on the Board's Web site but that the Board Members chose *not* to propose in this rulemaking. The main structural element of option B, the approach that the Board *has* proposed (with minor modification), is to distinguish between categories of appeals that are covered by 5 U.S.C. 7701 procedures and those that are not. Options B and C were formulated as comprehensive methods for making jurisdictional determinations, and the Board sees no compelling reason to import a major element of option C into option B.

A commenter questioned whether the MSPB erred by failing to justify requiring nonfrivolous allegations of jurisdictional elements that are also merits issues in IRA, VEOA, USERRA, and other types of appeals. This commenter explained that requiring nonfrivolous allegations in such appeals was inappropriate where the relevant statutes provide that an individual who ''alleges,'' ''claims,'' ''believes,'' or ''considers'' that an agency acted in a particular way is entitled to appeal to the MSPB. Therefore, the commenter concluded that the Board's requirement of raising nonfrivolous allegations to establish jurisdiction in these appeals would be found ''not in accordance with law'' under the Administrative Procedures Act (APA), 5 U.S.C. 706(2)(A).

The proposed revision in the regulations is primarily intended to accurately reflect current, controlling Board and court precedent for establishing MSPB's jurisdiction in various types of appeals. We doubt that this precedent would be subject to collateral attack in an APA proceeding because it already has been subjected to years of court review. In addition, the Board carefully considered a comprehensive reform of our jurisdictional standards (options C and D) but concluded that introducing such changes in our standards would not be the best option to follow.

A commenter expressed his preference for option C and noted his concern that the proposed rule improperly treated purely merits issues as jurisdictional issues and left undisturbed case law in which the MSPB and the U.S. Court of Appeals for the Federal Circuit improperly classified merits issues as jurisdictional requirements.

The Board does not agree with the comment that the requirement of raising nonfrivolous allegations to establish jurisdiction in certain appeals would be found not in accordance with law. The Board has proposed revisions to its jurisdictional regulations to clarify the burdens on parties and to insure that the Board's regulations are consistent with both statutes and case law. The Board is not revising its jurisdictional regulations for the purpose of reversing controlling precedent. Therefore, we agree that the regulations codify and endorse Board and U.S. Court of Appeals for the Federal Circuit precedent. The Board believes that such consistency and clarification are helpful to the parties it serves. Also, as noted earlier, the Board expects an administrative judge to provide notice to an appellant of the specific jurisdictional burdens raised in an appeal.

A commenter stated that the proposed rule improperly treated the exhaustion requirement in IRA and VEOA appeals as a jurisdictional requirement.

According to the commenter, U.S. Supreme Court precedent treats administrative exhaustion requirements that are ''analogous to those in IRA and VEOA appeals'' as ''claim processing rules'' and not jurisdictional requirements. The Supreme Court has never directly opined on the nature of administrative exhaustion requirements in the IRA or VEOA context. Furthermore, *Yunus* v. *Department of Veterans Affairs*, 242 F.3d 1367, 1371 (Fed. Cir. 2001), an appellate court decision that is binding on the Board, squarely holds that exhaustion of the Office of Special Counsel (OSC) complaint process is a jurisdictional prerequisite to an IRA appeal. The *Yunus* decision is consistent with other appellate court decisions holding that filing of an administrative claim is a jurisdictional prerequisite to suing the government in tort, *GAF Corp.* v. *United States*, 818 F.2d 901, 904 (D.C. Cir. 1987), in contract, *Maropakis Carpentry, Inc.* v. *United States*, 609 F.3d 1323, 1327 (Fed. Cir. 2010), and for discrimination in employment, *Hays* v. *Postmaster General*, 868 F.2d 328, 330–31 (9th Cir. 1989). The Board is not persuaded that it is ''improper'' to treat the exhaustion requirement in IRA and VEOA appeals as jurisdictional prerequisites to filing such appeals.

A commenter observed that the Board may not affirm any agency action or decision, including in IRA, VEOA, and USERRA appeals, where the agency

violated the appellant's constitutional rights.

The commenter does not cite any decision in which the Board has either considered or declined to consider a constitutional claim in an IRA, VEOA, or USERRA appeal. Moreover, the commenter does not point to any portion of the laws conferring jurisdiction over these three types of appeals that gives the Board the authority to consider constitutional claims. While it is true that in appeals governed by 5 U.S.C. 7701—*i.e.*, appeals other than IRA, VEOA, and USERRA appeals—the Board will consider constitutional claims, in doing so the Board will identify the constitutional interest at stake as part of its analysis. For example, the Board will consider a claim that an agency removed an individual without affording him minimum due process in accordance with the Fifth Amendment, so long as the individual was the type of employee with a constitutionally-protected property interest in continued Federal employment. *E.g., Clark* v. *U.S. Postal Service*, 85 M.S.P.R. 162, ¶ 1 (2000). At least with respect to VEOA and USERRA appeals, it is not clear what constitutionally-protected interests might be implicated in the most frequently-arising fact patterns, where individuals seek to vindicate statutory interests such as the right to veterans' preference in initial employment, the right to compete for employment, the right to reemployment following military duty, and the right to be free of discrimination in employment based on prior military service or a present obligation to perform such service. For these reasons, the Board believes that the basis and scope of its authority to adjudicate constitutional claims in IRA, VEOA, and USERRA appeals is best left to development in the case law.

A commenter suggested that 1201.57 should be amended to state with greater specificity the standards of proof for each of the appeals covered by that regulation.

The Board has proposed the revisions to its jurisdictional regulations to insure that they are consistent with statutes, other regulations, and case law. The Board considered stating the specific standards or elements for establishing jurisdiction for each type of appeal in the revised regulations but ultimately concluded that the inclusion of this information may have the unintended effect of confusing the reader, especially a pro se appellant. In addition, the Board's jurisdiction is a continually evolving concept. As a result, the Board also was concerned that the regulations would quickly become obsolete or inaccurate if specific standards for establishing jurisdiction in each type of appeal were provided in the regulations. Finally, as noted several times earlier, the Board expects administrative judges to provide notice to the appellant of the specific jurisdictional burdens raised in the appeal.

A commenter recommended that section 1201.57(e) should be amended to require the jurisdictional notice to be issued as soon as practicable and to allow the parties additional time, if needed, to complete discovery before the jurisdictional question is resolved.

The Board appreciates the commenter's valid concern. As the commenter correctly notes, administrative judges typically do issue jurisdictional show cause orders as soon as practicable, often within weeks after an appeal is filed. However, in certain cases, new questions of jurisdiction materialize only after the parties file pleadings that highlight emerging issues. As a result, the Board believes that its practice is working well for most cases and that, as a rule, administrative judges usually issue jurisdictional notices at the appropriate time. As for the comment about allowing the parties additional time to complete discovery before the jurisdictional question is resolved, the Board believes, as stated earlier, that such matters are best left to the administrative judges' discretion on a case-by-case basis.

A commenter suggested that the Board should undertake additional study to determine whether its regulations should address any additional jurisdictional pleading requirements that may arise when matters are made appealable to the Board by OPM regulation, rather than by statute.

The commenter notes that options C and D, previously posted on the Board's Web site as potential approaches to jurisdictional determinations, contained detailed pleading requirements for some types of appeals authorized by OPM regulations. The Board is aware that case law sets forth specific substantive requirements for establishing jurisdiction over certain kinds of regulatory appeals, such as those brought by probationers or that challenge employment practices, that may not be applicable in other kinds of cases. All appeals authorized by OPM regulations are covered by 5 U.S.C. 7701, however, and the purpose of the current rulemaking is to distinguish broadly between how jurisdiction is established in appeals that are covered by, and those that are not covered by, section 7701. Laying out substantive jurisdictional tests for different kinds of appeals within one of those categories is best left to developing case law.

A commenter suggested that the Board reorder paragraphs (b) and (c) of 1201.57 to reinforce the rule that the Board cannot bypass a jurisdictional question to reach the merits of a case.

The Board agrees with this suggestion and will make the minor edit necessary by switching the order of the paragraphs.

A commenter found the language in 1201.57(c) was ambiguous where it states that the paragraph applies ''[e]xcept for matters described in subsections (b)(1) and (3) of this section above.''

We agree and have amended this provision to make it clearer.

A commenter proposed a revision of 1201.57(c) on the grounds that an appellant should be required to make more than a nonfrivolous allegation that the appeal was timely filed and that the preponderance of the evidence standard should apply to timeliness issues.

The Board believes that the current language in the regulations is appropriate and protects the rights of appellants to show by preponderant evidence that their appeals were timely filed or to establish good cause for an untimely filing, consistent with long-established precedent. The current language also accurately reflects that, for an appellant to be entitled to a hearing on the timeliness issue, he or she must raise a nonfrivolous allegation that the appeal was timely filed. That said, the commenter correctly notes that timeliness and jurisdictional questions are not always inextricably intertwined and so administrative judges need to carefully review the record in such cases to provide the parties with the proper notice and determine if a hearing is warranted under the circumstances.

A commenter asserted that the amendments to the Board's regulations would increase the number of constructively discharged employees who are unsuccessful before the Board both on the merits and in establishing the MSPB's jurisdiction.

The Board does not agree. The regulatory revisions under discussion are certainly not intended to make it more difficult to establish jurisdiction or to prevail in a constructive adverse action appeal. Instead, the Board is attempting to codify principles in case law that are not fully reflected in the Board's regulations. The commenter's true concern appears to be that the Board's ''current practice'' results in appellants not ''winning when . . . they ought to'' in constructive adverse action appeals. However, this rulemaking is not intended to work a fundamental

change in the way the Board approaches such appeals.

A commenter objected to Board's use of the term ''conclusory'' as well as the Board's definition of that term.

The Board believes that the use of the term is clear to convey the idea that something is conclusory if it is an inference that has no proof but is stated nonetheless. In other words, something is conclusory if it consists of or relates to a conclusion or assertion for which no supporting evidence is offered. The definition of ''conclusory'' is easily obtained with an online search although the word may not be found in older or abridged dictionaries. Yet as the commenter correctly notes, recent editions of Blacks' Law Dictionary define conclusory as ''expressing a factual inference without stating the underlying facts on which the inference is based.'' BLACK'S LAW DICTIONARY (7th ed. 1999); *id.* (8th ed. 2004); *id.* (9th ed. 2009).

A commenter suggested that the Board should abandon trying to define what a nonfrivolous allegation is, and should instead decide jurisdiction the way Federal courts do.

The commenter does not specify how he believes the Board is determining questions of jurisdiction differently than do Federal courts. Nonetheless, the commenter correctly observes that the Board is a tribunal of limited jurisdiction and so the Board believes that it is properly adjudicating jurisdictional issues that come before it, including determining if a nonfrivolous allegation has been raised.

A commenter suggested that the Board should revise its definition of ''preponderance of the evidence'' by adopting ''the standard law dictionary definition.''

The Board currently defines ''preponderance of the evidence'' as ''[t]he degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue.'' The proposed rule would move this definition from section 1201.56 to section 1201.4 but would leave the substance of the definition unchanged. Citing a law dictionary, the commenter suggests that the Board change the definition to ''evidence which is more convincing than the evidence offered in opposition to it. It is [the] degree of proof which is more probable than not.'' The commenter believes that the current definition creates confusion because it is framed in terms of what a ''reasonable person'' would find rather than what an administrative judge should find.

The Board declines to adopt this suggestion. Over a period of decades, the Board's primary reviewing court has cited and applied the Board's definition of ''preponderance of the evidence'' without questioning its validity or clarity. *E.g., Haebe* v. *Department of Justice*, 288 F.3d 1288, 1302 (Fed. Cir. 2002); *Jackson* v. *Veterans Administration*, 768 F.2d 1325, 1329 (Fed. Cir. 1985). Changing the definition would allow parties to argue before the court that the new definition has a different meaning than the old one, and the Board would then need to convince the court that no change in meaning was intended. If the Board agreed with the commenter that the current definition creates confusion, then it might be worth the risk of having the court find that a revised definition has a new meaning, but the Board is not aware of widespread confusion over the wording of the current definition.

In fact, the current definition of ''preponderance of the evidence'' stands in clear contrast to the definition of ''substantial evidence.'' The former definition focuses on what a reasonable person ''would accept'' as sufficient to prove a contested fact, whereas the latter focuses on what a reasonable person ''might accept'' as sufficient to prove a contested fact ''even though other reasonable persons might disagree.'' This clear contrast would be lost if the reference to a ''reasonable person'' were removed from the definition of ''preponderance of the evidence'' as the commenter suggests.

A commenter stated that the Board lacks authority to issue 5 CFR 1208.23(b) limiting the right to an evidentiary hearing to cases that are timely filed and within the Board's jurisdiction.

The commenter appears to object to the Board's reference to 5 CFR 1208 if an individual would like additional information regarding VEOA or USERRA appeals. However, 5 CFR 1208 is not a proposed rule and therefore is not subject to the notice and comment of the regulations at issue. Furthermore, the Board's proposed regulations do not provide for summary judgment. It is well settled that a VEOA complainant does not have an unconditional right to a hearing before the Board, and a USERRA claimant is entitled to a hearing on the merits only upon establishing Board jurisdiction over his appeal. *Downs* v. *Department of Veterans Affairs*, 110 M.S.P.R. 139, ¶¶ 17–18 (2008). The Board may decide a VEOA appeal on the merits without an evidentiary hearing only where there is no genuine dispute of material fact and one party must prevail as a matter of law. *Jarrard* v. *Department of Justice*, 113 M.S.P.R. 502, 506 (2010).

A commenter, citing *Kirkendall* v. *Department of the Navy*, 479 F.3d 830, 834 (Fed. Cir. 2009), asserted that 5 U.S.C. 7701 applies to VEOA appeals and questioned the Board's citation to *Goldberg* v. *Department of Homeland Security*, 99 M.S.P.R. 660 (2005), for the proposition that the Board lacks jurisdiction to adjudicate an affirmative defense under 5 U.S.C. 7701(c)(2) in these appeals.

After reviewing *Kirkendall, Goldberg* and related precedent, the Board remains convinced that it lacks jurisdiction over affirmative defenses in a VEOA or USERRA appeal. In particular, we note that the U.S. Court of Appeals for the Federal Circuit found in *Kirkendall* that the failure of Congress to specifically reference section 7701 in a statute, such as USERRA, demonstrates that it did not necessarily want all provisions of section 7701 to apply to the Board's review of the claim. Furthermore, we note that the court has affirmed the Board's interpretation of the VEOA statute. For instance, in a veterans' preference case, which was decided on the merits, the court affirmed the Board's finding that it did not have jurisdiction over the appellant's affirmative defenses of discrimination and harmful procedural error. *Graves* v. *Department of the Navy*, 451 F. App'x 931 (Fed. Cir. 2011). Accordingly, the Board declines to change its position that it lacks jurisdiction over affirmative defenses in a VEOA or USERRA appeal.

A commenter asserted that the Board may not ''overrule'' section 1201.56 in VEOA appeals by adjudication because the Board lacks the delegated authority to do so.

At the outset, the Board notes that it has the authority to review or modify its regulations. 5 U.S.C. 1204(h) and 7701(k).

The commenter, though, suggests that the Board tried to ''overrule'' 5 CFR 1201.56 by adjudication in the cases of *Donaldson* v. *Department of Homeland Security*, 119 M.S.P.R. 489 (2013) (Table); *Donaldson* v. *Department of Homeland Security*, 119 M.S.P.R. 244 (2013) (Table); *Donaldson* v. *Department of Homeland Security*, 118 M.S.P.R. 219 (2012) (Table); *Donaldson* v. *Department of Homeland Security*, 117 M.S.P.R. 609 (2012) (Table); *Donaldson* v. *Department of Homeland Security*, MSPB Docket No. DC–1221–12–0356–B–1 (Initial Decision, Jan. 9, 2013); *Donaldson* v. *Department of Homeland Security*, MSPB Docket No. DC–300A–12–0619–I–1 (Initial Decision, Sep. 17, 2012); *Donaldson* v.

Department of Homeland Security, MSPB Docket No. DC–1221–12–0356–W–1 (Initial Decision, June 28, 2012); *Donaldson* v. *Department of Homeland Security*, MSPB Docket No. DC–3330–11–0636–I–1 (Aug. 10, 2011); and *Donaldson* v. *Department of Homeland Security*, MSPB Docket No. DC–3330–11–0637–I–1 (July 29, 2011).

According to the commenter, the Board's decisions in *Donaldson* contravened the U.S. Court of Appeals for the Federal Circuit's holding in *Tunik* v. *Merit Systems Protection Board*, 407 F.3d 1326 (Fed. Cir. 2005). The Board disagrees with the commenter's characterization of what the Board did in the *Donaldson* cases. In any event, the U.S. Court of Appeals for the Federal Circuit repeatedly concluded that the Board correctly decided the *Donaldson* cases, including the jurisdictional determinations therein. *See Donaldson* v. *Department of Homeland Security*, 528 F. App'x 986 (Fed. Cir. 2013) (Table) (the court affirmed the Board's decision that the appellant was not entitled to relief under VEOA); *Donaldson* v. *Merit Systems Protection Board*, 527 F. App'x 945 (Fed. Cir. 2013) (Table) (the court held that the Board correctly ruled that it lacked jurisdiction over the appellant's whistleblower claim); *Donaldson* v. *Department of Homeland Security*, 495 F. App'x 53 (Fed. Cir. 2012) (Table) (the court affirmed the Board's decision that the agency did not violate USERRA and VEOA when it failed to select him for positions). Notwithstanding the Board's holdings in the *Donaldson* appeals, the court in *Tunik* pointed out that there are ''numerous exceptions'' to the notice and comment rulemaking requirements of 5 U.S.C. 553. *Tunik*, 407 F.3d at 1341–45. In particular, the court in *Tunik* indicated that the Board is authorized to repeal a regulation through notice and comment procedures, which is exactly what the Board is doing here. *Tunik*, 407 F.3d at 1345. The commenter appears to concede this point, when he notes that the Board is not precluded from repealing the regulation in accordance with section 553(b).

A commenter questioned the validity of 5 CFR part 1208 and 1201.57 because these regulations allegedly inadequately protect veterans' preference rights.

The commenter asserts that Congress intended greater protection for preference-eligible veterans than the aforementioned regulations provide, but the commenter does not provide any examples. Again, the main purpose of this rulemaking is to make the Board's regulations consistent with how the Board actually makes jurisdictional determinations, as explained in the case law.

A commenter questioned why the Board had abandoned beneficial amendments proposed in 2012, such as allowing litigating parties to file reply briefs and steps to facilitate settlement.

The amendments proposed by the Board in 2012 (77 FR 33663) were not abandoned. These proposed amendments were adopted in a final rule published later that year (77 FR 62350). The final rule authorized the filing of reply briefs (5 CFR 1201.114(a)) and included steps to facilitate settlement (5 CFR 1201.28).

A commenter objected to the Board's proposal to limit the issues that may be raised in an IRA appeal. The commenter specifically objected to the fact that agencies no longer need to establish the justification for a personnel action in an IRA appeal.

The Board does not agree with the commenter that the Board's regulations ease an agency's requirement to prove misconduct if an employee has first chosen to file with the OSC. The Board reminds the commenter that 5 U.S.C. 1221 indicates that corrective action will not be ordered even if an individual establishes that he/she has disclosed that a protected disclosure was a contributing factor in a personnel action, if an agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of the disclosure. The agency is thus still required to justify its personnel action.

A commenter suggested that the Board move proposed paragraph 1201.56(d) and 1201.57(e) to a newly created section ''1201.41(d) Proof.''

The Board considered merging into a single provision this requirement for administrative judges to provide the parties notice of the proof required as to the issues in each type of appeal. However, we ultimately determined that the parties, particularly pro se appellants, would be less likely to be confused if it were set forth separately in 1201.56 and 1201.57.

A commenter argued that the term ''standing'' in 1201.57(b)(3) was an inappropriate way to describe a jurisdictional element that must be established by a preponderance of the evidence. The commenter suggested that the term ''coverage'' would be more appropriate.

As the commenter points out, under 1201.57(b)(3), a party must prove, by preponderant evidence, that he or she ''[h]as standing to appeal'' an action, but only ''when disputed by the agency or questioned by the Board.'' The regulation defines ''standing'' to mean that the individual ''falls within the class of persons who may file an appeal under the law applicable to the appeal.'' The Board believes that the term ''standing'' under 1201.57(b)(3) is appropriate and consistent with court and Board precedent. Standing is a threshold requirement that implicates jurisdiction and is '''perhaps the most important' condition for a justiciable claim.'' *Allen* v. *Wright*, 468 U.S. 737, 750 (1984). Therefore, the question of standing is a preliminary issue that may be raised by the agency or the Board, to be explored as part of the Board's inquiry into whether it has jurisdiction over a case. *Silva*, 112 M.S.P.R. 362, ¶ 6 & n.2

A commenter expressed a concern that the Board's regulations and case law will impair the ability of appellants in IRA appeals to establish jurisdiction by requiring the production of documents, such as an OSC decision to terminate its investigation, to satisfy the OSC exhaustion requirement. This commenter noted that 5 U.S.C. 1221(f)(2) states that OSC's decision to terminate its investigation may not be considered in an IRA appeal.

The commenter does not actually seem to take issue with any portion of the proposed regulations. Instead, the commenter's true concern is that the Board has changed the test for OSC exhaustion in recent Board precedent. The Board believes that such matters are best addressed in developing case law.

A commenter suggested that information concerning the degree and burden of proof borne by the appellant should come exclusively from the administrative judge and the Board should overturn case law that allows such advice to be exclusively communicated to an appellant in an agency's motion to dismiss.

It is well-settled that an administrative judge's failure to provide proper notice, as required by *Burgess*, 758 F.2d at 643–44, can be cured if the agency's pleadings contain the notice that was lacking in the acknowledgement order or if the initial decision itself puts the appellant on notice of what to do to establish jurisdiction, thus affording the appellant with the opportunity to meet the jurisdictional burden in a petition for review. The Board believes that restricting notice to that which is provided in the acknowledgement order would unfairly limit the opportunity to later clarify matters that are complicated or unclear when first filed during the processing of an appeal.

List of Subjects in 5 CFR Part 1201

Administrative practice and procedure.

Accordingly, for the reasons set forth in the preamble, the Board amends 5 CFR part 1201 as follows:

PART 1201—PRACTICES AND PROCEDURES

■ 1. The authority citation for 5 CFR part 1201 continues to read as follows:

Authority: 5 U.S.C. 1204, 1305, and 7701, and 38 U.S.C. 4331, unless otherwise noted.

■ 2. In § 1201.4, add paragraphs (p), (q), (r), and (s) to read as follows:

§ 1201.4 General definitions.

* * * * *

(p) *Substantial evidence.* The degree of relevant evidence that a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons might disagree. This is a lower standard of proof than preponderance of the evidence.

(q) *Preponderance of the evidence.* The degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue.

(r) *Harmful error.* Error by the agency in the application of its procedures that is likely to have caused the agency to reach a conclusion different from the one it would have reached in the absence or cure of the error. The burden is upon the appellant to show that the error was harmful, *i.e.*, that it caused substantial harm or prejudice to his or her rights.

(s) *Nonfrivolous allegation.* A nonfrivolous allegation is an assertion that, if proven, could establish the matter at issue. An allegation generally will be considered nonfrivolous when, under oath or penalty of perjury, an individual makes an allegation that:

(1) Is more than conclusory;

(2) Is plausible on its face; and

(3) Is material to the legal issues in the appeal.

■ 3. Revise § 1201.56 to read as follows:

§ 1201.56 Burden and degree of proof.

(a) *Applicability.* This section does not apply to the following types of appeals which are covered by § 1201.57:

(1) An individual right of action appeal under the Whistleblower Protection Act, 5 U.S.C. 1221;

(2) An appeal under the Veterans Employment Opportunities Act, 5 U.S.C. 3330a(d);

(3) An appeal under the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4324, in which the appellant alleges discrimination or retaliation in violation of 38 U.S.C. 4311; and

(4) An appeal under 5 CFR 353.304, in which the appellant alleges a failure to restore, improper restoration of, or failure to return following a leave of absence.

(b) *Burden and degree of proof*—(1) *Agency.* Under 5 U.S.C. 7701(c)(1), and subject to the exceptions stated in paragraph (c) of this section, the agency bears the burden of proof and its action must be sustained only if:

(i) It is brought under 5 U.S.C. 4303 or 5 U.S.C. 5335 and is supported by substantial evidence (as defined in § 1201.4(p)); or

(ii) It is brought under any other provision of law or regulation and is supported by a preponderance of the evidence (as defined in § 1201.4(q)).

(2) *Appellant.* (i) The appellant has the burden of proof, by a preponderance of the evidence (as defined in § 1201.4(q)), with respect to:

(A) Issues of jurisdiction, except for cases in which the appellant asserts a violation of his right to reemployment following military duty under 38 U.S.C. 4312–4314;

(B) The timeliness of the appeal; and

(C) Affirmative defenses.

(ii) In appeals from reconsideration decisions of the Office of Personnel Management (OPM) involving retirement benefits, if the appellant filed the application, the appellant has the burden of proving, by a preponderance of the evidence (as defined in § 1201.4(q)), entitlement to the benefits. Where OPM proves by preponderant evidence an overpayment of benefits, an appellant may prove, by substantial evidence (as defined in § 1201.4(p)), eligibility for waiver or adjustment.

(c) *Affirmative defenses of the appellant.* Under 5 U.S.C. 7701(c)(2), the Board is required to reverse the action of the agency, even where the agency has met the evidentiary standard stated in paragraph (b) of this section, if the appellant:

(1) Shows harmful error in the application of the agency's procedures in arriving at its decision (as defined in § 1201.4(r));

(2) Shows that the decision was based on any prohibited personnel practice described in 5 U.S.C. 2302(b); or

(3) Shows that the decision was not in accordance with law.

(d) *Administrative judge.* The administrative judge will inform the parties of the proof required as to the issues of jurisdiction, the timeliness of the appeal, and affirmative defenses.

§§ 1201.57 and 1201.58 [Redesignated as §§ 1201.58 and 1201.59]

■ 4. Redesignate §§ 1201.57 and 1201.58 as §§ 1201.58 and 1201.59, respectively.

■ 5. Add new § 1201.57 to read as follows:

§ 1201.57 Establishing jurisdiction in appeals not covered by § 1201.56; burden and degree of proof; scope of review.

(a) *Applicability.* This section applies to the following types of appeals:

(1) An individual right of action (IRA) appeal under the Whistleblower Protection Act, 5 U.S.C. 1221;

(2) A request for corrective action under the Veterans Employment Opportunities Act (VEOA), 5 U.S.C. 3330a(d);

(3) A request for corrective action under the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. 4324, in which the appellant alleges discrimination or retaliation in violation of 38 U.S.C. 4311; and

(4) An appeal under 5 CFR 353.304, in which an appellant alleges a failure to restore, improper restoration of, or failure to return following a leave of absence (denial of restoration appeal).

(b) *Matters that must be supported by nonfrivolous allegations.* Except for proving exhaustion of a required statutory complaint process and standing to appeal (paragraphs (c)(1) and (3) of this section), in order to establish jurisdiction, an appellant who initiates an appeal covered by this section must make nonfrivolous allegations (as defined in § 1201.4(s)) with regard to the substantive jurisdictional elements applicable to the particular type of appeal he or she has initiated.

(c) *Matters that must be proven by a preponderance of the evidence.* An appellant who initiates an appeal covered by this section has the burden of proof, by a preponderance of the evidence (as defined in § 1201.4(q)), on the following matters:

(1) When applicable, exhaustion of a statutory complaint process that is preliminary to an appeal to the Board;

(2) Timeliness of an appeal under 5 CFR 1201.22;

(3) Standing to appeal, when disputed by the agency or questioned by the Board. (An appellant has ''standing'' when he or she falls within the class of persons who may file an appeal under the law applicable to the appeal.); and

(4) The merits of an appeal, if the appeal is within the Board's jurisdiction and was timely filed.

(d) *Scope of the appeal.* Appeals covered by this section are limited in scope. With the exception of denial of

restoration appeals, the Board will not consider matters described at 5 U.S.C. 7701(c)(2) in an appeal covered by this section.

(e) *Notice of jurisdictional, timeliness, and merits elements.* The administrative judge will provide notice to the parties of the specific jurisdictional, timeliness, and merits elements that apply in a particular appeal.

(f) *Additional information.* For additional information on IRA appeals, the reader should consult 5 CFR part 1209. For additional information on VEOA appeals, the reader should consult 5 CFR part 1208, subparts A & C. For additional information on USERRA appeals, the reader should consult 5 CFR part 1208, subparts A and B.

(g) For additional information on denial of restoration appeals, the reader should consult 5 CFR part 353, subparts A and C.

William D. Spencer,

Clerk of the Board.

[FR Doc. 2015–01575 Filed 1–27–15; 8:45 am]

BILLING CODE 7400–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2014–0905]

RIN 1625–AA08

Special Local Regulation; Bradenton Area Riverwalk Regatta; Manatee River, Bradenton, FL

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the waters of the Manatee River in Bradenton, Florida, during the Bradenton Area Riverwalk Regatta. The event is scheduled to take place annually from 11 a.m. to 7:30 p.m. on the first Saturday of February. The special local regulation is necessary to protect the safety of race participants, participant vessels, spectators, and the general public on the navigable waters of the United States during the event. The special local regulation will restrict vessel traffic in the waters of the Manatee River in the vicinity of Bradenton, Florida. It will establish the following two areas: Enforcement areas #1 and #2, where all persons and vessels, except those persons and vessels participating in the high speed boat races and those vessels enforcing the areas, are prohibited from entering, transiting through, anchoring in, or remaining within.

DATES: This rule is effective February 1, 2015. This rule will be enforced annually on the first Saturday of February from 11 a.m. to 7:30 p.m.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0905. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Marine Science Technician First Class Hector I. Fuentes, Sector Saint Petersburg Waterways Management Branch, U.S. Coast Guard; telephone (813) 228–2191, email *Hector.I.Fuentes@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is establishing this Special Local Regulation on the waters of the Gulf of Mexico in the vicinity of Manatee River, Florida during the Bradenton Riverwalk Regatta. On November 26, 2014, the Coast Guard published a notice proposing this final rule. No comments were received.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because immediate action is needed to minimize potential danger to the public during this event and the rule will have minimal impact on the public and waterway users. The comment period on this rule ended on December 26, 2014 and the Coast Guard did not have sufficient time to publish notice of this rule. This event has been well publicized by the City of Bradenton and local media outlets. Any delay in the effective date of this rule would be contrary to the public interest because this rule is needed to minimize potential danger to the public during the Bradenton Riverwalk Regatta and fireworks display.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233.

The purpose of the rule is to provide for the safety of life on navigable waters of the United States during the Bradenton Riverwalk Regatta.

C. Comments and Changes to the Final Rule

The Coast Guard received no comments related to this event during the comment period. This rule makes one change to the proposed regulation. In the NPRM, the special local regulation exclusion areas would be enforced from 11:00 a.m. to 4:30 p.m. However, the Bradenton Riverwalk Regatta includes a fireworks display. To ensure the safety of race participants, participant vessels, spectators, and the general public on the navigable waters of the United States during the fireworks display, the Coast Guard is extending the enforcement period for the special local regulation until 7:30 p.m. Because the fireworks display will take place in the race area, the geographic area of the proposed enforcement zones remains unchanged in this rule. Additional notice and opportunity to comment on this change is unnecessary because extending the enforcement period a few hours is a logical outgrowth of the the NPRM. The fireworks display has always been part of the schedule of events, publicized by the City of Bradenton and local media. Furthermore, the additional impact of the extended enforcement period is minimal. The enforcement areas will be restricted for three extra hours once per year.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory

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

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.722 to read as follows:

§ 100.722 Special Local Regulations; Bradenton Area Riverwalk Regatta, Manatee River; Bradenton, FL.

(a) *Regulated Areas.* The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) *Enforcement Area #1.* All waters of the Manatee River between the Green Bridge and the CSX Train Trestle contained within the following points: 27°30.73′ N, 82°34.37′ W, thence to position 27°30.73′ N, 82°34.13′ W, thence to position 27°29.97′ N, 82°34.27′ W, thence to position 27°29.59′ N, 82°34.07′ W, thence back to the original position, 27°30.73′ N, 82°34.37′ W.

(2) *Enforcement Area #2.* All waters of the Manatee River contained within the following points: 27°30.58′ N, 82°34.62′ W, thence to position 27°30.58′ N, 82°34.43′ W, thence to position 27°30.43′ N, 82°34.43′ W, thence to

position 27°30.43′ N, 82°34.62′ W, thence back to the original position, 27°30.58′ N, 82°34.62′ W.

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

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas unless an authorized race participant.

(2) Designated representatives may control vessel traffic throughout the regulated areas as determined by the prevailing conditions.

(3) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the Captain of the Port St. Petersburg by telephone at (727) 824–7506, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative.

(d) *Enforcement Date.* This section will be enforced annually from 11 a.m. to 7:30 p.m. on the first Saturday of February.

Dated: January 8, 2015.

G.D. Case,

Captain, U.S. Coast Guard, Captain of the Port St. Petersburg.

[FR Doc. 2015–01620 Filed 1–27–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

[2135–AA36]

Seaway Regulations and Rules: Periodic Update, Various Categories

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Seaway Navigation, and Radio Communications. Because these changes to the joint regulations are either technical amendments or corrections, the SLSDC finds that a notice-and-comment period would be unnecessary and impractical. The rule will become effective on March 31, 2015 in Canada and in order to avoid confusion among the users of the Seaway, the rule will become effective on the same date in the United States.

DATES: The rule will become effective on March 31, 2015.

FOR FURTHER INFORMATION CONTACT: Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764–3200.

SUPPLEMENTARY INFORMATION: The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Regulations and Rules in various categories. The changes will update the following sections of the Regulations and Rules: Seaway Navigation, and Radio Communications. Because these changes to the joint regulations are either technical amendments or corrections, the SLSDC finds that a notice-and-comment period would be unnecessary and impractical. The rule will become effective on March 31, 2015 in Canada and in order to avoid confusion among the users of the Seaway, the rule will become effective on the same date in the United States.

Regulatory Notices

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.Regulations.gov.*

The changes to the joint regulations are technical amendments or corrections.

Regulatory Evaluation

This regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

Regulatory Flexibility Act Determination

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Regulations and Rules primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of the human environment.

Federalism

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this rule does not have sufficient federalism implications to warrant a Federalism Assessment.

Unfunded Mandates

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

Paperwork Reduction Act

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

List of Subjects in 33 CFR Part 401

Hazardous materials transportation, Navigation (water), Penalties, Radio, Reporting and recordkeeping requirements, Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation is amending 33 CFR part 401, Regulations and Rules, as follows:

PART 401—SEAWAY REGULATIONS AND RULES

Subpart A—Regulations

■ 1. The authority citation for subpart A of part 401 continues to read as follows:

Authority: 33 U.S.C. 983(a) and 984(a)(4), as amended; 49 CFR 1.52, unless otherwise noted.

■ 2. In § 401.29, remove footnote 1 and revise paragraph (a) to read as follows:

§ 401.29 Maximum draft.

(a) Notwithstanding any provision herein, the loading of cargo, draft and speed of a vessel in transit shall be controlled by the master, who shall take into account the vessel's individual characteristics and its tendency to list or squat, so as to avoid striking bottom.

* * * * *

■ 3. Revise § 401.61 to read as follows:

§ 401.61 Assigned frequencies.

The Seaway stations operate on the following assigned VHF frequencies:

156.8 MHz—(channel 16)—Distress and Calling.

156.7 MHz—(channel 14)—Working (Canadian stations in Sector 1 and the Welland Canal).

156.65 MHz—(channel 13)—Working (U.S. station in Lake Ontario).

156.6 MHz—(channel12)—Working (U.S. station in Lake Ontario).

156.6 MHz—(channel 12)—Working (U.S. stations in Sector 2 of the River); and

156.55 MHz—(channel 11)—Working (Canadian stations in Sector 3, Lake Ontario and Lake Erie).

Issued at Washington, DC, on January 23, 2015.

Saint Lawrence Seaway Development Corporation.

Carrie Lavigne,

Chief Counsel.

[FR Doc. 2015–01554 Filed 1–27–15; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 212 and 261

RIN 0596–AD17

Use By Over-Snow Vehicles (Travel Management Rule)

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The Forest Service manages winter uses to protect National Forest System (NFS) resources and to provide a range of opportunities for motorized and non-motorized recreation. In 2005, the agency regulated winter motorized use as a discretionary activity under its regulations for Use by Over-Snow Vehicles. Consistent with a court order dated March 29, 2013, the United States Department of Agriculture (the Department) amends the Department's travel management rule (TMR) to require designation of roads, trails, and areas on NFS lands to provide for over-snow vehicle (OSV) use. An over-snow vehicle is defined as ''a motor vehicle that is designed for use over snow and that runs on a track and/or a ski or skis, while in use over snow''. The Responsible Official will establish a system of routes and areas to provide for over-snow vehicle use. The regulations will continue to exempt over-snow vehicle use from the travel management rule, which provides for designation of a system of routes and areas for other types of motor vehicle use.

DATES: This rule is effective February 27, 2015.

ADDRESSES: The record for this final rule contains all the documents pertinent to this rulemaking. These documents are available for inspection and copying at the Office of the Director, Recreation, Heritage, and Volunteer Resources Staff, 5th Floor, Sidney R. Yates Federal Building, 1400 Independence Avenue SW., Washington, DC, on business days between 8:30 a.m. and 4:00 p.m. Those wishing to inspect or copy these documents are encouraged to call Jamie Schwartz, Recreation, Heritage, and Volunteer Resources Staff, at 202–205–1589 beforehand to facilitate access into the building.

FOR FURTHER INFORMATION CONTACT: Jamie Schwartz, 202–205–1589, Recreation, Heritage, and Volunteer Resources Staff.

SUPPLEMENTARY INFORMATION:

1. Background and Need for the Rule

Between 1982 and 2009, the number of people who operated motor vehicles off road increased by more than 153 percent in the United States (''Outdoor Recreation Trends and Futures, a Technical Document Supporting the Forest Service 2010 RPA [Forest and Rangeland Renewable Resources Planning Act of 1974] Assessment,'' p. 135 (H. Cordell, 2012)). While both motor vehicle use and OSV use are increasing in the National Forests and Grasslands, so are many other types of recreational activities. From 1982 to 2009, the number of people in the United States participating in viewing or photographing birds increased 304.2 percent, the number of people participating in day hiking increased 228.2 percent, the number of people participating in backpacking increased 167 percent, the number of people participating in fishing increased 36 percent, and the number of people participating in hunting increased 34 percent (*id.* at 135–36). Providing for the long-term sustainable use of NFS lands and resources is essential to maintaining the quality of the recreation experience in the National Forests and Grasslands.

In 2005, the Forest Service (Agency) promulgated the TMR to provide more effective management of public motor vehicle use. The 2005 TMR includes subpart B, which requires designation of those NFS roads, NFS trails, and areas on NFS lands where public motor vehicle use is allowed (36 CFR 212.51(a)), and subpart C, under which the Responsible Official has the discretion to determine whether to regulate OSV use and to establish a system of routes and areas where OSV use is allowed unless prohibited or a system of routes and areas where OSV use is prohibited unless allowed. Subpart C of the 2005 TMR authorizes but does not require the Responsible Official to allow, restrict, or prohibit OSV use on NFS roads, on NFS trails, and in areas on NFS lands.

On March 29, 2013, the U.S. District Court for the District of Idaho ruled that subpart C of the TMR violated Executive Order (E.O.) 11644, as amended by E.O. 11989. *Winter Wildlands Alliance* v. *U.S. Forest Serv.,* 2013 WL 1319598, No. 1:11–CV–586–REB (D. Idaho Mar. 29, 2013). The court did not rule that the Agency lacks the discretion to determine how to regulate OSV use. To the contrary, the court held that the Forest Service has the discretion to determine where and when OSV use can occur on NFS lands. The ruling requires the Agency to designate routes and areas where OSV use is permitted and routes and areas where OSV use is not permitted on NFS lands, consistent with E.O. 11644, as amended by E.O. 11989, sec. 3(a), but does not dictate where and when OSV use can occur on those lands. The court ordered the Forest Service to issue a new rule consistent with the E.O.s.

The Department is amending subpart C of the TMR to provide for management of OSVs on NFS lands consistent with the EOs, the court's order, and subpart B of the TMR. Specifically, the Department is amending subpart C of the TMR to

require the Responsible Official to designate NFS roads, NFS trails, and areas on NFS lands where OSV use is allowed in administrative units or Ranger Districts, or parts of administrative units or Ranger Districts, where snowfall is adequate for OSV use to occur. The Department is not removing the exemption for OSVs from subpart B.

2. Unique Qualities of OSV Use and Management

The Department believes that a separate subpart for regulation of OSV use is appropriate because of the difference in management and impacts of OSV use and other types of motor vehicle use on NFS lands.

The difference between management of OSV use and management of other types of motor vehicle use on NFS lands stems from differences in their associated settings, activities, environmental impacts, and public preferences. National Forests and Grasslands change when snow blankets the landscape. Vegetation camouflages, animals burrow, and water transforms into ice. Recreationists and others accessing snow-covered National Forests and Grasslands typically trade hiking boots for skis and snowshoes and motor vehicles with tires for those with tracks and sleds.

Because of snowfall patterns, National Forests and Grasslands vary significantly in their need to address OSV use. National Visitor Use Monitoring (NVUM) data from 2008 to 2012 show that approximately 30 percent of NFS lands do not offer OSV recreation opportunities. OSV use occurs only when sufficient snow is present, in contrast to other types of motor vehicle use, which can occur at any time of the year. Other types of motor vehicles operating over snow are regulated under subpart B of the TMR.

When properly operated and managed, OSVs do not make direct contact with soil, water, and vegetation; whereas most other types of motor vehicles operate directly on the ground. Unlike other types of motor vehicles traveling cross-country, OSVs generally do not create a permanent trail or have a direct impact on soil and ground vegetation. In some areas of the country, OSV use is therefore not always confined to roads and trails.

The public's OSV preferences and practices on NFS lands vary nationwide due to different terrain, snow typology and amount, recreational activities, and transportation needs. OSV use on NFS lands in the Northeast and Midwest is largely trail-based, while the larger, wide-open, powder-filled bowls in western mountains can support cross-country OSV use.

Subpart B of the TMR recognizes that cross-country travel by other types of motor vehicles is generally unacceptable. Subpart C of the TMR as originally promulgated and in the final rule recognizes that cross-country travel by OSVs may be acceptable in appropriate circumstances.

Recreational preferences are another factor accounting for the difference in management of OSV use and other types of motor vehicle use. The public's desire for recreational opportunities is different in the summer and the winter. The public enjoys the National Forests for a variety of winter activities including snowmobiling, cross country skiing, snowshoeing, and winter snow play. NVUM data from 2008 to 2012 indicate that 21 percent of public use of the National Forests (152 million visits) occurs during the snow season. Most of this winter use (69 percent) occurs at alpine ski areas. Nearly 4 million people enjoy snowmobiling on the National Forests.

In summary, OSV route and area designations will sustain natural resource values, enhance user experiences, and be consistent with other types of motor vehicle use designations on NFS lands.

3. Impact on Existing Decisions

Consistent with § 212.50(b) of subpart B of the 2005 TMR, existing decisions that allow, restrict, or prohibit OSV use on NFS roads, on NFS trails, or in areas on NFS lands that were made under prior authorities (part 295 or subpart C) will remain in effect under the final rule and will not have to be revisited.

Analogous to § 212.52(a) of subpart B of the 2005 TMR, the final rule provides that public notice with no further public involvement is sufficient for previous administrative decisions, made under other authorities and including public involvement, that regulate OSV use on NFS roads, on NFS trails, and in areas on NFS lands over the entire administrative unit or Ranger District, or parts of the administrative unit or Ranger District, where snowfall is adequate for OSV use to occur, and no change is required to these previous decisions. In short, units or Districts that have completed OSV use designations under other authorities and including public involvement do not have to revisit them.

For clarity, the final rule adds a provision in subpart C regarding the requirement for an OSV use map to display designations for OSV use, separate from the requirement in subpart B for a motor vehicle use map displaying designations for other types of motor vehicle use.

4. Public Comments and Response to Comments

Overview

On June 18, 2014, the Forest Service published a document in the **Federal Register** (79 FR 34678) seeking public comment on the proposed amendments to subpart C of the TMR. The proposed rule was posted electronically on the **Federal Register** site at *www.gpoaccess.gov* and at the Federal e-rulemaking site at *www.regulations.gov.* During the 45-day comment period that ended on August 4, 2014, the Agency received no requests for an extension of the comment period. The Forest Service received 20,210 comments on the proposed rule.

The respondents represented 37 States and the District of Columbia. The following lists the categories of respondents:

- Recreation interests, including permit holders;
- Government agencies;
- Environmental or conservation groups; and
- Individuals who did not identify an affiliation.

Comments came from organizations and individuals concerned about the impacts of OSV use on the environment and on non-motorized uses. Comments also came from organizations and individuals concerned about potential restrictions on OSV use.

Respondents offered general comments either supporting or not supporting the proposed rule or supporting or opposing OSV use in general on NFS lands. Respondents also offered specific comments about sections of the proposed rule that they would like to see revised. Many respondents offered suggestions for implementation, funding, and enforcement of the proposed rule at the local level and comments on other rulemaking efforts or existing Forest Service policy, all of which are beyond the scope of this rulemaking.

General Comments

Comment: Some respondents believed that the Forest Service has successfully used current subpart C of the TMR for managing OSV use and that there is no reason to implement the proposed rule.

Response: The March 29, 2013, order requires the Agency to revise subpart C to require, rather than provide for, designation of routes and areas where OSV use is permitted and routes and areas where OSV use is not permitted on NFS lands, consistent with EO 11644, as amended by EO 11989.

Comment: Some respondents stated that the Forest Service should have addressed OSV use in the TMR; that failure to do so has resulted in use conflicts and resource damage; and that the TMR should be reviewed and used as a starting point for developing an over-snow rule.

Response: Current subpart C of the TMR addresses OSV use by providing for but not requiring designation of routes and areas for OSV use. The Department disagrees that the approach to management of OSV use in current subpart C has resulted in use conflicts and resource damage. As stated in the preamble to the proposed and final rules, the Forest Service is amending subpart C in response to a court order to require designation of those NFS roads, NFS trails, and areas on NFS lands that are open to OSV use and to prohibit OSV use that is inconsistent with those designations.

Comment: Some respondents stated that the Forest Service should have more vigorously defended subpart C of the TMR and the Agency's management of OSV use.

Response: The Federal Government vigorously defended subpart C of the TMR in the litigation that resulted in the March 29, 2013, order. This order requires the Agency to revise subpart C to require, rather than provide for, designation of routes and areas where OSV use is permitted and routes and areas where OSV use is not permitted on NFS lands, consistent with EO 11644, as amended by EO 11989.

Comment: Some respondents stated that the proposed rule should not have been published in the summer, when OSV users are not focused on winter recreation.

Response: This rulemaking is court-ordered and is subject to a court deadline. The Agency had to proceed as quickly as possible to comply with the court order. Moreover, no publication time is ideal for everyone. For example, in the winter time, OSV users could be recreating and not focused on rulemaking.

Comment: Some respondents stated that since OSV use is not adequately regulated, and since few current restrictions on OSV use are enforced, OSV use should not be expanded. Other respondents noted that enforcement of restrictions and prohibitions on OSV use is an issue in the backcountry and that OSVs are encroaching on non-motorized areas in search of fresh powder and are disregarding signage in the area. Other respondents stated that the registration fee for OSVs should be raised to pay for increased enforcement and signage for OSV use designations.

Response: Enforcement of the TMR, including subpart C, is beyond the scope of this rulemaking. Forest Service law enforcement personnel play a critical role in ensuring compliance with applicable laws and regulations, protecting public safety, and protecting NFS resources. The Forest Service also maintains cooperative relationships with many State and local law enforcement agencies that provide mutual support across jurisdictional boundaries. Education and cooperative relationships with users support enforcement efforts by promoting voluntary compliance. The final rule will not increase the Agency's budget or the number of law enforcement officers. However, the final rule will enhance consistency and clarity in management of OSV use on NFS lands.

OSV use maps will be available at local Forest Service offices and, as soon as practicable, on Forest Service Web sites. Once an administrative unit or a Ranger District issues an OSV use map, OSV use in that unit or District that is inconsistent with the designations reflected on the map will be prohibited. The Forest Service plans to issue additional travel management guidance in its sign handbook to enhance consistency in content and use of standard interagency symbols in signs.

Comment: Some respondents stated that the Forest Service should not establish an artificial, predetermined date by which local units are required to complete winter travel planning across the NFS. Other respondents requested that the Forest Service establish a timeline for issuance of OSV use maps.

Response: The Department shares an interest in completing route and area designations for OSV use as quickly as possible. The Forest Service will make every effort, within its available resources, to complete route and area designations for OSV use as quickly as possible. However, the Department disagrees with establishing an enforceable deadline for completion of the process. Imposing an enforceable deadline for completing OSV use designations would subject the Forest Service to a legal challenge if, despite its best efforts (perhaps due to the controversy involved in the process), the Agency is unable to meet the deadline. The Department believes that appropriate public input and coordination between the Responsible Official and Federal, State, Tribal, county, and municipal governments offers the best hope for long-term resolution of issues involving designations for motor vehicle use, including OSV use. An inflexible deadline can make collaborative solutions more difficult.

Comment: Some respondents stated that how the Agency will fund management of OSV use and enforce restrictions on OSV use should be considered in OSV designation decisions, and requested that the Agency consider pursuing alternative management practices in coordination with the States and organizations like the Interagency Off-Highway Vehicle (OHV) Working Group established by the State of Montana's Department of Fish, Wildlife, and Parks.

Response: Recreation management in general and recreation funding are beyond the scope of this rulemaking, which addresses designation of routes and areas on NFS lands for OSV use. Forest Service appropriations are authorized by Congress. The Forest Service is committed to using whatever funds it has available to accomplish the purposes of this final rule in a targeted, efficient manner. The Agency makes appropriate use of all other sources of available funding and has a number of successful cooperative relationships with State governments. Volunteer agreements with user groups and others have proven successful in extending Agency resources for trail construction, maintenance, monitoring, and mitigation. Regardless of the level of funding available, the Department believes that the final rule provides an appropriate procedural framework for management of OSV use on NFS lands that is consistent with EO 11644, as amended by EO 11989, the District Court's March 29, 2013, order, and regulation of other types of motor vehicle use on NFS lands. While availability of resources for maintenance and administration must be considered in designating routes for OSV use (§§ 212.55(a) and 212.81(d) of the final rule), cooperative relationships and volunteer agreements may be included in this consideration.

Comment: Some respondents supported the Forest Service policy for managing nonconforming uses in recommended wilderness and wilderness study areas and encouraged the Forest Service to codify this policy nationally in the final rule. Some respondents believed that inventoried roadless areas, areas recommended for wilderness in land management plans, and wilderness study areas should be more protected under the final rule. Other respondents suggested that the Forest Service amend 36 CFR 212.55(e) to state that ''National Forest System roads, National Forest System trails, and areas on National Forest System lands in wilderness areas, or primitive areas,

inventoried roadless areas, areas recommended for wilderness in land and resource management plans, or wilderness study areas shall not be designated for motor vehicle use pursuant to this section, unless, in the case of wilderness areas, motor vehicle use is authorized by the applicable enabling legislation for those areas.''

Response: The issue regarding nonconforming uses in recommended wilderness and wilderness study areas is beyond the scope of this final rule. The Department believes that the National Forests and Grasslands should provide access for both motorized and non-motorized uses in a manner that is environmentally sustainable over the long term. Designations for motor vehicle use, including OSV use, are best made at the local level, in coordination with Federal, State, Tribal, and local governments and appropriate public involvement, as provided for in this final rule.

Protection of roadless areas is adequately addressed by the national and State-specific roadless rules and need not be addressed in this rulemaking.

Comment: Many respondents commented on the backcountry hut system in Colorado. Some of these respondents were in favor of allowing OSV use in the area surrounding these huts, while other respondents were opposed to OSV use in this area.

Response: Whether OSV use should be allowed in certain areas on NFS lands is beyond the scope of this final rule. This final rule addresses the procedural framework for making OSV use designations rather than OSV use designations themselves. The Department encourages public participation in local OSV use designations.

Comment: Some respondents stated that fat tire bicycles should be regulated under the proposed rule. Some respondents stated that the Forest Service should explicitly incorporate a definition of bicycles that unambiguously distinguishes them from motor vehicles, including OSVs, and should provide guidance to ensure that bicycles are managed as a non-motorized use. Some respondents commented that bicycles should be managed on their own merits and not as an afterthought to motorized travel management.

Response: Regulation of non-motorized use, including bicycles without motors, is beyond the scope of this final rule, which addresses motorized use, specifically, OSV use. The Forest Service has clearly defined the term ''bicycle'', which includes new fat tire bicycles, in Forest Service Handbook 2309.18 as ''a pedal-driven, human-powered device with two wheels attached to a frame, one behind the other.'' Management of bicycles, including fat tire bicycles in winter, would be addressed as part of trail management planning for non-motorized uses. New technologies that merge bicycles and motors, such as e-bikes, are considered motor vehicles under § 212.1 of the TMR.

Comment: Some respondents stated that the proposed rule should require Forest Service employees to spend half their time in the field improving conditions and reducing fuels for fire.

Response: Allocation of employees' time with regard to conditions on the ground and reducing fuel loads is beyond the scope of this final rule, which addresses regulation of OSV use.

Comment: Some respondents stated that the term ''Responsible Agency Official'' should be clearly defined, and that identifying who this official is might help with potential inconsistency in implementing the rule.

Response: The Forest Service did not propose any changes pertaining to identification of the Responsible Official in the current TMR. Therefore, the request to define the term ''Responsible Official'' is beyond the scope of this final rule. The Department believes the meaning of this term is clear from the context of the TMR. The Responsible Official in the context of the TMR is the person who has responsibility for managing an administrative unit or a Ranger District and who has delegated authority to make designation decisions under the TMR for that unit or District.

Comment: Some respondents commented that education regarding outdoor ethics is paramount for backcountry activities such as OSV use and should be required in the final rule. These respondents believed that inexperienced users cause much of the environmental damage and use conflicts associated with OSV use and that better outdoor ethics training could prevent a lot of these problems.

Response: Outdoor ethics training is outside the scope of this rulemaking, which addresses designation of routes and areas for OSV use. The Department appreciates the valuable and long-standing contributions of nongovernmental organizations, including user groups, to promote environmental ethics and responsible behavior on Federal lands.

Comment: Some respondents commented that implementation of the proposed rule would have a direct impact on grooming programs and cooperative agreements for grooming among private organizations, counties, and the Forest Service.

Response: The Department disagrees. The final rule revises the procedural framework for designating routes and areas for OSV use consistent with E.O. 11644, as amended, and the March 29, 2013, court order and will not have any direct effect on grooming programs or cooperative agreements for grooming among private organizations, counties, and the Forest Service.

OSV Exemption in Subpart B

Comment: Some respondents stated that the Forest Service should remove the OSV exemption in subpart B to provide consistency between winter and summer travel management. Other respondents stated that OSVs are motor vehicles and therefore should be subject to the same regulation as other types of motor vehicles, such as OHVs. Some respondents stated that the OSV exemption in subpart B is appropriate given the differences between OSVs and other types of motor vehicles, including OHVs.

Response: The Department believes that there are enough differences between OSV use and other types of motor vehicle use to justify regulation of OSV use in a separate subpart. As stated above, the difference between management of OSV use and management of other types of motor vehicle use on NFS lands stems from differences in their associated settings, activities, environmental impacts, and public preferences. For example, impacts from wheeled motor vehicles traveling directly on the soil differ from impacts from motor vehicles with tracks or skis traveling over snow. Therefore, the Department is retaining the OSV exemption in subpart B of the TMR.

Biological Resource Management

Comment: Some respondents stated that the Forest Service should limit OSV use off established trails to minimize damage to habitat for species like bear, ermine, dusky grouse, lynx, mountain goat, bighorn sheep, and snowshoe hare and that OSV use on trails should be limited to areas with no ecological value to ensure these species have adequate habitat. Other respondents stated that there is no credible evidence that OSVs cause resource damage or have an impact on wildlife and that the proposed rule should be rewritten to reflect that fact.

Response: The National Forests and Grasslands are managed by law for multiple uses, including wildlife, timber, grazing, mining, and outdoor recreation. These uses must be balanced, rather than given preference.

OSV use may have an impact on NFS resources and wildlife. Managers must apply the so-called ''minimization criteria'' in § 212.55 when determining which roads, trails and areas to authorize for OSV use in order to minimize effects on National Forest resources including wildlife. These criteria do not change with this rule. The Department believes that National Forests and Grasslands should provide access for both motorized and non-motorized uses in a manner that is environmentally sustainable over the long term. The Department believes that the analysis of effects to wildlife and other NFS resources for designations for motor vehicle use, including OSV use, are best made at the local level, in coordination with Federal, State, Tribal, and local governments and with appropriate public involvement, as provided for in this final rule.

Comment: Some respondents stated that allowing OSV use everywhere hurts dedicated lynx and wolverine habitat. Some respondents stated that a large portion of wolverine habitat in North America is under Federal ownership and should be protected. These respondents requested that the final rule fully evaluate and disclose the effects of dispersed recreation on wolverines and their habitat and, where necessary, minimize the harm from those activities. These respondents also stated that the final rule should require the Forest Service to consult with the U.S. Fish and Wildlife Service to determine best mitigation practices regarding wolverines. Some respondents stated that OSV use compact snow, which gives larger predators like the coyote easier access to areas previously available to only smaller predators like the lynx and results in increased competition during sensitive lifecycles. Other respondents stated that there are fewer species in the winter season than in the summer, but that their protection is still important. Some respondents stated that Responsible Officials should be required to use the best available technology (BAT), as determined by the U.S. Environmental Protection Agency, in assessing impacts of OSV use in areas with sensitive species or special features. Some respondents stated that wildlife impacts from OSV use would be minimal because OSV users tend to favor higher elevations and because wildlife has typically migrated to lower elevations where conditions are more favorable.

Response: The impact of OSV use on specific species, including threatened and endangered species, in specific locations is beyond the scope of this final rule. This final rule addresses the procedural framework for making OSV use designations, rather than OSV use designations themselves. OSV use designations are made at the local level, with appropriate public input and coordination with Federal, State, Tribal, and local governments based on the criteria in the final rule (§§ 212.55 and 212.81(d)). The final rule does not provide for designating routes and areas for OSV use everywhere it may occur. Rather, the final rule provides for designation of a system of routes and areas where OSV use is allowed and for prohibition of OSV use that is inconsistent with the designations.

The final rule will not have any effect on the ground until designation of roads, trails, and areas for OSV use is complete for a particular administrative unit or Ranger District, with appropriate public involvement and coordination with Federal, State, Tribal, and local governments. Designation decisions at the local level will be accompanied by appropriate consideration of potential impacts on threatened and endangered species. In making designations for OSV use, the Forest Service will consult with the U.S. Fish and Wildlife Service, as appropriate, under Section 7 of the Endangered Species Act. BAT is not required for assessing impacts from motor vehicle use. The Forest Service encourages public participation in local OSV decision making.

Other Environmental Impacts and Use Conflicts

Comment: Some respondents noted that OSVs are heavy and compact the snow, leaving deep tracks that make slopes unusable and dangerous for cross-country skiing. These respondents stated that this impact could be avoided by separating motorized and non-motorized uses. Some respondents commented that motorized and non-motorized uses should be located in separate staging areas, where possible, to limit use conflicts. Some respondents believed that snow pack from track compaction decreases snow melt. Other respondents stated that OSVs come in direct contact with the soil when OSV users search for adequate snow and that OSVs come in contact with the top of vegetation, which has an impact on the soil and vegetation. Some respondents stated that motorized and non-motorized recreational activities are legitimate uses of Federal land, but they should be separated to ensure safe enjoyment for all involved. Other respondents believed that OSV use is incompatible with non-motorized uses and should be excluded from all NFS lands or should be restricted to trails and subject to a licensing requirement. Some respondents commented that the Responsible Official should have to address OSV use in the same manner as other motorized recreational uses on NFS lands. These respondents reasoned that the issue of use conflicts between motorized and non-motorized recreation is the same regardless of the level of snowfall or the season.

Other respondents stated that OSVs are loud and that their noise carries, in some cases for several miles, which disturbs the quiet recreational experience of non-motorized users. Some respondents believed that OSVs compromise air and water quality, the landscape, and the quiet of the natural forest setting. Some respondents believed that OSV users leave behind trash and litter that adversely affects other users. Other respondents stated that the Forest Service should endorse the minimization of OSV use in the backcountry and that mechanized travel spoils the wilderness experience.

Some respondents stated that the proposed rule should protect the quiet use of NFS lands, as this use predates any motorized use. Some respondents stated that the Forest Service failed to address non-motorized winter recreational uses like skiing and snowshoeing, which predate OSV use, and that these non-motorized uses are most likely to be heavily impacted by OSV use and should be addressed. Some respondents commented that it is difficult for non-motorized winter users to reach the backcountry, but when they do and find it overrun with OSVs, it can detract from their experience. These respondents believed that motorized winter uses should be limited to certain areas so that non-motorized winter users can seek solitude and quiet elsewhere. Other respondents stated that advances in technology have allowed OSVs to go places they never have before, further decreasing the areas available for quiet recreation. Some respondents believed that non-motorized uses should be given priority over motorized uses when undertaking winter travel management planning.

Some respondents believed that OSVs with two-cycle motors are obsolete and environmentally wasteful and should be banned in favor of modern four-cycle motors. These respondents noted that the exhaust from an OSV not only smells but lingers in the area for several hours.

Other respondents stated that OSVs do not come in direct contact with the ground and often ride on a cushion of snow several feet thick, and that when the snow melts, the tracks are washed away. Some respondents believed that OSVs on NFS roads do little to no harm

compared to other motor vehicles and therefore should not be restricted. Other respondents believed that motorized winter use is an appropriate use of NFS lands and should not be limited in favor of non-motorized winter uses. Some respondents suggested that winter travel planning be based on an equitable process that eliminates the perceived bias that the OSV community has dealt with for many years. These respondents stated that non-motorized users like cross-country and backcountry skiers, snowshoe enthusiasts, split boarders, and dog-sledders have unlimited access to the backcountry, including areas that they could not realistically reach without the aid of an OSV, while OSVs are limited to small fractions of the National Forests and Grasslands. These respondents believed that limiting OSVs to small areas would result in more use conflicts and greater environmental impacts.

Response: The site specific potential effects of OSV use on non-motorized winter recreational use and natural resources and the designation of certain types of OSVs in specific locations are beyond the scope of this final rule. This final rule addresses the procedural framework for making OSV use designations, rather than OSV use designations themselves. OSV use designations are made at the local level, with appropriate public input and coordination with Federal, State, Tribal, and local governments based on the criteria in the final rule (§§ 212.55 and 212.81(d)). The same criteria are applied to designations for OSV use and designations for other types of motor vehicle use. Potential effects of OSV use on non-motorized winter recreational use and natural resources are addressed in the procedural framework for OSV use designations in the final rule. The criteria for designation of roads, trails, and areas for OSV use in the final rule require the Responsible Official to consider, with the objective of minimizing, effects of OSV use on natural resources and conflicts between OSV use and existing or proposed recreational uses of NFS lands, including non-motorized winter recreational uses. In addition, the criteria for designation of routes and areas for OSV use require the Responsible Official to consider the compatibility of OSV use with existing conditions in populated areas, taking into account sound, emissions, and other factors (§§ 212.55(b) and 212.81(d) of the final rule).

The Department believes that National Forests and Grasslands should provide access for both motorized and non-motorized uses in a manner that is environmentally sustainable over the long term. The NFS is not reserved for the exclusive use of any one group, nor must every use be accommodated on every acre. It is entirely appropriate for different areas of the NFS to provide different opportunities for recreation. The Department believes that designations for motor vehicle use, including OSV use, are best made at the local level, in coordination with Federal, State, Tribal, and local governments and with appropriate public input, as provided for in this final rule. The Forest Service encourages public involvement in local OSV decisions.

The Department agrees that OSVs have different impacts from other types of motor vehicles that run on the ground. However, per EO 11644, as amended, and the court order, the Forest Service must designate those routes and areas where OSV use is allowed and those routes and areas where OSV use is prohibited.

Economic Impacts

Comment: Some respondents believe that increased regulation of OSV use will have a negative impact on small-town economies that depend on OSV users for income.

Response: The final rule revises the procedural framework for local decision-making regarding OSV use and will not have any effect until designation of roads, trails, and areas for OSV use is complete for a particular administrative unit or Ranger District, with appropriate public involvement and coordination with Federal, State, Tribal, and local governments. Even after OSV designations are complete, the final rule will have no direct impact on small business entities because designations merely will regulate where OSV use will occur on NFS roads, on NFS trails, and in areas on NFS lands. The Department has determined that the final rule will not have a significant economic impact on a substantial number of small entities because the final rule will not impose recordkeeping requirements on them, nor will it affect their competitive position in relation to large entities or their cash flow, liquidity, or ability to remain in the market.

Comment: Some respondents stated that non-motorized winter users of NFS lands use staging areas and trails that in many cases have been plowed or groomed with revenue from OSV users; that non-motorized users do not pay for plowed trailhead parking or groomed trails but want increased access to these areas; and that non-motorized users should be required to share the cost of plowing trailhead parking and grooming trails by paying for a trail pass or parking pass or paying a use fee. Some respondents stated that if non-motorized users want a separate system of trails, they should have to pay a separate fee to fund maintenance of those trails. Other respondents stated that the motorized recreation community has many partnerships in place to maintain and improve existing trails that are used by both motorized and non-motorized users.

Response: The extent to which the costs of plowing trailhead parking and grooming trails are borne by users is beyond the scope of this rulemaking. The Forest Service does not typically plow trailhead parking or groom trails and does not run programs that generate revenue to pay for these services. States or private organizations typically plow trailhead parking and groom trails using revenue derived from the States' sales tax or the sale of stickers issued by the States. The final rule revises the procedural framework for local decision-making regarding OSV use and will not have any effect until designation of roads, trails, and areas is complete for a particular administrative unit or Ranger District, with appropriate public involvement and in coordination with Federal, State, Tribal, and local governments. The Forest Service's authority to charge and retain fees for use of recreational facilities and services is contained in the Federal Lands Recreation Enhancement Act (16 U.S.C. 6801–6814), which is beyond the scope of this rulemaking. The Department agrees that cooperators make valuable contributions to maintenance and improvement of NFS trails for both motorized and non-motorized users.

Demographics of OSV Use

Comment: The demographics used in the proposed rule are outdated and should be updated to reflect current OSV use.

Response: The demographics for OSV use used in the proposed rule are provided for background purposes and date from a 2012 Resource Planning Assessment. These figures are current, as figures in Resource Planning Assessments conducted under the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) (16 U.S.C. 1600 note, 1600–1614) are normally updated every 5 to 10 years. The increase in cross-country skiing between 1992–93 and 1999–2000 is 2.6 million visits, while the increase in OSV use for those periods is 6.1 million visits.

Comment: The percentages used in the proposed rule to demonstrate an

increase in recreational activities like bird-watching and fishing can be misleading; the Forest Service should replace them with actual numbers.

Response: This information was provided for background purposes and came from research data in ''Outdoor Recreation Trends and Futures, a Technical Document Supporting the Forest Service 2010 RPA Assessment,'' p. 135 (H. Cordell, 2012) at *http://www.srs.fs.usda.gov/pubs/gtr/gtr_srs150.pdf.*

Recreational Preferences

Comment: Some respondents stated that wilderness areas have increased steadily over the last 40 years, which has limited all forms of motorized recreation and given more access to non-motorized uses. These respondents stated that Federal lands should be open to all members of the public.

Response: This final rule does not encourage or discourage motor vehicle use, but rather requires designation of roads, trails, and areas for OSV use. The Department believes that a well-designed system of routes and areas designated for OSV use can reduce maintenance needs and environmental damage while enhancing the recreational experience for all users, both motorized and non-motorized.

Comment: Some respondents commented that motor vehicle access for the elderly and persons with disabilities should not be limited.

Response: Under section 504 of the Rehabilitation Act of 1973, no person with a disability can be denied participation in a Federal program that is available to all other people solely because of his or her disability. In conformance with section 504, wheelchairs are welcome on all NFS lands that are open to foot travel and are specifically exempted from the definition of a motor vehicle in § 212.1 of the TMR, even if they are battery-powered. However, there is no legal requirement to allow people with disabilities to use OSVs on NFS roads, on NFS trails, and in areas on NFS lands where OSV use is prohibited because such an exemption could fundamentally alter the nature of the Forest Service's travel management program (7 CFR 15e.103). Reasonable restrictions on OSV use, applied consistently to everyone, are not discriminatory.

Comment: Some respondents believed that the Forest Service should remove references to ''play areas'' from the final rule because all types of terrain are conducive to OSV travel and recreation.

Response: Like the proposed rule, the final rule does not include a reference to ''play areas.''

Comments Related to Specific Sections of the Proposed Rule

Part 212—Travel Management

Subpart A—Administration of the Forest Transportation System

212.1—Definitions

Comment: Some respondents commented that designation of areas as big as a Ranger District would not comply with the language or intent of EO 11644, as amended. Some respondents commented that the proposed definition for an area would not resolve use conflicts and would only exacerbate them. One respondent suggested that designated areas should be limited to watersheds no larger than those assigned hydrologic unit code 6 by the U.S. Geological Survey. Other respondents supported the proposed definition of an area.

Response: E.O. 11644, as amended, does not define the term ''area.'' The amended definition for ''area'' in the proposed and final rules is based on the characteristics of OSV use, which presents a distinct suite of issues. An OSV traveling over snow has different impacts on natural resource values than motor vehicles traveling over the ground. Unlike other motor vehicles traveling cross-country, OSVs traveling cross-country generally do not create a permanent trail or have a direct impact on soil and ground vegetation. However, OSV use may have an impact on NFS resources and wildlife. The Department anticipates that it may be appropriate to designate areas for cross-country OSV use and that it may be appropriate to designate larger areas for cross-country OSV use than for cross-country use by other types of motor vehicles. Accordingly, the definition for an area in the proposed and final rules exempts OSVs from the statement that in most cases an area will be much smaller than a Ranger District. The definition of ''area'' in the proposed and final rules does not provide that areas designated for OSV use will necessarily be as large as a Ranger District, but rather that they do not have to be much smaller than a Ranger District. As with evaluation of areas proposed for other types of motor vehicle use, proposed OSV areas will be subject to the minimization criteria in § 212.55(b)(1)–(4), pursuant to § 212.81(d) of the final rule.

Comment: Some respondents commented that the definition of the term ''over-snow vehicle'' needs to be expanded to allow for modified vehicles, such as snowcats and fat tire bicycles, to be used on the trail system if permitted by State law.

Response: Regulation of non-motorized uses such as bicycle use is beyond the scope of this rulemaking. The definition of ''over-snow vehicle'' is also beyond the scope of this rulemaking, as it was not proposed for revision. The Department does not believe it is necessary or appropriate to revise the definition of ''over-snow vehicle'' at this time.

Subpart C——Over-Snow Vehicle Use

212.81(a)—Over-Snow Vehicle Use, General

Comment: Some respondents believed that local officials should be given the discretion to designate a system of routes and areas where OSV use is allowed unless prohibited or a system of routes and areas where OSV use is prohibited unless allowed.

Some respondents believed that the Responsible Official should not have the discretion to designate a system of routes and areas where OSV use is allowed unless prohibited or a system of routes and areas where OSV use is prohibited unless allowed. These respondents stated that winter travel management planning should be more consistent with travel management planning in other seasons by producing a system of routes and areas where OSV use is prohibited unless allowed. These respondents noted that this approach is easily understood by the public and is more enforceable. Other respondents stated that where appropriate (for example, where no natural resource issues are identified), the Forest Service should be consistent regarding designations for OSV use across District, Forest, and Regional boundaries. These respondents believed that District, Forest, and Regional boundaries can be confusing to the public and that consistent designations for OSV use would improve public understanding as well as provide consistent opportunities for OSV use.

Other respondents commented that the proposed rule violates E.O. 11644, as amended, and the March 29, 2013, court decision by continuing to allow designation of a system that is open unless closed to OSV use, which circumvents analysis of impacts from OSV use. Other respondents commented that, to be consistent with the E.O. 11644, as amended, the Agency must designate trails and areas where OSV use is allowed and trails and areas where OSV use is not allowed.

Response: In its March 29, 2013, ruling, the Federal District Court held that under E.O. 11644, as amended, the Forest Service has the discretion to determine how to regulate OSV use, but

that the Agency does not have the discretion to determine whether it will regulate OSV use. The proposed rule is consistent with the court's ruling in that it requires the Agency to designate routes and areas for OSV use, but gives the Responsible Official the discretion to determine whether to designate a system of routes and areas that is open unless designated closed to OSV use or a system of routes and areas that is closed unless designated open for OSV use. In either case, the decision would be based on an analysis of the impacts from the proposed designations and anticipated uses in accordance with subpart B, as modified in subpart C to provide for consistency in terminology.

The Department agrees that it would be clearer for the public and would enhance consistency in travel management planning and decision-making if the Responsible Official were required to designate a system of routes and areas where OSV use is prohibited unless allowed. Accordingly, the Department has revised § 212.81(a) in the final rule to state that, subject to specified exemptions, OSV use on NFS roads, on NFS trails, and in areas on NFS lands must be designated by the Responsible Official on administrative units or Ranger Districts, or parts of administrative units or Ranger Districts, where snowfall is adequate for that use to occur and, as appropriate, must be designated by class of vehicle and time of year. Under § 261.14 of the final rule, OSV use that is not in accordance with the designations reflected on an OSV use map is prohibited.

The Department has removed the definition of ''designated road, trail, or area'' from § 212.1, as with promulgation of this final rule it is no longer accurate to define designated routes and areas as those that are designated for motor vehicle use pursuant to § 212.51 on a motor vehicle use map. Under this final rule, routes and areas will also be designated for OSV use pursuant to § 212.81 on an OSV use map.

Comment: Most respondents commented that OSV designation decisions should be made at the local level, not at the national level. Some respondents commented that the local Forest Service official should retain the discretion to manage OSV use to address local conditions.

Many respondents stated that whether there is adequate snowfall for OSV use should be determined at the local level and should not be based on specific starting and ending dates because of the unpredictability of snowfall. Some respondents suggested that adequate snowfall be determined by a minimum depth, rather than a specific timeframe. Other respondents suggested that OSV use be zoned by timeframe as well as by location.

Response: The Department agrees that OSV designation decisions, including adequacy of snowfall for OSV use, should be made at the local level, as reflected in the final rule. Designation of OSV use in specific locations, including determination of where snowfall is adequate for OSV use to occur, is beyond the scope of this rule. The final rule revises the procedural framework for local decision-making regarding OSV use, utilizing the criteria for designation of roads, trails, and areas (§§ 212.55 and 212.81(d) of the final rule).

Section 212.81(a) of the proposed rule provides, subject to certain exceptions, that OSV use on NFS roads, on NFS trails, and in areas on NFS lands must be designated on administrative units and Ranger Districts, or parts of those units and Districts, where snowfall is adequate for that use to occur. The Forest Service intended the phrase, ''where snowfall is adequate for that use to occur,'' to have two applications. First, the Agency intended the phrase to exempt units like the National Forests of Florida that never have enough snowfall for OSV use to occur from the designation requirement in § 212.81(a). Second, where snowfall may occur, but is not consistently adequate for OSV use to occur, the Agency intended the phrase to provide for the Responsible Official to determine when snowfall is adequate in designating OSV use. To clarify these intentions, the Department has added the phrase, ''and if appropriate, shall be designated by class of vehicle and time of year,'' after the phrase, ''where snowfall is adequate for that use to occur.'' The Department has included the phrase, ''class of vehicle,'' to enhance consistency with subpart B, in accordance with the preceding comment and response, and to allow Responsible Officials to take into account changing technology in OSVs. The Department has included the qualifier, ''as appropriate,'' because it may not always be appropriate or necessary to designate OSV use by class of vehicle or time of year. The Department believes that determinations of when snowfall is adequate for OSV to occur should be based on local conditions, including, as appropriate, variability in the weather.

Comment: Many respondents commented that the proposed rule recognizes the difference between OSV use in the East and OSV use in the Midwest and West. These respondents stated that cross-country travel is the preferred method of OSV use in the Midwest and West and should be allowed to continue under the final rule. Other respondents believed that OSV use in the West should not be limited to designated trails and that experienced riders would not ride off route in an area that is not conducive to OSV use because they are aware that riding in this type of area would damage the expensive tracks on OSVs. Some respondents stated that OSVs should be given the same opportunity to travel cross-country as skiers and snowshoers. Some respondents suggested that the ability to travel cross-country on an OSV is what brings people to snow-covered areas and that by limiting OSV use to routes, the Forest Service would decrease the number of people who will visit these areas. Some respondents believed that the proposed rule recognizes that OSV use is a legitimate use on NFS lands and that OSV use should not be limited to designated trails and roads, but should also be allowed to occur in open areas. These respondents stated that the proposed rule should be implemented as written.

Other respondents believed that cross-country OSV use should not be allowed because OSV users can quickly become lost and end up in a non-motorized area. Some respondents suggested that areas 3 to 5 square miles beyond trailheads and parking lots should be closed to cross-country OSV use during the snow months. These respondents believed that this approach would allow OSVs to access the backcountry while leaving the more accessible areas to snowshoers and cross-country skiers.

Response: The Department agrees that OSV use presents a distinct suite of issues. An OSV traveling over snow has different impacts on natural resource values than motor vehicles traveling over the ground. Unlike other motor vehicles traveling cross-country, OSVs traveling cross-country generally do not create a permanent trail or have a direct impact on soil and ground vegetation. Therefore, the Department anticipates that it may be appropriate to designate areas for cross-country OSV use and that it may be appropriate to designate larger areas for cross-country OSV use than for cross-country use by other types of motor vehicles. Accordingly, the definition for an area in the proposed and final rules exempts OSVs from the statement that in most cases an area will be much smaller than a Ranger District. Whether specific areas should be designated for OSV use is beyond the scope of this final rule. This final rule addresses the procedural framework for making OSV use designations, rather than OSV use designations themselves. OSV use designations are made at the

local level, with appropriate public input and coordination with Federal, State, Tribal, and local governments, based on the criteria in the final rule (§§ 212.55 and 212.81(d)).

Comment: Some respondents commented that the proposed rule should restrict OSV use to designated routes and prohibit cross-country OSV use near wilderness and that the routes should be designated so as to minimize impacts on wilderness and wildlife and to avoid impairment of the visitor experience in wilderness.

Response: The Department does not believe it would be appropriate for this rule to restrict OSV use to designated routes and prohibit cross-country OSV use near wilderness. Responsible officials will consider impacts of OSV use on nearby wilderness and wildlife during the designation process by applying the minimization criteria of 212.55 to minimize effects to National Forest resources and to other users.

Comment: Some respondents commented that Forest Service units will need to conduct site-specific analysis for all resources within an area to be designated for OSV use, which would require a ''hard look'' under the National Environmental Policy Act (NEPA). These respondents believed that the NEPA process for designating an area for OSV use could be onerous. Other respondents commented that NEPA documentation for winter travel management decisions does not adequately reflect how the Forest Service applied the minimization criteria in the TMR in those decisions and is inconsistent with the TMR.

Response: Regulations implementing NEPA are issued by the Council on Environmental Quality and are found at 40 CFR part 1500. Agency direction on NEPA compliance is found in 36 CFR part 220 and FSH 1909.15. The Department believes that the scope, content, and documentation of NEPA analysis associated with designating routes and areas for OSV use will ultimately depend on site-specific factors, including the local history of travel planning, public input, and environmental impacts at the local level. Therefore, the Department is not addressing NEPA compliance in this final rule. The Responsible Official will address application of the minimization criteria pursuant to §§ 212.55(b)(1)–(4) and 212.81(d) of the final rule in documentation for OSV designation decisions.

Comment: Some respondents stated that the Forest Service should clarify in the final rule the need to apply the minimization criteria in the TMR to trails within areas that are proposed for designation for OSV use. Other respondents commented that by failing to provide for analysis of trails within areas, the proposed rule does not address the requirement to show that OSV use on those routes will not have a negative impact on the environment or other uses.

Response: The Department believes that if an area is analyzed appropriately under NEPA for OSV use utilizing the criteria established in the final rule (§§ 212.55 and 212.81(d)), there is no need for additional analysis to evaluate effects of OSV use on specific trails in that area, which are typically covered by snow. As units analyze an area, impacts on the environment and other users will be minimized within that area as specified in § 212.55(b)(1)–(4). Consistent with the EOs, the proposed and final rules do not require the Forest Service to show the absence of any adverse impacts from OSV use on the environment or other uses. Rather, the proposed and final rules require the Agency to consider, with the objective of minimizing, certain environmental impacts and use conflicts (§ 212.55(b)(1)–(4)).

Comment: Some respondents commented that there is a master memorandum of understanding between the Forest Service's Alaska Region and the Alaska Department of Fish and Game (ADF&G) and that ADF&G has authority to regulate fish and wildlife populations on NFS lands, except to the extent that authority is superseded by Federal law. These respondents also noted that, with regard to designated wilderness in Alaska, administrative use of OSVs by governmental agencies is allowed pursuant to the Alaska National Interest Lands Conservation Act (ANILCA) and Forest Service Manual Supplement no. R–10 2300–2003–2, 2326.1, Conditions Under Which Use May Be Approved. These respondents suggested amending the exemption from OSV designations in proposed § 212.81(a)(1) for limited administrative use by the Forest Service to add administrative use by State fish and wildlife management agencies. These respondents believed that an exemption should be granted for all administrative use because the qualifier ''limited'' is not defined and is redundant, since Agency administrative field work and travel are presumably necessary rather than superfluous.

Response: The Department disagrees that the exemption from OSV designations in § 212.81(a)(1) of the proposed rule and from the prohibition in § 261.14(a) of the TMR for limited administrative use by the Forest Service should be revised to add limited administrative use by State fish and wildlife management agencies. The Department has retained the qualifier ''limited administrative use'' in the exemption. A broad exemption from OSV designations could undercut the purposes of the final rule. The Department is not making the requested revision so as to stay consistent with the corresponding exemption in §§ 212.51(a)(4) and 261.13(d) of the TMR. The Forest Service has the ability to authorize OSV use by State fish and wildlife management agencies on a case-by-case basis.

Comment: Some respondents stated that there should be a process for administrative review of OSV designation decisions prior to their enforcement.

Response: OSV designation decisions that are documented with a decision notice or record of decision associated with an environmental assessment or environmental impact statement are subject to the predecisional objection process in 36 CFR part 218.

212.81(b)—Previous Comprehensive Over-Snow Vehicle Decisions

Comment: Some respondents believed that all areas on NFS lands that are open to OSV use should remain that way.

Other respondents stated that the final rule should allow areas and routes to be designated for OSV use only after comprehensive analysis has been made available for public review and comment.

Response: The final rule's prohibition on OSV use off the designated system (§ 261.14) goes into effect on an administrative unit or a Ranger District once that unit or District has designated those NFS roads, NFS trails, and areas on NFS lands that are open to OSV use and published an OSV use map identifying those roads, trails, and areas (§ 212.81(c) of the final rule). Until designations for a unit or District are complete and an OSV use map identifying those designations is published, existing OSV travel management policies, restrictions, and orders remain in effect. Use of NFS roads, NFS trails, and areas on NFS lands consistent with current OSV travel management decisions and management objectives may continue. Forest Supervisors may continue to issue travel management orders pursuant to part 261, subpart B, and impose temporary, emergency closures based on a determination of considerable adverse effects pursuant to §§ 212.52(b)(2) and 212.81(d) of the final rule. Under §§ 212.80(b) and 212.81(b) of the final rule, previous administrative decisions that allow, restrict, or prohibit

OSV use on NFS roads and NFS trails or in areas on NFS lands and that were made under other authorities may remain in effect.

As stated above, units or Districts that have completed OSV use designations under other authorities and including public involvement do not have to revisit them and may, with public notice but no further analysis or decision-making, establish those decisions as the designation pursuant to this final rule for the unit or District, effective upon publication of an OSV use map.

In that situation, the only substantive change effected by this final rule will be enforcement of the restrictions pursuant to the prohibition in § 261.14, rather than pursuant to an order issued under part 261, subpart B. Section 212.81(b) of the final rule provides that no further public involvement is required in this special case. Alternatively, Responsible Officials may revise OSV designations under §§ 212.54 and 212.81(d) of the final rule.

New OSV designation decisions will be subject to the procedural requirements in the final rule, including appropriate public involvement (§§ 212.52(a) and 212.81(d) of the final rule). Nothing in this final rule requires reconsideration of any previous administrative decisions that allow, restrict, or prohibit OSV use on NFS roads and NFS trails or in areas on NFS lands and that were made under other authorities, including decisions made in land management plans and travel plans. Section 212.80(b) of the final rule provides that these decisions may be incorporated into OSV designations made pursuant to this final rule.

Comment: Some respondents suggested that the Forest Service establish an expiration date for all previous OSV use decisions to ensure that an administrative unit or a Ranger District is not relying on OSV use decisions or winter travel plans that are woefully out of date. Other respondents stated that previous OSV use decisions should not be given undue weight, and that just because they were made under previous authorities does not mean that they should not be reviewed. Some respondents suggested that all existing OSV use decisions be reviewed for compliance with the minimization criteria in the TMR and E.O. 11644, as amended. Other respondents believed that if previous OSV use decisions addressed the minimization criteria in E.O. 11644, as amended, and were made with public involvement, they should not have to be reviewed, but that previous OSV use decisions that do not meet these criteria should have to be reviewed under the proposed rule. Some respondents suggested that the Forest Service retain only previous OSV use decisions that were based on application of the minimization criteria, as required by E.O. 11644, and that all other previous OSV use decisions are deemed invalid.

Some respondents believed that previous OSV use decisions should not have to be reviewed, as they were made in accordance with the legal authorities in effect at that time, and as the Forest Service does not have the budget or personnel to review all previous OSV use decisions while making new OSV use decisions. These respondents believed that requiring review of all previous OSV use decisions would result in a backlog that would negatively affect all winter recreationists.

Response: The Department does not believe that previous OSV use decisions made under other authorities should be subject to an expiration date or a requirement for review. As with prior administrative decisions governing other types of motor vehicle use, nothing in this final rule requires reconsideration of any previous administrative decisions that allow, restrict, or prohibit OSV use on NFS roads and NFS trails or in areas on NFS lands and that were made under other authorities, including decisions made in land management plans and travel plans. To the contrary, §§ 212.80(b) and 212.81(b) of the final rule provide for these decisions to be given effect. The Department believes that previous OSV use decisions made under other authorities are valid and that requiring review of previous OSV use decisions would be inefficient and disrespectful of public involvement in past OSV use decision-making. The final rule recognizes that designations of roads, trails, and areas for OSV use are not permanent. Unforeseen environmental impacts, changes in public demand, route construction, and monitoring conducted under §§ 212.57 and 212.81(d) of the final rule may lead Responsible Officials to consider revising OSV designations under §§ 212.54 and 212.81(d) of the final rule.

212.81(c)—Decision-Making Process

Comment: Some respondents stated that the specific requirements for management of OSV use in E.O. 11644, as amended, as reinforced by the March 29, 2013, court ruling, should be incorporated into the proposed rule.

Response: The Department agrees and believes that the final rule is consistent with E.O. 11644, as amended, and the March 29, 2013, court ruling in requiring the Responsible Official to designate those routes and areas where OSV use is allowed and in prohibiting OSV use off the designated system.

Comment: Some respondents suggested expanding the criterion to consider conflicts between motorized and non-motorized uses under § 212.55(b)(3) in making OSV designations to state that (1) remote lands that are not readily reachable by non-motorized winter recreationists but are readily reachable by OSV users should not be counted against OSV users; (2) OSV users should be credited for maintaining restrooms, parking facilities, and trails that benefit non-motorized recreationists; and (3) lands that are open to OSV use generally remain open to non-motorized winter recreation and so provide value to non-motorized recreationists.

Response: The Department does not believe that it would be appropriate to make this revision. Section 212.55(b)(3) of the TMR applies to all types of motor vehicle use, including OSV use, and tracks the corresponding wording in Section 3(a)(3) of E.O. 11644, as amended. Decisions regarding where OSV use may occur are best made at the local level based on site-specific conditions and with appropriate public involvement, including input from motorized and non-motorized users and other interested parties.

Comment: Some respondents commented that the final rule should require the Responsible Official to coordinate with State and local officials before making any preliminary or final OSV designation decision.

Response: The Department agrees that travel management decisions should be coordinated with appropriate Federal, State, Tribal, county, and other local governments, as provided for in §§ 212.53 and 212.81(d) of the final rule.

Comment: Some respondents commented that the proposed rule appropriately requires the Responsible Official to recognize Sections 811(b) and 1110(a) of ANILCA when implementing the rule in Alaska and that the proposed rule should reference OSV use authorized under other applicable provisions of ANILCA.

Response: The Department declines to make this change, as sections 811(b) and 1110(a) are the only provisions in ANILCA that directly address OSV use.

Comment: Some respondents stated that the OSV use map, a requirement under the proposed rule, must have sufficient detail in order to be useful, and that the final rule should identify more clearly what should be included on an OSV use map.

Response: The Forest Service plans to develop a standard national format for

OSV use maps issued under this final rule. The Forest Service also plans to issue additional travel management guidance in its sign handbook to enhance consistency in content and use of standard interagency symbols in signs. In addition, the Department has added a definition for ''over-snow vehicle use map'' to 36 CFR 212.1 and has moved the requirement for an OSV use map in subpart C to a separate section, § 212.81(c) of the final rule, to underscore that this requirement is separate from the requirement for a motor vehicle use map under subpart B. Consistent with § 212.81(a) of the final rule, § 212.81(c) of the final rule provides for an OSV use map to display the classes of vehicles and the time of year designated for OSV use, if applicable.

Comment: Some respondents stated that NFS roads, NFS trails, and areas on NFS lands designated for OSV use should be clearly marked. Other respondents believed that restrictions on OSV use should be more clearly relayed to the public so incidents of OSV use off the designated system could be reported to the proper authorities. These respondents recommended increasing signage around areas designated for OSV use to increase awareness of these designations by both motorized and non-motorized users.

Response: The Department declines to adopt this suggestion. The Forest Service has found that posting routes as open or closed to particular uses has not always been effective in controlling use, partly because new unauthorized routes continue to appear even in areas that are closed to motor vehicle use. Requiring each undesignated route and area to be posted as closed would be an unreasonable and unnecessary burden on Agency resources and would tend to defeat the purpose of the final rule. Signs have also proven to be difficult to maintain and subject to vandalism. The final rule places more responsibility on users to get OSV use maps from Forest Service offices or Web sites and to remain on routes and in areas designated for OSV use. This approach is consistent with subpart B of the TMR.

Part 261—Prohibitions

Subpart A—General Prohibitions

261.14—Over-Snow Vehicle Use

Comment: Some respondents suggested that the Forest Service require a special use permit for or prohibit activities and events involving OSV use on NFS lands. Other respondents commented that day use permits should be required for OSV use to limit impacts on natural resources and non-motorized users.

Response: Regulation of activities and events involving OSV use on NFS lands is beyond the scope of this rulemaking, which involves designation of routes and areas for OSV use. OSV use designations are made at the local level, with appropriate public input and coordination with Federal, State, Tribal, and local governments based on the criteria in the final rule (§§ 212.55 and 212.81(d)). The Department does not believe it would be appropriate to establish a prohibition on activities and events involving OSV use, which is a legitimate use of NFS lands. Permit requirements for OSV use are governed by the Federal Lands Recreation Enhancement Act (16 U.S.C. 6802(h)).

5. Regulatory Certifications for the Final Rule

Regulatory Impact

This final rule has been reviewed under USDA procedures and E.O. 12866 on regulatory planning and review. The Office of Management and Budget (OMB) has determined that this final rule is nonsignificant and is therefore not subject to OMB review under E.O. 12866.

Environmental Impact

This final rule requires designation at the field level, with appropriate public input, of those NFS roads, NFS trails, and areas on NFS lands that are open to OSV use. This final rule will have no effect on users or on the environment until designation of NFS roads, NFS trails, and areas on NFS lands for OSV use is complete for a particular administrative unit or Ranger District, with appropriate public involvement. Forest Service regulations at 36 CFR 220.6(d)(2) exclude from documentation in an environmental assessment or environmental impact statement ''rules, regulations, or policies to establish service-wide administrative procedures, program processes, or instructions.'' The Department has concluded that this final rule falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Regulatory Flexibility Act Analysis

The Department has considered this final rule in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). This final rule will not directly affect small businesses, small organizations, and small governmental entities. The Department has determined that this final rule will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act because it will not impose recordkeeping requirements on them; it will not affect their competitive position in relation to large entities; and it will not affect their cash flow, liquidity, or ability to remain in the market.

Federalism and Consultation and Coordination With Indian Tribal Governments

The Department has considered this final rule under the requirements of E.O. 13132 on federalism and has determined that the final rule conforms with the federalism principles set out in this E.O. The final rule will not impose any compliance costs on the States and will not have substantial direct effects on the States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the Department has determined that no further assessment of federalism implications is necessary at this time.

Moreover, this final rule does not have Tribal implications as defined by E.O. 13175, entitled ''Consultation and Coordination with Indian Tribal Governments,'' and therefore advance consultation with Tribes is not required.

No Takings Implications

The Department has analyzed this final rule in accordance with the principles and criteria contained in E.O. 12630. The Department has determined that this final rule will not pose the risk of a taking of private property.

Controlling Paperwork Burdens on the Public

This final rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 U.S.C. 1320 that are not already required by law or not already approved for use. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320 do not apply.

Energy Effects

The Department has reviewed this final rule under E.O. 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' The Department has determined that this final rule does not constitute a significant energy action as defined in the E.O.

Civil Justice Reform

The Department has reviewed this final rule under E.O. 12988 on civil justice reform. After adaptation of this final rule, (1) all State and local laws and regulations that conflict with this final rule or that impede its full implementation will be preempted; (2) no retroactive effect will be given to this final rule; and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this final rule on State, Tribal, and local governments and the private sector. This final rule will not compel the expenditure of $100 million or more by any State, Tribal, or local government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

List of Subjects

36 CFR Part 212

Highways and roads, National Forests, Public lands—rights-of-way, and Transportation.

36 CFR Part 261

Law enforcement, National forests.

Therefore, for the reasons set out in the preamble, the Forest Service amends parts 212 and 261 of title 36 of the Code of Federal Regulations as follows:

PART 212—TRAVEL MANAGEMENT

Subpart A—Administration of the Forest Transportation System

■ 1. The authority citation for subpart A continues to read as follows:

Authority: 16 U.S.C. 551, 23 U.S.C. 205.

■ 2. Amend § 212.1 by revising the definition for ''area,'' adding definitions for ''designation of over-snow vehicle use'' and ''over-snow vehicle use map'' in alphabetical order, and removing the definition for ''designated road, trail, or area'' to read as follows:

§ 212.1 Definitions.

* * * * *

Area. A discrete, specifically delineated space that is smaller, and, except for over-snow vehicle use, in most cases much smaller, than a Ranger District.

* * * * *

Designation of over-snow vehicle use. Designation of a National Forest System road, a National Forest System trail, or an area on National Forest System lands where over-snow vehicle use is allowed pursuant to § 212.81.

* * * * *

Over-snow vehicle use map. A map reflecting roads, trails, and areas designated for over-snow vehicle use on an administrative unit or a Ranger District of the National Forest System.

* * * * *

Subpart C—Over-Snow Vehicle Use

■ 3. Revise the heading of subpart C to read as set forth above.

■ 4. The authority citation for subpart C continues to read as follows:

Authority: 7 U.S.C. 1011(f), 16 U.S.C. 551, E.O. 11644, 11989 (42 FR 26959).

■ 5. Revise § 212.80 to read as follows:

§ 212.80 Purpose, scope, and definitions.

(a) *Purpose.* This subpart provides for a system of National Forest System roads, National Forest System trails, and areas on National Forest System lands that are designated for over-snow vehicle use. After these roads, trails, and areas are designated, over-snow vehicle use not in accordance with these designations is prohibited by 36 CFR 261.14. Over-snow vehicle use off designated roads and trails and outside designated areas is prohibited by 36 CFR 261.14.

(b) *Scope.* The Responsible Official may incorporate previous administrative decisions regarding over-snow vehicle use made under other authorities in designating National Forest System roads, National Forest System trails, and areas on National Forest System lands for over-snow vehicle use under this subpart.

(c) *Definitions.* For definitions of terms used in this subpart, refer to § 212.1.

■ 6. Revise § 212.81 to read as follows:

§ 212.81 Over-snow vehicle use.

(a) *General.* Over-snow vehicle use on National Forest System roads, on National Forest System trails, and in areas on National Forest System lands shall be designated by the Responsible Official on administrative units or Ranger Districts, or parts of administrative units or Ranger Districts, of the National Forest System where snowfall is adequate for that use to occur, and, if appropriate, shall be designated by class of vehicle and time of year, provided that the following uses are exempted from these decisions:

(1) Limited administrative use by the Forest Service;

(2) Use of any fire, military, emergency, or law enforcement vehicle for emergency purposes;

(3) Authorized use of any combat or combat support vehicle for national defense purposes;

(4) Law enforcement response to violations of law, including pursuit; and

(5) Over-snow vehicle use that is specifically authorized under a written authorization issued under Federal law or regulations.

(b) *Previous over-snow vehicle decisions.* Public notice with no further public involvement is sufficient if an administrative unit or a Ranger District has made previous administrative decisions, under other authorities and including public involvement, which restrict over-snow vehicle use to designated routes and areas over the entire administrative unit or Ranger District, or parts of the administrative unit or Ranger District, where snowfall is adequate for OSV use to occur, and no change is proposed to these previous decisions.

(c) *Identification of roads, trails, and areas for over-snow vehicle use.* Designation of National Forest System roads, National Forest System trails, and areas on National Forest System lands for over-snow vehicle use shall be reflected on an over-snow vehicle use map. Over-snow vehicle use maps shall be made available to the public at headquarters of corresponding administrative units and Ranger Districts of the National Forest System and, as soon as practicable, on the Web site of the corresponding administrative units and Ranger Districts. Over-snow vehicle use maps shall specify the classes of vehicles and the time of year for which use is designated, if applicable.

(d) *Decision-making process.* Except as modified in paragraph (b) of this section, the requirements governing designation of National Forest System roads, National Forest System trails, and areas on National Forest System lands in §§ 212.52 (public involvement), 212.53 (coordination), 212.54 (revision), 212.55 (designation criteria (including minimization)), and 212.57 (monitoring), shall apply to decisions made under this subpart. In making decisions under this subpart, the Responsible Official shall recognize the provisions concerning rights of access in sections 811(b) and 1110(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121(b) and 3170(a), respectively).

PART 261—PROHIBITIONS

■ 7. The authority citation for part 261 continues to read as follows:

Authority: 7 U.S.C. 1011(f); 16 U.S.C. 472, 551, 620(f), 1133(c), (d)(1), 1246(i).

Subpart A—General Prohibitions

■ 8. Revise the definition for ''area'' in § 261.2 to read as follows:

§ 261.2 Definitions.

* * * * *

Area. A discrete, specifically delineated space that is smaller, and, except for over-snow vehicle use, in most cases much smaller, than a Ranger District.

* * * * *

■ 9. Revise § 261.14 to read as follows:

§ 261.14 Over-snow vehicle use.

After National Forest System roads, National Forest System trails, and areas on National Forest System lands have been designated for over-snow vehicle use pursuant to 36 CFR 212.81 on an administrative unit or a Ranger District of the National Forest System, and these designations have been identified on an over-snow vehicle use map, it is prohibited to possess or operate an over-snow vehicle on National Forest System lands in that administrative unit or Ranger District other than in accordance with those designations, provided that the following vehicles and uses are exempted from this prohibition:

(a) Limited administrative use by the Forest Service;

(b) Use of any fire, military, emergency, or law enforcement vehicle for emergency purposes;

(c) Authorized use of any combat or combat support vehicle for national defense purposes;

(d) Law enforcement response to violations of law, including pursuit;

(e) Over-snow vehicle use that is specifically authorized under a written authorization issued under Federal law or regulations; and

(f) Use of a road or trail that is authorized by a legally documented right-of-way held by a State, county, or other local public road authority.

Dated: January 20, 2015.

Robert Bonnie,

Under Secretary, NRE.

[FR Doc. 2015–01573 Filed 1–27–15; 8:45 am]

BILLING CODE 3411–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0643; FRL–9920–45]

Sulfoxaflor; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of sulfoxaflor, *N*-[methyloxido[1-[6-(trifluoromethyl)-3-pyridinyl]ethyl]- λ^4-sulfanylidene]cyanamide, including its metabolites and degradates in or on sorghum, grain; sorghum, forage; and sorghum, stover. This action is in response to EPA's granting of an emergency exemption under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on sorghum. This regulation establishes a maximum permissible level for residues of sulfoxaflor in or on these commodities. The time-limited tolerances expire on December 31, 2017.

DATES: This regulation is effective January 28, 2015. Objections and requests for hearings must be received on or before March 30, 2015, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0643, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0643 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before March 30, 2015. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0643, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with FFDCA sections 408(e) and 408(l)(6) of, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing time-limited tolerances for residues of sulfoxaflor, *N*-[methyloxido[1-[6-(trifluoromethyl)-3-pyridinyl]ethyl]-λ^4-sulfanylidene]cyanamide, including its metabolites and degradates in or on sorghum, forage at 0.40 parts per million (ppm); sorghum, grain at 0.30 ppm; and sorghum, stover at 0.90 ppm. These time-limited tolerances expire on December 31, 2017.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of FFDCA section 408 and the safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, *i.e.,* without having received any petition from an outside party.

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Sulfoxaflor on Sorghum and FFDCA Tolerances

Numerous states requested emergency exemptions for the use of sulfoxaflor on sorghum to control sugarcane aphid (*Melanaphis sacchari*). Based on information provided by the states, this is either a new pest or new biotype of *M. sacchari.* There are no registered insecticides or economically or environmentally feasible alternative control practices available to adequately control this non-routine pest infestation. Unusually high populations of aphids can cause direct plant death from aphid feeding as well as indirect damage and harvesting issues from the aphid honeydew residue. The states asserted that without the use of sulfoxaflor, uncontrolled aphid infestations are likely to result in significant economic losses.

After having reviewed the submissions, EPA determined that an emergency condition exists for these States, and that the criteria for approval of an emergency exemption are met. EPA has authorized a specific exemption under FIFRA section 18 for the use of sulfoxaflor on sorghum for control of sugarcane aphid in Arkansas, Florida, Georgia, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas.

As part of its evaluation of the emergency exemption application, EPA assessed the potential risks presented by residues of sulfoxaflor in or on sorghum. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in FFDCA section 408(l)(6). Although these time-limited tolerances expire on December 31, 2017, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on sorghum after that date will not be unlawful, provided the pesticide was applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these time-limited tolerances at the time of that application. EPA will take action to revoke these time-limited tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these time-limited tolerances are being approved under emergency conditions, EPA has not made any decisions about whether sulfoxaflor meets FIFRA's registration requirements for use on sorghum or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance decision serves as a basis for registration of sulfoxaflor by a State for special local needs under FIFRA section 24(c). Nor does this tolerance by itself serve as the authority for persons in any State other than those authorized to use this pesticide on the applicable crops under FIFRA section 18 absent the issuance of an emergency exemption applicable within that State. For additional information regarding the emergency exemption for sulfoxaflor, contact EPA's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

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

408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

As part of its evaluation of the emergency exemption applications, EPA assessed the potential risks presented by residues of sulfoxaflor in or on sorghum, forage; sorghum, grain; and sorghum, stover. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18.

EPA has evaluated this use of sulfoxaflor on sorghum, as well as its use on various other crops, and established tolerances for similar use patterns in the **Federal Register** of May 17, 2013 (78 FR 29041) (FRL–9371–4) in association with requests for tolerances to support registrations of sulfoxaflor under FIFRA section 3 .

Consistent with the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure expected as a result of this emergency exemption request and the time-limited tolerances for residues of sulfoxaflor in or on sorghum, forage at 0.40 ppm; sorghum, grain at 0.30 ppm; and sorghum, stover at 0.90 ppm. There is an existing permanent tolerance for sulfoxaflor residues in/on aspirated grain fractions at 20 ppm and that tolerance is sufficient to address residues in/on aspirated grain fractions that may come from sorghum. In addition, sorghum commodities may be used as livestock feedstuffs. Inclusion of sorghum in the estimated reasonable balances livestock dietary burdens for cattle, poultry, and swine did not result in a need for revision of the existing tolerances for residues of sulfoxaflor in livestock commodities.

In the May 17, 2013 **Federal Register**, EPA published a final rule establishing tolerances for residues of sulfoxaflor in 40 CFR 180.668 in or on numerous commodities. A summary of the toxicological endpoints for sulfoxaflor for human risk assessment is discussed in Units III.A. and B. of the May 17, 2013 **Federal Register** final rule.

In evaluating dietary exposure, the Agency has noted that estimated drinking water concentrations based on the sulfoxaflor use on sorghum resulted in lower estimates than those previously assessed and the food consumption database used to support the Agency's dietary exposure assessments does not report any consumption of sorghum, either as grain or as syrup. Therefore, the dietary exposure estimates from the previous assessment are not changed by the FIFRA section 18 use. Dietary risk estimates from exposure to sulfoxaflor through food and water are below the Agency's level of concern.

In its aggregate assessment of exposures and risk associated with sulfoxaflor, EPA concluded the following: Acute dietary exposure from food and water to sulfoxaflor will occupy 16% of the acute population adjusted dose (aPAD) for children 1–2 years old and females 13–49 years old, the population groups receiving the greatest exposure; and chronic exposure to sulfoxaflor from food and water will utilize 18% of the chronic population adjusted dose (cPAD) for all infants, the population group receiving the greatest exposure. These estimates are well below 100% and are, therefore, below the Agency's level of concern.

There are no residential uses of sulfoxaflor at this time. Consequently, aggregate exposure and risk estimates are equivalent to the dietary (food + drinking water) exposure and risk estimates discussed in this unit.

Therefore, EPA concluded there is a reasonable certainty that no harm will result to the general population and to infants and children from aggregate exposure to sulfoxaflor residues.

Refer to the May 17, 2013 **Federal Register** final rule, available at *http://www.regulations.gov,* for a summary of the aggregate risk assessment and determination of safety. Detailed discussion of the aggregate risk assessments and the determinations of safety relied upon in this action may be found in the Agency reviews and human health risk assessments provided as supporting documents in the docket for this action (EPA–HQ–OPP–2014–0643).

V. Other Considerations

A. Analytical Enforcement Methodology

An adequate enforcement methodology is available to enforce the tolerance expression. In the submitted field trials, residues of sulfoxaflor and its metabolites in crops were determined using the Dow analytical method designated as 091031. The proposed method for tolerance enforcement in plant commodities is method 091116: ''Enforcement Method for the Determination of Sulfoxaflor (XDE–208) and its Main Metabolites in Agricultural Commodities Using Offline Solid-Phase Extraction and Liquid Chromatography with Tandem Mass Spectrometry Detection.'' Method 091116 extracts residues with acetonitrile/water and includes use of a deuterated internal standard, hydrolysis with sodium hydroxide to release base-labile conjugates, and clean up via solid-phase extraction. This method is applicable for the quantitative determination of residues of sulfoxaflor, *N*-[methyloxido[1-[6-(trifluoromethyl)-3-pyridinyl]ethyl]-λ^4-sulfanylidene]cyanamide and its metabolites, X11719474, *N*-((methyl)oxido[1-[6-trifluoromethyl) pyridine-3-yl]ethyl]- λ^4-sulfanylidene)urea and X11721061, 1-[6-(trifluoromethyl)pyridin-3-yl]ethanol, in agricultural commodities and processed products. The method was adequately validated, with a limit of quantitation (LOQ) of 0.010 milligram/kilogram (mg/kg) for all matrices, including sorghum. The Food and Drug Administration Multi-Residue Method was reported by the registrant to be not suitable for analysis of sulfoxaflor and/or its metabolites; the German multi-residue Method S–19 may be suitable.

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

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established a MRL for sulfoxaflor in/on sorghum commodities.

VI. Conclusion

Therefore, time-limited tolerances are established for residues of sulfoxaflor,

in or on sorghum, forage at 0.40 ppm; sorghum, grain at 0.30 ppm; and sorghum, stover at 0.90 ppm. These tolerances expire on December 31, 2017.

VII. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA sections 408(e) and 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established in accordance with FFDCA sections 408(e) and 408(l)(6), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

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

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: January 15, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.668, revise paragraph (b) to read as follows:

§ 180.668 Sulfoxaflor; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances specified in the following table are established for residues of sulfoxaflor (*N*-[methyloxido[1-[6-(trifluoromethyl)-3-pyridinyl]ethyl]- λ^4-sulfanylidene]cyanamide), including its metabolites and degradates, in or on the specified agricultural commodities, resulting from use of the pesticide pursuant to FIFRA section 18 emergency exemptions. Compliance with the tolerance levels specified in the following table is to be determined by measuring only sulfoxaflor in or on the commodity. The tolerances expire on the date specified in the table.

Commodity	Parts per million	Expiration/ revocation date
Sorghum, forage ...	0.40	12/31/17
Sorghum, grain	0.30	12/31/17
Sorghum, stover ...	0.90	12/31/17

* * * * *

[FR Doc. 2015–01456 Filed 1–27–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 27

[GN Docket No. 13–185; FCC 14–31]

Commercial Operations in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with the Commission's *Report and Order* for Commercial Operations in the 1695–1710 MHz, 1755–1780 MHz, and 2155–2180 MHz Bands (Service Rules for Advance Wireless Service (AWS)), FCC 14–31. This notice is consistent with the *Report and Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the new or modified information collection requirements.

DATES: The amendments to 47 CFR 2.1033(c)(19)(i)–(ii); 27.14(k), (s); 27.17(c); 27.50(d)(3); 27.1131; 27.1132; 27.1134(c), (f) published at 79 FR 32366, June 4, 2014, are effective on January 28, 2015.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams by email at *Cathy.Williams@fcc.gov* and telephone at (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on January 13, 2015, OMB approved the information collection requirements contained in the Commission's *Report and Order,* FCC 14–31, published in 79 FR 32366, June 4, 2014, and amended at 79 FR 59138, October 1, 2014. The OMB Control Number is 3060–1030. The Commission publishes this notice as an

announcement of the effective date of the information collection requirements.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on January 13, 2015, the new or modified information collection requirements contained in the Commission's rules at 47 CFR 2.1033(c)(19)(i)–(ii); 27.14(k), (s); 27.17(c); 27.50(d)(3); 27.1131; 27.1132; 27.1134(c), (f).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1030.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1030.

OMB Approval Date: January 13, 2015.

OMB Expiration Date: January 31, 2018.

Title: Service Rules for Advanced Wireless Services (AWS) in the 1.7 GHz and 2.1 GHz Bands.

Form Number: N/A.

Respondents: Business or other for-profit entities; state, local, or tribal government; and not for profit institutions.

Number of Respondents and Responses: 393 respondents; 83,505 responses.

Estimated Time per Response: 0.25 to 5 hours.

Frequency of Response: Annual, semi-annual, 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.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Commission received approval from the Office of Management and Budget (''OMB'') for the information collection requirements that are contained in the AWS–3 Report and Order, FCC 14–31, whose information collection requirements for new spectrum bands increased the number of respondents, responses, hourly burden, and annual costs associated with these bands. We also updated prior estimates for other related spectrum bands.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–01470 Filed 1–27–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 15–37]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division amends the FM Table of Allotments to remove certain vacant FM allotments that were auctioned in FM Closed Auction 88 that are currently considered authorized stations. We are also removing certain vacant allotments that were auctioned in FM Auction 93 and FM Auction 94 that are currently considered authorized stations, and other allotments that are not considered vacant allotments. FM assignments for authorized stations and reserved facilities will be reflected solely in Media Bureau's Consolidated Database System (CDBS).

DATES: Effective January 28, 2015.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the *Report and Order,* DA 15–37, adopted January 8, 2015, and released January 9, 2015. The full text of this document is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW., Washington, DC 20554. The complete text of this document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20054, telephone 1–800–378–3160 or *www.BCPIWEB.com.* The Commission will not send a copy of this *Report and Order* pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability. This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

List of Subjects in 47 CFR part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCASTING SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Amend § 73.202(b), the Table of FM Allotments, as follows:

■ a. Remove Pinetop, under Arizona, Channel 294C1.

■ b. Remove Greenwood, under Arkansas, Channel 268A.

■ c. Remove Willow Creek, under California, Channel 258A.

■ d. Remove Durango, under Colorado, Channel 287A; Steamboat Springs, Channel 255A; and Strasburg, Channel 249C3.

■ e. Remove Cusseta, under Georgia, Channel 279A.

■ f. Remove Bloomfield, under Indiana, Channel 266A.

■ g. Remove Transverse City, under Michigan, Channel 283A.

■ h. Remove Oxford, under Mississippi, Channel 286A.

■ i. Remove Channel 273A, under New York, at Rosendale.

■ j. Remove North Madison, under Ohio, Channel 229A.

■ k. Remove Erie, under Pennsylvania, Channel 240A.
■ l. Remove Lead, under South Dakota, Channel 232C.
■ m. Remove Idalou, under Texas, Channel 299A.
■ n. Remove Alberta, under Virginia, Channel 299A; and Shawsville, Channel 273A.
■ o. Remove Two Rivers, under Wisconsin, Channel 255A.
■ p. Remove Santa Isabel, under Puerto Rico, Channel 251A.

[FR Doc. 2015–01595 Filed 1–27–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004518–3398–01]

RIN 0648–XD723

Reef Fish Fishery of the Gulf of Mexico; 2015 Recreational Accountability Measures for Gray Triggerfish in the Gulf of Mexico; Reduced Annual Catch Limit and Annual Catch Target and Closure

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for recreational gray triggerfish in the Gulf of Mexico (Gulf) reef fish fishery for the 2015 fishing year through this temporary rule. Landings data indicate the 2014 recreational annual catch limit (ACL) was exceeded; thus, NMFS reduces the 2015 recreational ACL and annual catch target (ACT) for gray triggerfish and closes the recreational sector for gray triggerfish in the Gulf exclusive economic zone (EEZ). This action is necessary to reduce overfishing of the Gulf gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, on February 7, 2015, until 12:01 a.m., local time, on January 1, 2016, unless NMFS publishes a superseding document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Rich Malinowski, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *rich.malinowski@noaa.gov.*

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf, which includes gray triggerfish, is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). All weights specified in this rule are round weight.

The final rule for Amendment 37 to the FMP (78 FR 27084, May 9, 2013) implemented the Gulf gray triggerfish recreational ACL of 241,200 lb (109,406 kg), and the recreational ACT of 217,100 lb (98,475 kg), as specified in 50 CFR 622.41(b)(2)(iii).

The final rule for Amendment 37 to the FMP also implemented an in-season AM to close the recreational sector when the ACT is reached or projected to be reached, as specified in 50 CFR 622.41(b)(2)(i), and implemented a post-season AM in the form of an ACL overage adjustment that would apply if the recreational ACL is exceeded and gray triggerfish are overfished, as specified in 50 CFR 622.41(b)(2)(ii). This post-season AM reduces the recreational ACL and ACT for the year following a recreational ACL overage by the amount of the ACL overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.

NMFS determined that the 2014 recreational landings were 212,751 lb (96,502 kg), which exceeded the 2014 adjusted recreational ACL by 186,993 lb (84,819 kg) and the 2014 adjusted recreational ACT by 211,093 lb (95,796 kg). Therefore, NMFS implements a post-season AM for recreational gray triggerfish in the Gulf for the 2015 fishing year through this temporary final rule. Based on the 2014 ACL overage, NMFS reduces the 2015 recreational ACL from 241,200 lb (109,406 kg) to 54,207 lb (24,588 kg) and the 2015 recreational ACT from 217,100 lb (98,475 kg), to 30,107 lb (13,656 kg).

Based on the adjusted 2015 recreational ACT of 30,107 lb (13,656 kg) for Gulf gray triggerfish and landings data from 2014, NMFS implements the in-season AM to close the recreational harvest of Gulf gray triggerfish at 12:01 a.m., local time, on February 7, 2015, until 12:01 a.m., local time on January 1, 2016, unless NMFS publishes a superseding document in the **Federal Register**.

During the closure, the bag and possession limits of gray triggerfish in or from the Gulf EEZ are zero. These bag and possession limits apply in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

The recreational sector for gray triggerfish will reopen on January 1, 2016, the beginning of the 2016 recreational fishing season. The 2016 recreational ACL for gray triggerfish will return to 241,200 lb (109,406 kg), and the recreational ACT will return to 217,100 lb (98,475 kg), as specified in 50 CFR 622.41(b)(2)(iii), unless AMs are implemented due to a recreational ACL overage, or the Council takes regulatory action to adjust the recreational ACL and ACT.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(b)(2) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary because the recreational AMs established by Amendment 37 to the FMP (78 FR 27084, May 9, 2013) and located at 50 CFR 622.41(b)(2) have already been subject to notice and comment, and all that remains is to notify the public of the reduced ACL and ACT, and recreational closure for gray triggerfish for the remainder of the 2015 fishing year. They are contrary to the public interest because there is a need to immediately implement this action to protect the gray triggerfish resource, since the capacity of the recreational sector allows for rapid harvest of gray triggerfish. Prior notice and opportunity for public comment on this action would require time and would potentially result in the adjusted recreational ACL for gray triggerfish being exceeded, which, in turn, would reduce the recreational ACL and ACT for gray triggerfish in 2016.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: January 23, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–01580 Filed 1–23–15; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 80, No. 18

Wednesday, January 28, 2015

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

DEPARTMENT OF COMMERCE

National Technical Information Service

15 CFR Part 1110

[Docket Number: 150121002–4999–03]

RIN 0692–AA21

Certification Program for Access to the Death Master File

AGENCY: National Technical Information Service, U.S. Department of Commerce.

ACTION: Notice of Proposed Rulemaking; Extension of Comment Period.

SUMMARY: The National Technical Information Service (NTIS) extends the period for public comment on the Notice of Proposed Rulemaking; Request for Comments, ''Certification Program for Access to the Death Master File'' from January 29, 2015, to March 30, 2015.

DATES: Comments are due on this proposed rule on March 30, 2015. Comments received after January 29, 2015 and before publication of this notice are deemed to be timely.

ADDRESSES: Written comments on this proposed rule must be submitted via *http://www.regulations.gov.* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. However, comments that contain profanity, vulgarity, threats, or other inappropriate language will not be posted. All personal identifying information (*e.g.,* name, address) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF formats only.

FOR FURTHER INFORMATION CONTACT: Henry Wixon, Chief Counsel for NIST, at *henry.wixon@nist.gov,* or by telephone at 301–975–2803. Information about the DMF made available to the public by NTIS may be found at *https://dmf.ntis.gov.*

SUPPLEMENTARY INFORMATION: The National Technical Information Service (NTIS) issued a notice of proposed rulemaking and request for comments on December 30, 2014 (79 FR 78314) (Notice), for a program pursuant to Section 203 of the Bipartisan Budget Act of 2013 (Act) through which persons may become ''certified'' and thereby be eligible to obtain access to Death Master File (DMF) information about an individual within three years of that individual's death for legitimate fraud prevention interest or a legitimate business purpose. The Notice requested public comment on the Proposed Final Rule, and set a period for comment which was scheduled to end on January 29, 2015. NTIS received requests from interested parties to extend this comment period, and in response extends the public comment period to March 30, 2015.

Dated: January 23, 2015.

Bruce Borzino,

Director.

[FR Doc. 2015–01546 Filed 1–27–15; 8:45 am]

BILLING CODE 3510–04–P

FEDERAL TRADE COMMISSION

16 CFR Part 455

RIN 3084–AB05

Used Motor Vehicle Trade Regulation Rule

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Extension of comment period.

SUMMARY: In a November 28, 2014, Supplemental Notice of Proposed Rulemaking (''SNPRM''), the FTC proposed further amendments to the Used Motor Vehicle Trade Regulation Rule (''Rule'' or ''Used Car Rule'') following a review of public comments concerning its December 2012 Notice of Proposed Rulemaking (''NPRM''). In response to a December 31, 2014, request, the Commission is extending the comment period announced in the November 2014 SNPRM from January 30, 2015, to March 17, 2015.

DATES: Comments must be received on or before March 17, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/usedcarrulesnprm* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Used Car Rule Regulatory Review, 16 CFR Part 455, Project No. P087604,'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/usedcarrulesnprm* by following the instructions on the Web-based form. If you prefer to file your comment on paper, write ''Used Car Rule Regulatory Review, 16 CFR Part 455, Project No. P087604,'' on your comment, and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex A), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex A), Washington, DC 20024. This document, and public records related to the FTC's regulatory review, are also available at that address and at *www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: John C. Hallerud, (312) 960–5634, Attorney, Midwest Region, Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, IL 60603.

SUPPLEMENTARY INFORMATION: The Commission is extending the comment period for its November 2014 SNPRM to March 17, 2015. The Used Car Rule requires dealers to display a window sticker called a ''Buyers Guide'' containing warranty and other information on used cars offered for sale. In December 2012, the Commission issued an NPRM proposing several amendments to the Rule and revisions to the Buyers Guide,[1] and, in November 2014, the Commission issued an SNPRM seeking comments on further proposed amendments.[2] The SNPRM comment period was scheduled to end on January 30, 2015.

[1] 77 FR 74746 (Dec. 17, 2012).

[2] 79 FR 70804 (Nov. 28, 2014).

In its 2012 NPRM, the Commission proposed adding a statement to the Buyers Guide that describes the availability of vehicle history reports and directs consumers to an FTC Web site containing more information, and changing the Buyers Guide description of an ''As Is'' sale in which a dealer offers to sell a used vehicle without a warranty. In the November 2014 SNPRM, the Commission requested additional comments on proposed amendments that would require dealers to indicate on the Buyers Guide whether they have obtained a vehicle history report on an individual vehicle and, if so, to provide a copy to consumers who request one; revise the Buyers Guide statement describing an ''As Is'' sale; move boxes to the face of the Buyers Guide where dealers can indicate whether ''non-dealer'' warranties apply to a vehicle; and place a statement, in Spanish, on the face of the English language Buyers Guide advising Spanish-speaking consumers to ask for the Buyers Guide in Spanish if they cannot read it in English.

In a December 31, 2014, letter, the National Automobile Dealers Association, a national association of new franchise vehicle dealers, requested that the Commission extend the comment period by ninety days. The Commission agrees that extending the comment period to allow interested parties adequate time to address issues raised by the SNPRM will facilitate a more complete record, but believes that a forty-five day extension is sufficient.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before March 17, 2015. Write ''Used Car Rule Regulatory Review, 16 CFR Part 455, Project No. P087604'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). [3] Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/usedcarrulesnprm* by following the instructions on the Web-based form. If this document appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you prefer to file your comment on paper, write ''Used Car Regulatory Review, 16 CFR Part 455, Project No. P087604'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex A), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex A), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this document and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 17, 2015. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *http://www.ftc.gov/ftc/privacy.htm.*

Comments on any proposed recordkeeping, disclosure, or reporting requirements subject to review under the Paperwork Reduction Act (''PRA'') should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Therefore, comments instead should be sent by facsimile to (202) 395–5806.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2015–01517 Filed 1–27–15; 8:45 am]

BILLING CODE 6750–01–P

[3] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 256

[K00103 12/13 A3A10; 134D0102DR–DS5A300000–DR.5A311.IA000113; BIA–2014–0004]

RIN 1076–AF22

Housing Improvement Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; correction; tribal consultation session information.

SUMMARY: The Bureau of Indian Affairs (BIA) published a proposed rule in the **Federal Register** of January 2, 2015, announcing proposed revisions to update the Housing Improvement Program. This document provides updates to the dates and locations of tribal consultation sessions.

DATES: Comments on the proposed rule must be received by March 6, 2015. See the **SUPPLEMENTARY INFORMATION** section of this document for dates of tribal consultation sessions.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Appel, Director, Office of

Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION: Tribal consultation sessions on the proposed rule published in the **Federal Register** of January 2, 2015 (80 FR 13) will be held at the following dates and locations:

Date	Time	Location
Tuesday, February 3, 2015, *NOTE: The session will be held February 3, not February 4..	1 p.m.–5 p.m. (Eastern Standard Time).	(in conjunction with the National American Indian Housing Council legislative conference), Mayflower Renaissance Hotel, 1127 Connecticut Ave. NW. Washington, DC 20036.
Wednesday, February 11, 2015	1 p.m.– 5 p.m. (Alaska Standard Time).	Frontier Building, 3601 C Street, Room 896, Anchorage, AK 99503.
Wednesday, February 18, 2015	1 p.m.– 4 p.m. (Eastern Standard Time).	Teleconference Call-In Number: (888) 455–0045; passcode 1185469.
Thursday, February 26, 2015	1 p.m.–5 p.m. (Eastern Standard Time).	(following the National Congress of American Indian Executive Council Winter Session), Capital Hilton, Room Federal A, 1001 16th Street NW., Washington, DC 20036.

These dates supersede the dates listed in the January 2, 2015, **Federal Register**. Please visit the following Web site for additional updates: *http://www.bia.gov/WhoWeAre/AS-IA/ORM/HIP/index.htm.*

Dated: January 14, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–01582 Filed 1–27–15; 8:45 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2014–0063; FXFR13350700640–156–FF07J00000; FBMS#4500075014]

RIN 1018–BA62

Subsistence Management Regulations for Public Lands in Alaska; Rural Determination Process

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Secretaries propose to revise the regulations governing the rural determination process for the Federal Subsistence Program in Alaska. Under current regulations, the Federal Subsistence Board (Board) defines which community or area of Alaska is rural using guidelines and characteristics defined by the Secretaries. This new process will enable the Board to be more flexible in making decisions and take into account the regional differences found throughout the State.

DATES: *Public comments:* Comments and proposals to change this proposed rule must be received or postmarked by April 1, 2015.

Public meetings: The Secretaries, through the Board, will hold public meetings in conjunction with the Federal Subsistence Regional Advisory Councils (Councils) to receive comments on this proposed rule on several dates between February 10 and March 19, 2015. In addition, the Councils will discuss and make their recommendations to the Board. The Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, on or before April 2016 and make recommendations on the proposed rule to the Secretary of the Interior and the Secretary of Agriculture. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings and for requesting reasonable accommodations.

ADDRESSES: *Public comments:* You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov* and search for FWS–R7–SM–2014–0063, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503–6199, or hand delivery to the Designated Federal Official attending any of the Federal Subsistence Regional Advisory Council public meetings. See **SUPPLEMENTARY INFORMATION** for additional information on locations of the public meetings.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

Public meetings: The Federal Subsistence Board and the Councils' public meetings will be held at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for specific information on dates and locations of the public meetings.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program (Program). The Program provides a preference to rural Alaskan residents for taking fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Because the Program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, U.S. National Park Service;
- The Alaska State Director, U.S. Bureau of Land Management;
- The Alaska Regional Director, U.S. Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits. The Board determines which areas of Alaska are rural and which areas are nonrural. Alaska residents living in areas determined to be nonrural are not eligible to participate in the Program.

In administering the Program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Regional Advisory Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Regional Advisory Council members represent varied geographical, cultural, and user interests within each region.

Prior Rulemaking

On November 23, 1990 (55 FR 48877), the Board published a notice in the **Federal Register** explaining the proposed Federal process for making rural determinations, the criteria to be used, and the application of those criteria in preliminary determinations. On December 17, 1990, the Board adopted final rural and nonrural determinations, which were published on January 3, 1991 (56 FR 236). Final programmatic regulations were published on May 29, 1992, with only slight variations in the rural determination process (57 FR 22940). As a result of this rulemaking, Federal subsistence regulations at 36 CFR 242.15 and 50 CFR 100.15 require that the rural or nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data.

Because some data from the 2000 census were not compiled and available until 2005, the Board published a proposed rule in 2006 to revise the list of nonrural areas recognized by the Board (71 FR 46416, August 14, 2006). The final rule published in the **Federal Register** on May 7, 2007 (72 FR 25688).

Secretarial Review

On October 23, 2009, Secretary of the Interior Salazar announced the initiation of a Departmental review of the Federal Subsistence Management Program in Alaska; Secretary of Agriculture Vilsack later concurred with this course of action. The review focused on how the Program is meeting the purposes and subsistence provisions of Title VIII of ANILCA, and how the Program is serving rural subsistence users as envisioned when it began in the early 1990s.

On August 31, 2010, the Secretaries announced the findings of the review, which included several proposed administrative and regulatory reviews and/or revisions to strengthen the Program and make it more responsive to those who rely on it for their subsistence uses. One proposal called for a review, with Council input, of the rural and nonrural determination process and, if needed, recommendations for regulatory changes.

The Board met on January 20, 2012, to consider the Secretarial directive, consider the Councils' recommendations, and review all public, Tribal, and Native Corporation comments on the initial review of the rural determination process. After discussion and careful review, the Board voted unanimously to initiate a review of the rural determination process and the 2010 decennial review. Consequently, based on that action, the Board found that it was in the public's best interest to extend the compliance date of its 2007 final rule (72 FR 25688; May 7, 2007) on rural and nonrural determinations until after the review of the rural determination process and the decennial review are complete or in 5 years, whichever comes first. The Board published a final rule (77 FR 12477; March 1, 2012) extending the compliance date.

The Board followed this action with a request for comments and announcement of public meetings (77 FR 77005; December 31, 2012) to receive public, Tribal, and Alaska Native Corporations input on the rural determination process.

Due to a lapse in appropriations on October 1, 2013, and the subsequent closure of the Federal Government, some of the preannounced public meetings and Tribal consultations to receive comments on the rural determination process during the closure were cancelled. The Board decided that an extension to the comment period was needed to allow for the complete participation from the Councils, public and Tribes to address this issue (78 FR 66885; November 7, 2013).

The Councils were briefed on the Board's **Federal Register** notice during their winter 2013 meetings. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board.

The Secretaries, through the Board, also held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham to solicit comments on the rural determination process. Public testimony was recorded during these hearings. Government-to-government consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska, and additional consultations were held between members of the Board and Alaska Native Corporations.

Altogether, the Board received 475 substantive comments from various sources, including individuals, members of the Councils, and other entities or organizations, such as Alaska Native Corporations and borough governments. In general, this information indicated a broad dissatisfaction with the current rural determination process. The aggregation criteria were perceived as arbitrary. The current population thresholds were seen as inadequate to capture the reality of rural Alaska. Additionally, the decennial review was widely viewed to be unnecessary.

Based on this information, the Board at their public meeting held on April 17, 2014, elected to recommend a simplification of the process by determining which areas or communities are nonrural in Alaska; all other communities or areas would, therefore, be rural. The Board would make nonrural determinations using a comprehensive approach that takes into consideration population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, any other relevant material, and information provided by the public. The Board would rely heavily on the recommendations of the Subsistence Regional Advisory Councils.

In summary, based on Council and public comments, Tribal and Alaska Native Corporation consultations, and briefing materials from the Office of Subsistence Management, the Board developed a proposal that simplifies the process of rural and nonrural determinations and submitted its recommendation to the Secretaries on August 15, 2014.

On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board. The Secretaries also requested that the Board obtain Council recommendations and public input, and conduct Tribal and Alaska Native Corporation consultation on the proposed changes. If adopted through the rulemaking process, the current regulations would be revised to remove specific guidelines, including requirements regarding population data, the aggregation of communities, and the decennial review, for making rural determinations.

Public Review Process—Comments, Proposals, and Public Meetings

The Federal Subsistence Regional Advisory Councils will have a substantial role in reviewing this proposed rule and making recommendations for the final rule. The Federal Subsistence Board, through the Councils, will hold public meetings on this proposed rule at the following locations in Alaska, on the following dates:

Region 1—Southeast Regional Council	Yakutat	March 17, 2015.
Region 2—Southcentral Regional Council	Anchorage	February 18, 2015.
Region 3—Kodiak/Aleutians Regional Council	Kodiak	February 10, 2015.
Region 4—Bristol Bay Regional Council	Naknek	February 24, 2015.
Region 5—Yukon–Kuskokwim Delta Regional Council	Bethel	February 25, 2015.
Region 6—Western Interior Regional Council	Fairbanks	March 3, 2015.
Region 7—Seward Peninsula Regional Council	Nome	February 18, 2015.
Region 8—Northwest Arctic Regional Council	Kotzebue	March 9, 2015.
Region 9—Eastern Interior Regional Council	Fairbanks	March 4, 2015.
Region 10—North Slope Regional Council	Barrow	March 17, 2015.

A notice will be published of specific dates, times, and meeting locations in local and statewide newspapers prior to the meetings. Locations and dates may change based on weather or local circumstances. The amount of work on each Council's agenda determines the length of each Council meeting.

The Board will conduct tribal and Alaska Native Corporations consultations and discuss and evaluate proposed changes to the rural determination regulations during a public meeting scheduled to be held in Anchorage, Alaska, on or before April 2016. The Council Chairs, or their designated representatives, will present their respective Council's recommendations at the Board meeting. Additional public testimony to the Board will be allowed during the meeting. At that public meeting, the Board will deliberate and make final recommendations to the Secretaries on this proposed rule.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the Web site. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: USFWS, Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

Reasonable Accommodations

The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language interpreting services, closed captioning, or other accommodation needs to Deborah Coble, 907–786–3880, *subsistence@fws.gov,* or 800–877–8339 (TTY), seven business days prior to the meeting in which you would like to participate.

Tribal Consultation and Comment

As expressed in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 79 FR 4748 (January 29, 2014). Consultation with Alaska Native Corporations is based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

ANILCA does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because Tribal members are affected by subsistence regulations, the Secretaries, through the Board, will provide Federally recognized Tribes and Alaska Native Corporations an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native Corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board commits to efficiently and adequately providing an opportunity to Tribes and Alaska Native Corporations for consultation in regard to subsistence rulemaking.

The Board will consider Tribes' and Alaska Native Corporations' information, input, and recommendations, and address their concerns as much as practicable.

Compliance With Statutory and Regulatory Authorities

National Environmental Policy Act

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This proposed rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires February 29, 2016.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has reviewed this rule and has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 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. E.O. 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 rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does 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.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule would be by Federal agencies, and no cost would be imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the proposed rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

Title VIII of ANILCA does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and

shellfish. However, the Board will provide Federally recognized Tribes and Alaska Native Corporations an opportunity to consult on this proposed rule. Consultation with Alaska Native Corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, will provide a variety of opportunities for consultation: Engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Clarity of the Rule

We are required by Executive Orders 12866 and 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the proposed rule, your comments should be as specific as possible.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Trevor Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Steve Kessler and Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Proposed Regulation Promulgation

For the reasons set out in the preamble, the Secretaries propose to amend 36 CFR part 242 and 50 CFR part 100 as set forth below.

PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart B—Program Structure

■ 2. In subpart B of 36 CFR part 242 and 50 CFR part 100, § __.15 is revised to read as follows:

§ __.15 Rural determination process.

(a) The Board determines which areas or communities in Alaska are nonrural. Current determinations are listed at § ___.23.

(b) All other communities and areas are, therefore, rural.

Sally Jewell,

Secretary of the Interior.

Dated: December 12, 2014.

Beth G. Pendleton,

Regional Forester, USDA-Forest Service.

[FR Doc. 2015–01621 Filed 1–26–15; 11:15 am]

BILLING CODE 3410–11–P;4310–55–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA–HQ–OPP–2014–0008; FRL–9921–55]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces EPA's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before February 27, 2015.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number and the Pesticide Petition Number (PP) of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov;* or Susan Lewis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's

name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, EPA seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is EPA taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. EPA is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

New Tolerances

1. *PP* 4E8230. (EPA–HQ–OPP–2014–0600). BASF Corporation, 26 Davis Dr., Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide teflubenzuron, in or on apple at 0.5 parts per million (ppm); apple, wet pomace at 0.8 ppm; broccoli at 0.2 ppm; cattle, muscle at 0.01 ppm; cattle, meat byproducts at 0.01 ppm; cauliflower at 0.01 ppm; citrus oil at 90 ppm; coffee, bean, green at 0.6 ppm; corn, field at 0.01 ppm; corn, field, refined oil at 0.02 ppm; egg at 0.01 ppm; goat, muscle at 0.01 ppm; goat, meat byproducts at 0.01 ppm; horse, muscle at 0.01 ppm; horse, meat byproducts at 0.01 ppm; lemon at 0.9 ppm; mango at 1.5 ppm; melon at 0.3 ppm; milk at 0.01 ppm; orange at 0.6 ppm; papaya at 0.4 ppm; pineapple at 0.8 ppm; pork, muscle at 0.01 ppm; pork, meat byproducts at 0.01 ppm; poultry, muscle at 0.01 ppm: Poultry, meat byproducts at 0.01 ppm; sheep, muscle at 0.01 ppm; sheep, meat byproducts at 0.01 ppm; soybean, seed at 0.05 ppm; soybean, hulls at 0.4 ppm; sugarcane, cane at 0.01 ppm; sunflower, seed at 0.3 ppm; tomato at 1.5 ppm; and tomato, paste at 5 ppm. High performance liquid chromatography with tandem mass spectrometry detection (HPLC–MS/MS) is used to measure and evaluate the residues of teflubenzuron for the proposed uses. Contact: RD.

2. *PP* 4F8258. (EPA–HQ–OPP–2014–0357). E.I. du Pont de Nemours & Company, 1007 Market St., Wilmington, DE 19898, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide cyantraniliprole, in or on artichokes, globe (import tolerance) at 0.1 parts per million (ppm); berries, low growing, except strawberries (crop subgroup 13–07H) (import tolerance) at 0.08 ppm; coffee, bean, green (import tolerance) at 0.05 ppm; grapes (import tolerance) at 1.5 ppm; olives (import tolerance) at 1.5 ppm; peanuts at 0.01 ppm; peanut hay at 3 ppm; pomegranates (import tolerance) at 0.01 ppm; rice, grain (import tolerance) at 0.03 ppm; soybeans, seed at 0.4 ppm; strawberries at 1.0 ppm; vegetables, foliage of legume (crop group 7) at 50 ppm; vegetables, leaves of root and tuber (crop group 2) at 40 ppm; vegetables, legume, dried shelled, except soybean (crop subgroup 6C) at 0.9 ppm; vegetables, legume, edible podded (crop subgroup 6A) at 2 ppm; vegetables, legume, succulent shelled (crop subgroup 6B) at 0.2 ppm; vegetables, root, except sugar beet (crop subgroup 1B) at 0.4 ppm; and tea, dried (import tolerance) at 30 ppm. Adequate analytical methodology, high-pressure liquid chromatography (HPLC) with electrospray tandem mass spectrometry (ESI–MS/MS), is available for enforcement purposes. Contact: RD.

3. *PP* 4F8320. (EPA–HQ–OPP–2014–0890). Syngenta Crop Protection LLC, P.O. Box 18300, Greensboro, NC 27419, requests to establish a tolerance in 40 CFR part 180 for residues of the

insecticide cyantraniliprole, in or on corn, field and pop, forage at 0.04 parts per million (ppm); corn, field and pop, grain at 0.01 ppm; corn, field and pop, stover at 0.015 ppm; corn, sweet, forage at 0.02 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; and corn, sweet, stover at 0.08 ppm. Adequate analytical methodology, high-pressure liquid chromatography (HPLC) with electrospray tandem mass spectrometry (ESI–MS/MS) detection, is used to measure and evaluate the chemical cyantraniliprole. Contact: RD.

Amended Tolerance

1. *PP* 4F8290. (EPA–HQ–OPP–2014–0889). FMC Corporation, 1735 Market St., Philadelphia, PA 19103, requests to amend the tolerances in 40 CFR 180.418 for residues of the insecticide, zeta-cypermethrin, in or on raw agricultural commodities corn, field, forage from 0.2 parts per million (ppm) to 9.0 ppm; corn, field, stover from 3.0 ppm to 30.0 ppm; and corn, pop, stover from 3.0 ppm to 30.0 ppm. The Gas Chromatography with Electron Capture Detection (GC/ECD) analytical method is used to measure and evaluate the residues of zeta-cypermethrin for the proposed, amended uses. Contact: RD.

New Tolerance Exemptions

1. *PP* 2F8102. (EPA–HQ–OPP–2012–0963). BASF Corporation, 26 Davis Dr., Research Triangle Park, NC 27709, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide *Trichoderma asperelloides* strain JM41R in or on all food commodities. The petitioner believes no analytical method is needed because, as proposed, the use of *Trichoderma asperelloides* strain JM41R would not result in residues that are of toxicological concern. Note: In the **Federal Register** of February 21, 2014 (79 FR 9870) (FRL–9904–98), EPA announced the filing of this petition to establish an exemption from the requirement of a tolerance for residues of *Trichoderma fertile* strain JM41R in or on all food commodities. Since that time, the petitioner provided additional data on the identity of the active ingredient to EPA. After reviewing these data, EPA now considers the correct identity of the active ingredient to be *Trichoderma asperelloides* strain JM41R and not *Trichoderma fertile* strain JM41R. In order to give the public an opportunity to comment on this new information, EPA is republishing its receipt of this tolerance exemption petition filing with an updated and accurate description. Contact: BPPD.

2. *PP* 4F8252. (EPA–HQ–OPP–2014–0920). Certis USA LLC, 9145 Guilford Rd., Suite 175, Columbia, MD 21046, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide *Bacillus mycoides* isolate J, in or on all agricultural commodities. The petitioner believes no analytical method is needed because an exemption from the requirement of a tolerance is being sought for any residues and enforcement of residue levels would not be needed. Contact: BPPD.

3. *PP* 4F8271. (EPA–HQ–OPP–2014–0919). Marrone Bio Innovations, Inc., 2121 Second St., Suite B–107, Davis, CA 95618, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the nematocide, fungicide, and insecticide, sterile grain inoculated with *Muscodor albus* strain SA–13, in or on all food commodities. The petitioner believes no analytical method is needed because the active ingredient will not be in direct contact with treated commodities, has limited survivability once the nutrient source is exhausted, and will not result in residues of toxicological concern. Contact: BPPD.

4. *PP* 4F8276. (EPA–HQ–OPP–2014–0454). Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63167, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 174 for residues of the plant-incorporated protectant, *Bacillus thuringiensis* Cry2Ab2 protein, in or on soybean. The petitioner believes no analytical method is needed because an exemption from the requirement of a tolerance is being sought. Contact: BPPD.

5. *PP* 4F8289. (EPA–HQ–OPP–2014–0834). Southern Garden Citrus, 1820 Country Rd. 833, Clewiston, FL 33440, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 174 for residues of defensin proteins derived from spinach (*Spinacia oleracea* L.) and inserted into citrus plants in order to confer disease resistance. The petitioner believes no analytical method is needed because an exemption from the requirement of a tolerance is being sought. Contact: BPPD.

6. *PP* IN–10683. (EPA–HQ–OPP–2014–0176). Exponent, Inc., 1150 Connecticut Ave. NW., Suite 1100, Washington, DC 20036 (on behalf of Huntsman Corporation, 8600 Gosling Rd., The Woodlands, TX 77381), requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of di-n-butyl carbonate (CAS No. 542–52–9) when used as a pesticide inert ingredient in pesticide formulations as a solvent without limits. The petitioner believes no analytical method is needed because an exemption from the requirement of a tolerance is being sought for this inert ingredient. Contact: RD.

7. *PP* IN–10770. (EPA–HQ–OPP–2014–0874). BASF Corporation, 100 Park Ave., Florham Park, NJ 07932, requests to establish an exemption from the requirement of a tolerance in 40 CFR 180.960 for residues of 2-propenoic acid, polymer with ethenyl acetate, ethenylbenzene, 2-ethylhexyl 2-propenoate and ethyl 2-propenoate (CAS No. 85075–52–1) with a minimum number average molecular weight (in amu) of 50,000 Daltons, when used as a pesticide inert ingredient in pesticide formulations. The petitioner believes no analytical method is needed because it is not relevant based upon the definition of a low risk polymer under 40 CFR 723.250. Contact: RD.

Authority: 21 U.S.C. 346a.

Dated: January 20, 2015.

Robert McNally,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2015–01603 Filed 1–27–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0209; FRL–9921–60]

Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petition and request for comment.

SUMMARY: This document announces the Agency's receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before February 27, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2014–0209, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action apply to me?

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

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

PP 3F8210. Bayer CropScience, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180.435 for residues of the insecticide, deltamethrin [(1R, 3R)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropane-carboxylic acid (S)-alpha-cyano-3-phenoxybenzyl ester] and its major metabolites trans-deltamethrin [(s)-alpha-cyano-3-phenoxybenzyl-(1R, 3S)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate] and alpha-R-deltamethrin [(R)-alphacyano-3-phenoxybenzyl-(1R, 3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate, in or on food and feed commodities following wide-area mosquito adulticide applications at at 0.05 parts per million (ppm). High performance liquid chromatography/triple stage quadrupole mass spectrometry (LC/MS/MS) is used to measure and evaluate the chemical and its cis and trans isomers.

Authority: 21 U.S.C. 346a.

Dated: January 20, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2015–01465 Filed 1–27–15; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 80, No. 18
Wednesday, January 28, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 21, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Waivers Under Section 6(o) of the Food and Nutrition Act.

OMB Control Number: 0584–0479.

Summary of Collection: This is a renewal of an existing information collection. Section 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104–193 (PRWORA) establishes a time limit for the receipt of Supplemental Nutrition Assistance Program (SNAP) benefits 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 areas 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.''

Need and Use of the Information: The Food and Nutrition Service uses the information provided by State SNAP agencies to evaluate whether the statutory requirements for a waiver of the SNAP time limit have been met and to determine specifically whether the designated areas' unemployment rate is over ten percent or if there is a lack of sufficient jobs available. If the information is not collected, the State SNAP agencies could not obtain waivers of time limits contained in Section 6(o) of the Act.

Description of Respondents: State, Local, or Tribal Government; Individuals or household; Federal Government.

Number of Respondents: 53.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 1,195.

Food and Nutrition Service

Title: Supplemental Nutrition Assistance Program (SNAP) Pre-Screening Tool.

OMB Control Number: 0584–0519.

Summary of Collection: This is a renewal of an existing information collection. Consistent with Section 5 of the Food and Nutrition Act of 2008, as amended, the Food and Nutrition Service (FNS) has developed the Supplemental Nutrition Assistance Program (SNAP) Pre-Screening Tool to enable applicants to assess their eligibility and the order of magnitude of the potential benefit for which they may qualify. This Pre-Screening Tool also enables citizen advocacy groups to help constituents assess their benefit eligibility.

Need and Use of the Information: The SNAP Pre-Screening Tool is accessible to the public as an online web-based system. The user is prompted to enter household size, income, expenses and resource information, and the tool calculates and provides the user with an estimated range of benefits that the household may be eligible to receive.

Description of Respondents: Individuals or households.

Number of Respondents: 402,534.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 67,223.

Food and Nutrition Service

Title: FNS User Access Request Form.

OMB Control Number: 0584–0532.

Summary of Collection: This is a renewal of an existing information collection. The Office of Management and Budget Circular No. A–130, Appendix III, Security of Federal Automated Information Resources, dated February 8, 1996, established a minimum set of controls to be included in Federal automated information security programs. Establishing personal controls to screen users to allow access to an authorized system is directed in this appendix. The Food and Nutrition Service (FNS) User Access Request Form, FNS–674, is designed for this purpose and will be used in all situations where access to an FNS computer system is required, where current access is required to be modified, or where access is no longer required and must be deleted. Users who access FNS systems are: State agencies, other Federal agencies, FNS Regional offices, FNS Field offices, FNS Compliance Offices, staff contractors, and FNS headquarters staff.

Need and Use of the Information: The State Coordinator is responsible for ensuring that State users and entities comply with the FNS Information Systems Security Guidelines and the Procedures Handbook 702 developed for State systems for their use in maintaining proper controls over FNS security features used by State clients. The information to be collected is: Name, e-Authentication ID, telephone number, home zip code, email address,

contract expiration date, temporary employee expiration date, office address, State/locality codes, system name, form type, type of access, action requested, comments and special instructions. If access were not granted, users would be denied access to systems needed to deliver FNS programs.

Description of Respondents: State, Local, or Tribal Government; Federal Government; Businesses or other for-profit.

Number of Respondents: 2,700.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 870.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–01532 Filed 1–27–15; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 21, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by February 27, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Lacey Act Declaration Requirements; Plants and Plant Products.

OMB Control Number: 0579–0349.

Summary of Collection: The Lacey Act, first enacted in 1900 and significantly amended in 1988, is the United States' oldest Wildlife Protection Statute. The Act combats trafficking in ''illegal'' wildlife, fish, or plants. The Food, Conservation and Energy Act of 2008, which took effect May 22, 2008, amended the Lacey Act by expanding its protection to a broader range of plants and plant products (Section 8204, Prevention of Illegal Logging Practices).

Need and Use of the Information: Under the amended Lacey Act, importers are required to submit a declaration form (PPQ 505) for all plants. The PPQ 505B is the supplemental form which is provided the declarer if additional space is needed to enter the required information. The declaration must contain, among other things, the scientific name of the plant, value of the importation, quantity of the plant, and name of the country from which the plant was harvested. If species varies or is unknown, importers will have to declare the name of each species that may have been used to produce the product. This information will be used to support investigations into illegal logging practices by the Justice Department and also acts as a deterrent to illegal logging practices worldwide.

Description of Respondents: Business or other for-profit.

Number of Respondents: 17,140.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 252,019.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–01539 Filed 1–27–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 21, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by February 27, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC, 20503. Commentors are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: 36 CFR part 228, subpart A—Locatable Minerals.

OMB Control Number: 0596–0022.

Summary of Collection: The United States Mining Law of 1982, as amended, governs the prospecting for and appropriation of metallic and most nonmetallic minerals on 192 millions acres of National Forest set up by

proclamation from the public domain. It gives individuals the right to search for and extract valuable mineral deposits of locatable minerals and secure title to the lands involved. Recording that claim in the local courthouse and with the appropriate BLM State Office affords protection to the mining claimant from subsequent locators. A mining claimant is entitled to reasonable access to claim for further prospecting, mining or necessary related activities, subject to the other laws and applicable regulations. The purpose of the regulations at 36 CFR part 228, subpart A, is to set some specific rules and procedures through which use of the surface of National Forest System lands in connection with mineral operations authorized by the United States mining laws shall be conducted so as to minimize adverse environmental impacts on surface resources. The Forest Service (FS) will collect information using form FS 2800–5, Plan of Operations for Mining Activities on National Forest System Lands.

Need and Use of the Information: FS will collect information requirements for a Notice of Intent to include the name, address, and telephone number of the operator; the area involved; the nature of the proposed operations; the route of access to the area of operations and the method of transport. The information requirements for a Plan of Operations includes: the name and legal mailing address of the operators; a description of the type of operations proposed; a description of how it would be conducted; a description of the type and standard of existing/proposed roads/access route; a description of the means of transportation to be used; a description of the period during which the proposed activity will take place; and measures to meet the environmental protection requirements. The information requirements for a cessation of operation include: verification to maintain the structures, equipment and other facilities; expected reopening date; estimate of extended duration of operations; and maintenance of the site, structure, equipment and other facilities during nonoperating periods.

Description of Respondents: Business or other for-profit.

Number of Respondents: 283.

Frequency of Responses: Reporting: Other (approved for a given period).

Total Burden Hours: 1,673.

Forest Service

Title: Foreign Travel Proposal (Non-Federal).

OMB Control Number: 0596–0216.

Summary of Collection: Federal Travel Regulations—part 301–10 covers transportation expenses for those whose air travel is financed by U.S. government funds. USDA Departmental regulation, DM 2300–1, is the primary source of USDA policy on managing temporary duty travel for private citizens (not Federal employees) traveling to foreign countries on behalf of the Forest Service. The collection of this information is necessary to facilitate timely issuance of foreign travel authorizations. This information is shared with the USDA Foreign Agriculture Service; US State Department; foreign embassies in Washington, DC; and U.S. embassies in all destination countries.

Need and Use of the Information: The FS, USDA, International Programs Travel Section uses FS–6500–1, Foreign Travel Proposal to collect the traveler's destination, purpose of trip, and dates of travel. Also collected are name, address, contact telephone numbers, passport information, country of citizenship, security clearance, as well as contacts at each destination and hotel information. Without this information the FS cannot provide support to international programs or other countries who have requested assistance.

Description of Respondents: Individuals or households.

Number of Respondents: 200.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 67.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–01538 Filed 1–27–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Commodity Credit Corporation

Information Collection Request; Assignment and Joint Payment Elections

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

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) and Farm Service Agency (FSA) are requesting comments from all interested individuals and organizations on an extension with a revision of a currently approved information collection associated with various assignment and joint payment forms, including ''Assignment of Payment'', ''Joint Payment Authorization'', ''Notice of Assignment'', and ''Instrument of Assignment''. The information on the forms is used by FSA employees in order to record the payment or contract being assigned, the amount of the assignment, the date of the assignment, and the name and address of the assignee and the assignor. This will enable FSA employees to pay the proper party when payment becomes due.

DATES: We will consider comments that we receive by March 30, 2015.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, the OMB control number and the title of the information collection. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Yanira Sanabria, Financial Specialist, USDA, FSA, FMD, STOP 0581, USDA/FSA/FMD, STOP 0581, Patriot Plaza III, 355 E Street SW., Washington, DC 20024–0581.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Yanira Sanabria at the above address.

FOR FURTHER INFORMATION CONTACT: Yanira Sanabria, (202) 772–6032. Persons with disabilities who require alternative mean for communication (Braille, large print, audio tape, etc.) should contact the USDA's TARGET Center at (202)720–2600 (Voice).

SUPPLEMENTARY INFORMATION:

Title: Assignment and Joint Payment Elections.

Forms: CCC–36, ''Assignment of Payment'', CCC–37, ''Joint Payment Authorization'', CCC–251, ''Notice of Assignment'', and CCC–252, ''Instrument of Assignment''.

OMB Control Number: 0560–0183.

Expiration Date of Approval: July 31, 2015.

Type of Request: Revision and extension of a currently approved information collection.

Abstract: FSA and CCC are requesting an extension with a revision of the currently approved information collection for Forms CCC–36, ''Assignment of Payment'', CCC–37, ''Joint Payment Authorization'', CCC–251, ''Notice of Assignment'', and CCC–252, ''Instrument of Assignment''. The Soil Conservation and Domestic

Allotment Act (16 U.S.C. 590h (g)) authorizes producers to assign FSA conservation program payments in accordance with regulations issued by the Secretary. The Assignment of Payments regulation at 7 CFR part 1404 requires that any such assignment be signed by both the assignor and the assignee. The Agricultural Act of 1949, as amended, extends that authority to CCC programs, including rice, feed grains, cotton, and wheat. There are no FSA or CCC regulations governing joint payments, but this service is offered as a result of public requests for this type of payment option, and is authorized by the CCC–37 form.

The burden hours have decreased due to a provision in the 2014 Farm Bill that has exempted some programs from being subject to the Paperwork Reduction Act. In addition, some producers are expected to participate in the certain, new programs authorized by the 2014 Farm Bill: the Agricultural Risk Coverage, Price Loss Coverage, and Dairy Margin Protection Program (DMPP). The CCC–36 and CCC–37 are applicable to certain FSA and CCC programs that permit an assignment.

The formula used to calculate the total burden hour is estimated average time per responses hours times total annual responses.

Estimate of Respondent Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response for each form of CCC–36, CCC–37, and CCC–251, and 5 minutes per response for CCC–252.

Respondents: Individuals or households, businesses or other for profit farms.

Estimated Annual Number of Respondents: 51,403 for CCC–36; 14,307 for CCC–37, 200 for CCC–251 and 200 for CCC–252.

Estimated Number of Reponses Per Respondent: 1.

Estimated Total Annual Responses: 66,110.

Estimated Average Time per Response: 0.166.

Estimated Total Annual Burden on Respondents: 11,002.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of the FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Signed on January 23, 2015.

Val Dolcini,

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

[FR Doc. 2015–01561 Filed 1–27–15; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2015–0001]

Interagency Food Safety Analytics Collaboration (IFSAC): Meeting on Work to Improve Foodborne Illness Source Attribution Estimates for Salmonella, Escherichia coli O157, Listeria, and Campylobacter

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notification of Public Meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS), in collaboration with the Food and Drug Administration (FDA) and the Centers for Disease Control and Prevention (CDC), is hosting a public meeting to update stakeholders on IFSAC's work to improve foodborne illness source attribution. Specifically, IFSAC will report on work to develop harmonized foodborne illness source attribution estimates, as well as other analyses IFSAC has undertaken since its formation in 2011. This work can assist in the development of food safety strategies. FSIS, FDA and CDC are also soliciting input from stakeholders to assist in planning for future IFSAC endeavors.

DATES: The public meeting will be held on Tuesday, February 24, 2015, 8:30 a.m. to 5:00 p.m. EST.

ADDRESSES: The meeting will be held at the Jefferson Auditorium in the South Building, U.S. Department of Agriculture (USDA), 14th & Independence Avenue SW., Washington, DC 20250. The South Building is a Federal facility with security procedures. Attendance is free. Non-USDA employees must enter through the Wing 4 entrance on Independence Avenue. Attendees must be pre-registered for the meeting (and check-in onsite the day of the meeting) and show a valid photo ID to enter the building. Only registered attendees will be permitted to enter the building. For those unable to attend in person, a live Webcast of the meeting will be available.

FOR FURTHER INFORMATION CONTACT: For questions about registering for the meeting; to register by telephone; or to submit a notice of participation by mail, FAX, or email, please contact Courtney Treece, Planning Professionals Ltd., 1210 W. McDermott St., Suite 111, Allen, TX 75013, 704–258–4983, FAX: 469–854–6992, or email at *ctreece@planningprofessionals.com.* For general questions about the meeting, to request an opportunity to make oral public comments by February 9th, 2015; or for special accommodations due to a disability by February 9th, 2015, please contact Juanita Yates, Center for Food Safety and Applied Nutrition (HFS–009), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1731, or email at *Juanita.yates@fda.hhs.gov.* For logistical information about the meeting, please contact Edward Stoker, Office of Public Affairs and Consumer Education, FSIS at 202–720–4849 or at *Edward.Stoker@fsis.usda.gov.* For technical information, please contact Joanna Zablotsky Kufel, Office of Data Integration and Food Protection, FSIS, 202–690–6644, or email at *Joanna.zablotsky-kufel@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

To enhance the safety of our food, three Federal agencies—CDC, FDA, and FSIS—teamed up in 2011 to create the IFSAC. The goal of this collaboration is to improve coordination of Federal food safety analytic efforts and address cross-cutting priorities for food safety data collection, analysis and use. The current focus of IFSAC's activities is foodborne illness source attribution, defined as the process of estimating the most common food sources responsible for specific foodborne illnesses. Projects and studies conducted by IFSAC aim to identify foods that are primary sources of illnesses.

Federal agencies and food safety experts rely on attribution studies to influence strategic planning and risk-

based decision-making, support development of regulations, and conduct risk assessments, among other activities. By bringing together data from CDC, FDA, FSIS, and other sources, and by developing sound analytical methods, IFSAC can improve estimates of the sources of foodborne illness.

Since its start in 2011, IFSAC has worked jointly on a number of analytic projects with the overall objective of advancing knowledge, methods, and data associated with foodborne illness attribution. In January 2012, IFSAC held its first public meeting and presented the IFSAC Strategic Plan, which included a variety of short and long-term goals, along with information about current and future projects. Please go to the following Web page for more information on the previous public meeting: *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings/past-meetings/past-meetings-2012#IFSAC* .

In addition to the public meeting in 2012, IFSAC has also hosted two public webinars on results of existing projects, materials from which are available on the IFSAC public Web site at: *http://www.cdc.gov/foodsafety/ifsac/index.html.* In addition to material from IFSAC-hosted webinars, the IFSAC Web site serves as a venue to share information with the public on IFSAC activities.

At this public meeting, IFSAC will provide updates on completed and ongoing projects, focusing particularly on a key project where IFSAC developed, for the first time, a single approach to producing harmonized foodborne illness source attribution estimates from outbreak data for *Salmonella, E. coli* O157, *Listeria,* and *Campylobacter.* IFSAC will provide an overview of the projects' approach, analytical methods, results, and the utility of estimated attribution.

II. Registration and Meeting Materials

There is no fee to register for the public meeting, but pre-registration is mandatory for participants attending both in-person and via webcast. On-site registration will not be permitted. Early registration is recommended as space is limited. All attendees (in-person and via webcast) must register online at *http://www.fsis.usda.gov/meetings* by February 17, 2015. A Webcast link will be provided to participants when meeting registration is completed. Meeting materials will be posted before the public meeting at *http://www.fsis.usda.gov/meetings* and *http://www.cdc.gov/foodsafety/ifsac/index.html.*

III. Public Comments and Participation in Meeting

Public Comments: Oral Comments

Stakeholders will have an opportunity to provide oral comments during the public meeting. Due to the anticipated high level of interest in the opportunity to make public comments and the limited time available to do so, IFSAC/FSIS would like to maximize the number of individuals who provide oral comments at the meeting and will do its best to accommodate all persons who wish to express an opinion. IFSAC/FSIS encourages persons and groups who have similar interests to consolidate their information for presentation by a single representative.

After reviewing the oral presentation requests, IFSAC/FSIS will notify each participant before the meeting if their presentation request is granted, and, if so, the amount of time they will have to present and remind them of the presentation format (*e.g.,* 3-minute oral presentation without visual media). There will not be an opportunity to display materials such as slide shows, videos, or other media during the meeting. Requests to provide oral presentation on the day of the meeting will only be granted if time permits. Interested persons and organizations who desire an opportunity to make an oral presentation and will attend the meeting in-person must register in advance by February 9, 2015, by contacting Juanita Yates (see contact information in ''Further Information'' section above) with your name, title, firm name, address, and phone and FAX numbers as well as the full text, comprehensive outline, or summary of your oral presentation. Interested persons and organizations who will attend the meeting via webcast must submit written comments as a telephone conference line will not be available for the meeting.

Public Comments: Written Comments

Any stakeholders wishing to submit written comments before or after the meeting can do so on or before April 30, 2015, using any of the following methods: Electronically—go *http://www.regulations.gov* and follow the online instructions for submitting comments; Mail, including CD–ROMS—send to Docket Clerk, USDA, FSIS Docket Room, 1400 Independence Avenue SW., Patriots Plaza III, Mailstop 3782, Room 8–163A, Washington, DC 20250–3700; Hand- or courier-delivered items—deliver to the Docket Clerk, USDA, FSIS Docket Room at Patriots Plaza III, 355 E Street SW., Room 8–164, Washington, DC 20250, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

All items submitted by mail or electronic mail must include the Agency name and docket number: FSIS– 2015–0001. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.* For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza III, 355 E Street SW., Room 8–164, Washington, DC 20250, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

Question-and-Answer Periods

Time has been allotted for audience questions after most presentations delivered during the meeting. In-person participants will have the opportunity to ask questions via a microphone in the auditorium, but due to the lack of a conference telephone line, webcast participants will be required to submit written questions into the virtual meeting tool and these questions will be read aloud by meeting logistics managers.

IV. Transcripts and Video Recording

The transcript of the proceedings from the public meeting will become part of the administrative record. As soon as the meeting transcripts are available, they will be accessible on the FSIS Web site at *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings* and the IFSAC Web site at *http://www.cdc.gov/foodsafety/ifsac/index.html.* The transcripts may also be viewed at the FSIS Docket Room at the address listed above. Additionally, IFSAC will video record the public meeting. Once the video is available, it can be accessed at the FSIS Web site at *http://www.fsis.usda.gov/wps/portal/fsis/newsroom/meetings* and the IFSAC Web site at *http://www.cdc.gov/foodsafety/ifsac/index.html.*

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest

to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail:

U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on: January 23, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015–01566 Filed 1–27–15; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Establishment of Current River Purchase Unit, Ripley County, Missouri

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: On September 30, 2014 the Under Secretary of Natural Resources and Environment created the Current River Unit. This purchase unit comprises 1,868 acres within Ripley County, Missouri. A copy of the establishment document, which includes the legal description of the lands within the purchase unit, appears at the end of this notice.

DATES: The establishment of this purchase unit was effective September 30, 2014.

ADDRESSES: A copy of the map showing the purchase unit is on file and available for public inspection in the Office of the Director, Lands Staff, 1st Floor-Southeast, Sidney R. Yates Federal Building, Forest Service, USDA, 201 14th Street SW., Washington, DC 20250, between the hours of 8:30 a.m. and 4:30 p.m. on business days. Those wishing to inspect the map are encouraged to call ahead to (202) 205–1248 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Gregory C. Smith, Director, Lands Staff, Forest Service, USDA, 1400 Independence Ave. SW., Mailstop 1124, Washington, DC 20250–0003, telephone: (202) 205–1248.

Individuals who use telecommunications 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.

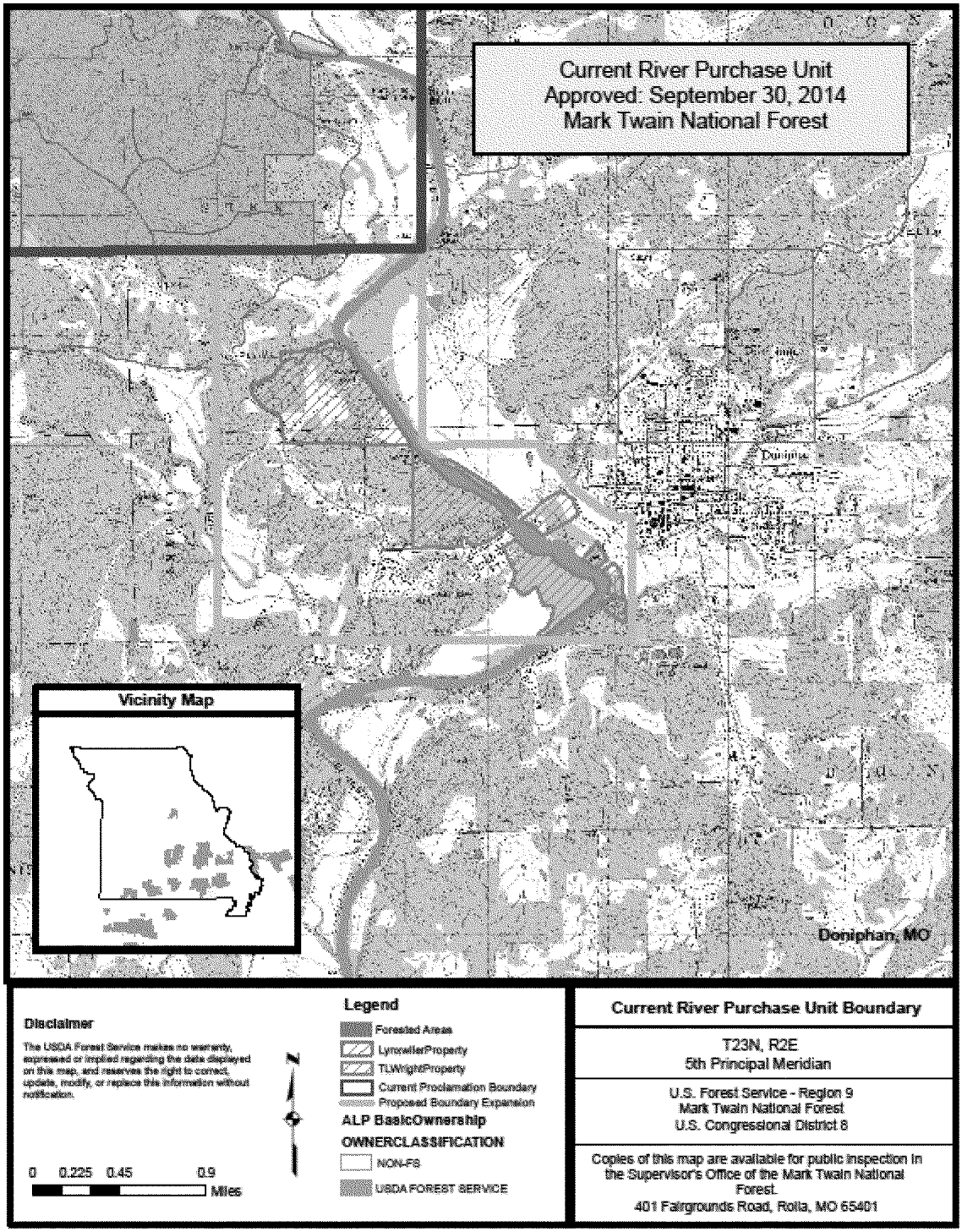
SUPPLEMENTARY INFORMATION: The Current River Purchase Unit will encompass mostly undeveloped lands adjacent to the Current River. The creation of this purchase unit allows for land acquisition of the remaining undeveloped parcels to protect the fragile Current River system and its many listed species. The Current River Purchase Unit will also provide protection and enhancement of watersheds and ecological communities, provide additional areas suitable for outdoor recreation, and provide public access to National Forest Lands.

Dated: January 20, 2015.

Gregory Smith,

Director of Lands and Realty Management.

BILLING CODE 3411–15–P



Map Creation Date - 09/2014 ADD
Revised Date - 01/2015 ADD

[FR Doc. 2015–01474 Filed 1–27–15; 8:45 am]

BILLING CODE 3411–15–C

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Basin Electric Power Cooperative: Notice of Availability of an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of an Environmental Assessment.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing an Environmental Assessment (EA) in connection with potential impacts related to the proposed Big Bend to Witten Transmission Line Project by the Basin Electric Power Cooperative (Basin Electric). Basin

Electric is requesting RUS financial assistance for the proposed action.

DATES: Written comments on this notice must be received on or before February 27, 2015.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the EA, or for further information, contact Richard Fristik, Senior Environmental Protection Specialist, USDA, Rural Utilities Service, 1400 Independence Avenue SW., Stop 1571, Washington, DC 20250–1571, Telephone: (202) 720–5093, Email: *richard.fristik@wdc.usda.gov.*

You may also contact Kevin L. Solie, Basin Electric Power Cooperative, Inc., 1717 East Interstate Avenue, Bismarck, ND 58503–0564, Telephone: (701) 557–5495, Email: *ksolie@bepc.com.*

The public may view a copy of the EA online at the following Agency Web site:

• *http://www.usda.gov/rus/water/ees/ea.htm.*

The public may also view a copy of the EA at the following locations:

• Rural Utilities Service, 1400 Independence Avenue SW., Room 2240, Washington, DC 20250.

• Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, ND 58503–0564.

Send questions and comments to Richard Fristik, Senior Environmental Protection Specialist, USDA, Rural Utilities Service at the address provided.

SUPPLEMENTARY INFORMATION: The proposed Big Bend to Witten Transmission Line Project (proposed action) consists of an approximately 70-mile long 230-kV single-circuit transmission line, a new Western Area Power Administration (Western) switchyard called Lower Brule Switchyard, an addition to the existing Witten Substation, and approximately two miles of 230-kV double-circuit transmission line between Big Bend Dam and the new Lower Brule Switchyard. Construction at the Lower Brule Switchyard and Witten Substation will include communications facilities, a microwave relay tower, and an associated building. Western and the Bureau of Indian Affairs (BIA) are cooperating agencies in preparation of the EA. The agencies and the Lower Brule Sioux Tribe have closely cooperated with each other to prepare the EA and address issues related to a portion of the proposed transmission line that crosses Indian trust lands.

The network transmission system in South Dakota is not able to accommodate the next several years of projected load growth. The proposed action will strengthen the transmission network, improve transmission system reliability, and help meet future demand for electricity and economic development in the region. In addition to increasing the load serving ability for both Rosebud and West Central Electric Cooperatives, the Project would provide additional access to the regional high voltage transmission system.

The proposed Big Bend to Witten line would enhance system reliability by providing an additional connection to the ''grid'' roughly midpoint along this east-west line. If a storm damaged a portion of the Fort Randall to Martin 115-kV line, the Big Bend to Witten line could provide power to the undamaged segments of the line. The proposed line would also provide a tap point for West Central near Reliance, which would enhance the reliability and stability of the West Central system. The tap point near Reliance would provide an additional power line to the Lower Brule Sioux Indian Reservation, which currently has only one older line, and would provide reliability and stability to power on the Reservation. In addition, future wind-generation facilities may be able to interconnect to the proposed line to convey power to West Central's markets. Lastly, the Project lends itself to additional build-out that supports Western's long-range plan for a 230-kV system in southern South Dakota, and would provide increased load serving capacity such that the delivery needs of the projected network load could be met in a reliable manner.

Basin Electric is seeking financing from RUS for its ownership of the proposed project. Before making a decision to provide financing, RUS is required to conduct an environmental review under NEPA in accordance with RUS's Environmental Policies and Procedures (7 CFR part 1794). AECOM, an environmental consultant, prepared an EA for RUS that describes the project and assesses the proposed project's environmental impacts. RUS conducted an independent evaluation of the EA and believed it accurately assessed the impact of the proposed project. No significant impacts are expected as a result of the construction of the project.

Any final action by RUS related to the proposed action will be subject to, and contingent upon, compliance with all relevant Federal, State, and local environmental laws and regulations and completion of the environmental review requirements as prescribed in RUS's Environmental Policies and Procedures at 7 CFR part 1794.

Dated: January 21, 2015.

Richard Fristik,

Acting Director, Engineering and Environmental Staff, Rural Utilities Service.

[FR Doc. 2015–01541 Filed 1–27–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis (BEA), Commerce.

Title: Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate with Foreign Parent.

OMB Control Number: 0608–0009.

Form Number: BE–605.

Type of Request: Regular submission.

Number of Responses: 16,000 annually.

Average Hours Per Response: One hour is the average, but may vary considerably among respondents because of differences in company size and complexity.

Estimated Total Annual Burden Hours: 16,000.

Needs and Uses: The Quarterly Survey of Foreign Direct Investment in the United States—Transactions of U.S. Affiliate with Foreign Parent (BE–605) is a sample survey that collects data on transactions and positions between foreign-owned U.S. business enterprises and their ''affiliated foreign groups'' (*i.e.,* their foreign parents and foreign affiliates of their foreign parents). The sample data are used to derive universe estimates in nonbenchmark years from similar data reported in the BE–12, Benchmark Survey of Foreign Direct Investment in the United States, which is conducted every five years. The data are used in the preparation of the U.S. international transactions, national income and product, and input-output accounts and the net international investment position of the United States. The data are needed to measure the size and economic significance of foreign direct investment in the United States, measure changes in such investment, and assess its impact on the U.S. economy.

Affected Public: Businesses or other for-profit organizations.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *www.reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to OIRA *Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: January 22, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–01462 Filed 1–27–15; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–916]

Laminated Woven Sacks From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from the Laminated Woven Sacks Committee (''Petitioner''), the Department of Commerce (''the Department'') initiated an administrative review of the antidumping duty *Order* on laminated woven sacks from the People's Republic of China (''PRC'').[1] The administrative review covers nine[2] companies for the period of review (''POR'') August 1, 2013, through July 31, 2014. We invite interested parties to comment on these preliminary results.

DATES: *Effective Date:* January 28, 2015.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, 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) 482–6905.

SUPPLEMENTARY INFORMATION: On September 30, 2014, the Department initiated an administrative review of the *Order* on laminated woven sacks from the PRC covering nine PRC firms for the POR.[3]

Scope of the Order

The merchandise covered by the *Order* [4] is laminated woven sacks.[5] Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (''BOPP'') or to an exterior ply of paper that is suitable for high quality print graphics. Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020.[6] The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive.

Methodology

The Department has conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (''the Act''). For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice. 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 (ACCESS).[7] ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, parties can obtain a complete version of the Preliminary Decision Memorandum on the Internet at *http://trade.gov/enforcement/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Background

The *Initiation Notice* states that ''{i}f a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review . . . it must notify the Department within 60 days of publication of this notice in the **Federal Register**.''[8] None of the nine companies initiated for review filed ''no shipment'' certifications. The *Initiation Notice* also notifies the firms initiated for review that they ''must complete, as appropriate, either a separate rate application or certification'' if they want to qualify for a separate rate in this administrative review.[9] None of the nine companies initiated for review filed separate rate certifications or applications.

Preliminary Results of Review

Because none of the nine companies initiated for review provided the Department with either a ''no shipment'' certification or separate rate eligibility documentation, we preliminarily find these nine companies to be part of the PRC-wide entity.[10] The rate previously

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation, in Part,* 79 FR 58729 (September 30, 2014) (''*Initiation Notice*''); *see also Notice of Antidumping Duty Order: Laminated Woven Sacks From the People's Republic of China,* 73 FR 45941 (August 7, 2008) (''*Order*'').

[2] The nine companies are: 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., and Zibo Qigao Plastic Cement Co., Ltd.

[3] *See Initiation Notice,* 79 FR at 58729.

[4] *See Order,* 73 FR at 45941.

[5] For a complete description of the Scope of the Order, *see* ''Decision Memorandum for the Preliminary Results of the 2013–2014 Administrative Review: Laminated Woven Sacks 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, (''Preliminary Decision Memorandum''), dated concurrently with these preliminary results.

[6] Additional HTSUS considerations apply. *See* Preliminary Decision Memorandum. Moreover, at the request of U.S. Customs and Border Protection (''CBP''), the Department added the USHTS subheading 6305.33.0040 to the ACE CRF for the antidumping duty order. *See* ''Memorandum to the File, from Irene Gorelik, Analyst, re: Addition of U.S. Harmonized Tariff Schedule (''USHTS'') Numbers to the Automated Commercial Enterprise (''ACE'') Case Reference File (''CRF''),'' dated September 24, 2014.

[7] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[8] *See Initiation Notice,* 79 FR at 58729.

[9] *Id.,* at 58730.

[10] *See* Preliminary Decision Memorandum. Pursuant to the Department's change in practice, the Department no longer considers the non-market economy entity as an exporter conditionally subject to administrative reviews. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65970 (November 4, 2013). Under this practice, the

Continued

established for the PRC-wide entity in this proceeding is 47.64 percent.[11]

Public Comment

Interested parties are invited to comment on these preliminary results and submit written arguments or case briefs within 30 days after the date of publication of this notice, unless otherwise notified by the Department (*see* 19 CFR 351.309(c)(ii)). Parties are reminded that they should not submit new factual information in written arguments or case briefs. Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later (*see* 19 CFR 351.309(d)). Parties who submit case or rebuttal briefs are requested to submit with each argument: (1) A statement of the issue; and (2) a brief summary of the argument. Parties are also requested to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited (*see* 19 CFR 351.309).[12]

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS (*see* 19 CFR 351.310(c)). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing.

The Department intends to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register** (*see* section 751(a)(3)(A) and the Act and 19 CFR 351.213(h)(1)).

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 (*see* 19 CFR 351.212(b)(1)). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. For the final results, if we continue to treat the nine companies upon which the review was initiated as part of the PRC-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 47.64 percent to all entries of subject merchandise during the POR which were produced and/or exported by those companies.

The Department announced a refinement to its assessment practice in non-market economy (''NME'') cases.[13] Pursuant to this refinement in practice, for entries that were not reported by companies examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate.[14]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative 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 previously investigated or reviewed PRC and non-PRC exporters 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; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate (including those companies identified above upon which this review was initiated), the cash deposit rate will be that for the PRC-wide entity; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to the 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.

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: January 22, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of Methodology
5. Recommendation

[FR Doc. 2015–01588 Filed 1–27–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–704]

Brass Sheet and Strip From Japan: Rescission of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the antidumping duty order on brass sheet and strip from Japan for the period of review August 1, 2013, through July 31, 2014, based on the timely withdrawal of the request for review.

DATES: *Effective* January 28, 2015.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration,

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non-market economy entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the entity, the entity is not under review and the entity's rate is not subject to change.

[11] *See Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube From the People's Republic of China,* 77 FR 52683, 52688 (August 30, 2012).

[12] *See also* 19 CFR 351.303 for filing requirements.

[13] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (''*NME Assessment 2011*'').

[14] *Id.*

U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1785.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2014, the Department published the notice of opportunity to request an administrative review of the antidumping duty order on brass sheet and strip from Japan for the period of review August 1, 2013, through July 31, 2014.[1] On August 27, 2014, Global Brass and Copper Holdings, Inc., dba Olin Brass, Heyco Metals, Inc., Aurubis Buffalo, Inc., PMX Industries, Inc., and Revere Copper Products, Inc. (collectively, the petitioners) requested that the Department conduct an administrative review of the following 22 exporters/producers: (1) Dowa Metals & Mining Co., Ltd.; (2) Fujisawa Co., Ltd.; (3) Furukawa Electric Co., Ltd.; (4) Harada Metal Industry; (5) Hitachi Alloy, Ltd., (6) Hitachi Cable, Ltd.; (7) JX Nippon Mining & Metals Corp.; (8) Kicho Shindosho Co., Ltd.; (9) Kitz Metal Works Corp.; (10) Kobe Steel, Ltd.; (11) Mitsubishi Electric Metecs Co., Ltd.; (12) Mitsubishi Materials Corp.; (13) Mitsubishi Shindoh Co., Ltd.; (14) Mitsui Mining & Smelting Co., Ltd. (Mitsui Kinzoku); (15) Mitsui Sumitomo Metal Mining Brass & Copper Co., Ltd.; (16) NGK Insulators (NGK Metals); (17) Ohki Brass & Copper Co., Ltd.; (18) Sambo Copper Alloy Co., Ltd.; (19) Sugino Metal Industry Co., Ltd.; (20) Sumitomo Metal Mining Brass & Copper Co., Ltd.; (21) Uji Copper & Alloy Co., Ltd.; and (22) YKK Corporation.[2] Pursuant to this request, and in accordance with 19 CFR 351.221(c)(1)(i), the Department published a notice initiating an administrative review of the above-mentioned companies.[3] The petitioners withdrew their request for an administrative review of all 22 exporters/producers on December 16, 2014.[4]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As noted above, the petitioners withdrew their request for review of the 22 exporters/producers within 90 days of the publication date of the notice of initiation. No other parties requested an administrative review of the order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of brass sheet and strip from Japan. 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). The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review.

Notifications

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: January 22, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–01597 Filed 1–27–15; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 79 FR 44740 (August 1, 2014).

[2] *See* Letter from the petitioners to the Department, dated August 27, 2014, at 1–2.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 58729 (September 30, 2014).

[4] *See* Letter from the petitioners, dated December 16, 2014, at 2.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–898]

Chlorinated Isocyanurates From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, Department of Commerce.

SUMMARY: On July 25, 2014, the Department of Commerce (the Department) published its *Preliminary Results* of the administrative review of the antidumping duty order on chlorinated isocyanurates (chloro isos) from the People's Republic of China (PRC).[1] The period of review (POR) is June 1, 2012, through May 31, 2013. This review covers five producers/exporters: (1) Arch Chemicals (China) Co. Ltd. (Arch China); (2) Hebei Jiheng Chemical Co., Ltd.(Jiheng); (3) Heze Huayi Chemical Co. Ltd. (Heze); (4) Juancheng Kangtai Chemical Co., Ltd. (Kangtai); and (5) Zhucheng Taisheng Chemical Co., Ltd. (Zhucheng). Jiheng and Kangtai are the two producers/exporters being individually examined as mandatory respondents. We invited parties to comment on our *Preliminary Results.* Based on our analysis of the comments received, we made certain changes to our margin calculations for Jiheng and Kangtai. The final dumping margins for this review are listed in the ''Final Results'' section below.

DATES: *Effective Date:* January 28, 2015.

FOR FURTHER INFORMATION CONTACT: Sean Cary, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3964 or (202) 482–0176, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 2014, the Department published its *Preliminary Results.* On July 30, 2014, the Department extended the deadline for the filing of case and rebuttal briefs.[2] On September 8 and 9,

[1] *See Chlorinated Isocyanurates From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 43391 (July 25, 2014) (*Preliminary Results*).

[2] *See* Memorandum to the File, ''2012–2013 Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates From the People's Republic of China: Phone Call with Counsel for Kangtai,'' (July 30, 2014), denying Kangtai's request for an additional questionnaire

Continued

2014, Clearon Corporation and Occidental Chemical Corporation (collectively, Petitioners), Jiheng, and Kangtai each submitted a case brief.[3] On September 18 and 19, 2014, Petitioners, Jiheng, and Kangtai each submitted a rebuttal brief.[4]

On August 25, 2014, Kangtai submitted a hearing request to address issues raised in their case and rebuttal briefs. On October 16, 2014, the Department extended the deadline for the final results in this administrative review until December 22, 2014.[5] On December 8, 2014, we fully extended the deadline for these final results until January 21, 2015.[6] We held a public hearing on December 4, 2014.[7]

Scope of the Order

The products covered by the order are chlorinated isos, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.5000 of the Harmonized Tariff Schedule of the United States.[8]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[9] ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://trade.gov/enforcement/frn/index.html.* The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we have made revisions to the margin calculations for Jiheng and Kangtai.[10]

Separate Rates

In our *Preliminary Results,* we determined that Arch China, Heze, and Zhucheng each demonstrated their eligibility for separate rates status.[11] We have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsideration of this determination. Therefore, the Department continues to find that Arch China, Heze, and Zhucheng are each eligible for separate rate status.

Final Results

We determine that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-average dumping margin (percentage)
Arch Chemicals (China) Co. Ltd.*	53.15
Hebei Jiheng Chemical Co., Ltd.	0.00
Juancheng Kangtai Chemical Co., Ltd.	0.00
Heze Huayi Chemical Co. Ltd.*	53.15
Zhucheng Taisheng Chemical Co., Ltd.*	53.15

* For these final results, we determine that the application of the separate rate from the *Seventh Review* to the non-examined separate rate respondents is consistent with our past practice and a reasonable method to determine the separate rate in the instant review because both of our mandatory respondents received zero margins and none of the separate rate companies has its own calculated rate from the segment immediately prior to the instant segment. Pursuant to this method, we are assigning the rate of 53.15 percent to the non-examined separate rate respondents in the instant review.[12]

Assessment Rates

The Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of these final results of this review. In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), 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 and the total entered value of sales.[13] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate is above *de*

and directing interested parties to address this issue in their briefs.

[3] *See* ''Eighth Administrative Review of the Antidumping Order on Chlorinated Isocyanurates From the People's Republic of China: Case Brief of Clearon Corp. and Occidental Chemical Corporation,'' (September 8, 2014) (Petitioners' Case Brief); ''Chlorinated Isocyanurates From the People's Republic of China (8th Administrative Review): Case Brief,'' (September 8, 2014) (Jiheng's Case Brief); and, ''Certain Chlorinated Isocyanurates From the People's Republic of China Case Brief,'' (September 9, 2014)(Kangtai's Case Brief).

[4] *See* ''Rebuttal Brief in the Administrative Review on Chlorinated Isocyanurates From the People's Republic of China,'' (September 18, 2014)(Petitioners' Rebuttal Brief); ''Chlorinated Isocyanurates From the People's Republic of China (8th Administrative Review): Rebuttal Brief,'' (September 17, 2014)(Jiheng's Rebuttal Brief); and, ''Chlorinated Isocyanurates From the People's Republic of China Rebuttal Brief,'' (September 17, 2014)(Kangtai's Rebuttal Brief).

[5] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Chlorinated Isocyanurates From the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' (October 16, 2014).

[6] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Chlorinated Isocyanurates From the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' (December 8, 2014).

[7] *See* Hearing Transcript, ''Public Hearing in the Matter of: Administrative Review Under the Antidumping Duty Order on Chlorinated Isocyanurates From the People's Republic of China,'' (December 15, 2014).

[8] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Chlorinated Isocyanurates From the People's Republic of China; 2012–2013,'' issued concurrently with this notice (Issues and Decision Memorandum) for a complete description of the scope of the Order.

[9] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[10] *See* Issues and Decision Memorandum.

[11] *See* Memorandum to Paul Piquado, Assistant Secretary for Import Administration, ''Decision Memorandum for the Preliminary Results of the 2011–2012 Antidumping Duty Administrative Review: Chlorinated Isocyanurates From the People's Republic of China,'' (July 17, 2014) at 3–6.

[12] *See Chlorinated Isocyanurates from the People's Republic of China; 2011–2012; Final Results of Antidumping Duty Administrative Review,* 79 FR 4875, 4876 (January 30, 2014) (*Seventh Review*).

[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).

minimis. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The Department announced a refinement to its assessment practice in non-market economy (NME) cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate. For a full discussion of this practice, *see Assessment in NME Antidumping Proceedings.*[14]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative 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 section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act): (1) For the exporter's listed above, the cash deposit rate will be the rate established in the final results of this review (except, if the rate is zero or *de minimis,* a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the existing producer/exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be eligible for a separate rate, the cash deposit rate will be the PRC-wide rate of 285.63 percent;[15] and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We will disclose the calculations performed regarding these final results within five days of the date of publication of this notice in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and that subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: January 21, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues and Decision Memorandum

Comment 1: Selection of Surrogate Country
Comment 2: Surrogate Value Selection
A. Chlorine
B. Hydrogen
C. Financial Ratios
Comment 3: Whether the Department Is Authorized by Law To Apply the Alternative Methodology Under Section 777A(d)(1)(B) of the Act to Annual Reviews
Comment 4: Methodological Issues
A. Value-Added Tax (VAT) Adjustment for Kangtai's and Jiheng's U.S. Sales
B. Downstream By-Product Offset for Ammonium Sulfate
C. Recalculating Jiheng's Hydrogen By-Product Offset
D. Calculation of Jiheng's Electricity Rates
Comment 5: Ministerial Errors
A. Double-Counting of Chlorine Input
B. Calculation of Jiheng's Market Economy Brokerage and Handling Charges
C. Double-Counting of Jiheng's Market Economy Brokerage and Handling Charges in Both Domestic and International Movement Expenses

[FR Doc. 2015–01604 Filed 1–27–15; 8:45 am]

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[14] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (*Assessment in NME Antidumping Proceedings*).

[15] For an explanation on the derivation of the PRC-wide rate, *see Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China,* 70 FR 24502, 24505 (May 10, 2005).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Certain Pasta From Italy: Notice of Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* January 28, 2015.

FOR FURTHER INFORMATION CONTACT: Christopher Hargett or George McMahon 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) 482–4161 or (202) 482–1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2014, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the antidumping duty order on certain pasta from Italy.[1] Pursuant to requests from interested parties, the Department published in the **Federal Register** the notice of initiation of this antidumping duty administrative review with respect to the following companies for the period July 1, 2013, through June 30, 2014: Pastificio Andalini S.p.A. (Andalini), Dalla Costa Alimentare SRL. (Dalla Costa), Delverde Industrie Alimentari S.p.A. (Delverde), La Molisana S.p.A. (La Molisana), Rummo, S.p.A. (Rummo), and Pasta Lensi S.r.L. (Pasta Lensi).[2] On October 10, 2014, and

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 79 FR 37289 (July 1, 2014).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 79 FR 51548 (August 29, 2014) (*Initiation Notice*).

November 25, 2014, respectively, Dalla Costa and Pasta Lensi timely withdrew their respective requests for a review.[3]

Partial Rescission of the 2013–2014 Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. The Department initiated the instant review on August 29, 2014.[4] Dalla Costa and Pasta Lensi withdrew their requests for a review on October 10, 2014 and November 25, 2014, respectively, which is within the 90-day deadline. No other party requested an administrative review of these particular companies. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review of the antidumping duty order on certain pasta from Italy, in part, with respect to Dalla Costa and Pasta Lensi. The instant review will continue with respect to Andalini, Delverde, La Molisana, and Rummo.

Assessment

The Department will instruct CBP to assess antidumping duties on all appropriate entries. For the companies for which this review is rescinded, Dalla Costa and Pasta Lensi, 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, during the period July 1, 2013, through June 30, 2014, in accordance with 19 CFR 351.212(c)(1)(i).

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing 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 and/or countervailing duties occurred and the subsequent increase in the amount of antidumping duties assessed.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: January 23, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–01586 Filed 1–27–15; 8:45 am]

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[3] *See* Letter from Dalla Costa to the Department, ''Antidumping Duty Administrative Review of Ce1tain Pasta from Italy: Withdrawal of Review Request for Administrative Review of Dalla Costa Alimentare SRL,'' dated October 10, 2014; Letter from Pasta Lensi to the Department, ''Pasta from Italy: Withdrawal of Request for Administrative Review,'' dated November 25, 2014.

[4] *See Initiation Notice.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–905]

Certain Polyester Staple Fiber From the People's Republic of China: Final Results of the Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 25, 2014, the Department of Commerce (''Department'') published in the **Federal Register** the *Preliminary Results* of the sixth administrative review of the antidumping duty order on certain polyester staple fiber (''PSF'') from the People's Republic of China (''PRC'').[1] We gave interested parties an opportunity to comment on the *Preliminary Results.* Based upon our analysis of the comments and information received, we made changes to the margin calculations for the final results.

FOR FURTHER INFORMATION CONTACT: Steven Hampton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0116.

SUPPLEMENTARY INFORMATION:

Background

On July 23, 2014, DAK Americas LLC (''Petitioner'') filed comments regarding ministerial errors.[2] On July 25, 2014, the Department published the *Preliminary Results.*[3] On October 21, 2014, Petitioner and Takayasu Industrial (Jiangyin) Co., Ltd. (''Takayasu'') submitted case briefs. On October 28, 2014, Petitioner and Takayasu submitted rebuttal briefs. On October 30, 2014, the Department fully extended the final results to January 21, 2015.[4] On November 5, 2014, Takayasu submitted a redacted rebuttal brief per the Department's request.

Scope of the Order

The merchandise subject to the order is certain polyester staple fiber. The product is currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') numbers 5503.20.0045 and 5503.20.0065. Although the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope of the order, which is contained in the accompanying Issues and Decision Memorandum (''I&D Memo'') is dispositive.[5]

[1] *See Certain Polyester Staple Fiber from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review;* 2012–2013 (July 25, 2014) (''*Preliminary Results*'') and accompanying Decision Memorandum.

[2] *See* Sixth Administrative Review of Polyester Staple Fiber from the People's Republic of China—Preliminary Results Clerical Error Allegation, dated July 23, 2014. The Department notes that ''Polyester Staple Fiberfill'' is a misidentification of the proceeding. The Department has corrected this reference throughout this document to the name: ''Polyester Staple Fiber.''

[3] *See Preliminary Results.*

[4] *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations regarding Certain Polyester Staple Fiber from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review, dated October 30, 2014.

[5] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding Certain Polyester Staple Fiber from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the 2012–2013 Administrative Review issued concurrently with this notice for a complete description of the Scope of the Order (''I&D Memo'').

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these reviews are addressed in the I&D Memo. A list of the issues which parties raised is attached to this notice as an appendix. The I&D Memo is a public document and is on file in the Central Records Unit (''CRU''), Room 7046 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[6] ACCESS is available to registered users at *http://access.trade.gov* and in the CRU. In addition, a complete version of the I&D Memo can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed I&D Memo and the electronic versions of the I&D Memo are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding the *Preliminary Results,* and for the reasons explained in the I&D Memo, the Department has made the following changes to the margin calculation:

- We revised the calculation of surrogate financial ratios using the financial statements of Angtai Co., Ltd. and Compass Corporation Co., Ltd.[7]
- We based the surrogate value for PET Flakes on Thai import statistics recorded in Global Trade Atlas using the product-specific subcategory under the Thai Harmonized Tariff Schedule.[8]
- We included all of the direct materials that Takayasu reported as market-economy purchases and the total freight cost of these purchases in the margin calculation.[9]
- We revised the inland freight calculation to apply the surrogate value for export movement to the distances reported under foreign inland freight.[10]
- We deducted market-economy brokerage and handling expenses from the calculation of total international movement charges.[11]
- We revised the calculation of surrogate freight costs by applying the corrected distances capped at the distance to the closest port.[12]
- We amended the formula to calculate freight expenses.[13]
- We calculated international freight movement charges using route-specific freight quotes from MAERSK.[14]
- We added a VAT variable to the U.S. Sales dataset to allow the program to automatically calculate VAT tax deductions using the Department's default methodology.[15]

Final Results of Review

The Department determines that the following weighted-average dumping margin exists for the period June 1, 2012, through May 31, 2013:

Exporter	Weighted-average dumping margin (percent)
Takayasu Industrial (Jiangyin) Co., Ltd	42.36

Assessment

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

Where the respondent reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[16] Where the Department calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates.[17] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[18] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[19]

The Department announced a refinement to its assessment practice in non-market economy cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by the company individually examined during this 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.[20]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporter listed above, the cash deposit rate will be the rate established in the final results of review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-Wide rate of 44.30 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. The deposit requirements shall remain in effect until further notice.

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in

[6] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[7] *See* I&D Memo, at Comment 1.

[8] *Id.,* at Comment 2.

[9] *Id.,* at Comment 8A.

[10] *Id.,* at Comment 8B.

[11] *Id.,* at Comment 8C.

[12] *Id.,* at Comment 9A.

[13] *Id.,* at Comment 9B.

[14] *Id.,* at Comment 9C.

[15] *Id.,* at Comment 9D.

[16] *See* 19 CFR 351.212(b)(1).

[17] *Id.*

[18] *Id.*

[19] *See* 19 CFR 351.106(c)(2).

[20] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

this proceeding in accordance with 19 CFR 351.224(b).

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: January 21, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Issues and Decision Memorandum

List of Topics Discussed in the Final Decision Memorandum

Summary
Background
Scope of the Order
Discussion of the Issues
- Comment 1: Surrogate Financial Ratios
- Comment 2: Surrogate Value for PET Chips & PET Flakes
- Comment 3: Surrogate Value for Truck Freight
- Comment 4: Surrogate Value for Brokerage & Handling
- Comment 5: Surrogate Value for Labor
- Comment 6: Value Added Tax
- Comment 7: Appropriate Comparison Method
- Comment 8: Ministerial Errors
- A. Direct Materials
- B. Foreign Inland Freight
- C. U.S. Brokerage and Handling
- Comment 9: Programming Errors
- A. Freight Charges—Raw Materials
- B. Domestic Movement
- C. International Movement
- D. VAT Offset Recommendation

[FR Doc. 2015–01601 Filed 1–27–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Intent to Rescind Antidumping Duty New Shipper Reviews; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is conducting new shipper reviews of the antidumping duty order on certain frozen fish fillets (''fish fillets'') from the Socialist Republic of Vietnam (''Vietnam''). The period of review is August 1, 2013, through January 31, 2014. The review covers two companies that are producers and exporters of subject merchandise, Nam Phuong Seafood Co., Ltd. (''Nam Phuong'') and NTACO Corporation (''NTACO''). The Department preliminarily determines that Nam Phuong's and NTACO's sales to the United States were not *bona fide* and is preliminarily rescinding these new shipper reviews. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* January 28, 2015.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey (Nam Phuong) or Steven Hampton (NTACO), 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) 482–0116, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 3, 2014, the Department published notice of initiation of new shipper reviews of fish fillets from Vietnam for the period August 1, 2013, through January 31, 2014.[1] On August 20, 2014, the Department partially extended the deadline for issuing the preliminary results by 60 days.[2] On October 29, 2014, the Department fully extended the deadline for issuing the preliminary results by an additional 60 days.[3] The revised deadline for the preliminary results of these new shipper reviews is January 20, 2015.[4]

Scope of the Order

The product covered by the order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti, Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*) and *Pangasius Micronemus.* These products are classifiable under tariff article codes 0304.29.6033, 0304.62.0020, 0305.59.0000, 0305.59.4000, 1604.19.2000, 1604.19.2100, 1604.19.3000, 1604.19.3100, 1604.19.4000, 1604.19.4100, 1604.19.5000, 1604.19.5100, 1604.19.6100 and 1604.19.8100 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (''HTSUS'').[5] Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.[6]

[1] *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Initiation of Antidumping Duty New Shipper Reviews;* 2013–2014, 79 FR 18666 (April 3, 2014).

[2] *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, from Steven Hampton, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations, regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Reviews of Nam Phuong Seafood Co., Ltd. and NTACO Corporation, dated August 20, 2014.

[3] *See* Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations regarding Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Full Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Reviews of Nam Phuong Seafood Co., Ltd. and NTACO Corporation, dated October 29, 2014.

[4] *Id.*

[5] Until July 1, 2004, these products were classifiable under HTSUS 0304.20.6030 (Frozen Catfish Fillets), 0304.20.6096 (Frozen Fish Fillets, NESOI), 0304.20.6043 (Frozen Freshwater Fish Fillets) and 0304.20.6057 (Frozen Sole Fillets). Until February 1, 2007, these products were classifiable under HTSUS 0304.20.6033 (Frozen Fish Fillets of the species *Pangasius,* including basa and tra). On March 2, 2011, the Department added two HTSUS numbers at the request of U.S. Customs and Border Protection (''CBP''): 1604.19.2000 and 1604 19.3000. On January 30, 2012, the Department added eight HTSUS numbers at the request of CBP: 0304.62.0020, 0305.59.0000, 1604.19.2100, 1604.19.3100, 1604.19.4100, 1604.19.5100, 1604.19.6100 and 1604.19.8100.

[6] *See* ''Decision Memorandum for Preliminary Results of Antidumping Duty New Shipper Reviews: Certain Frozen Fish Fillets From the Socialist's Republic of Vietnam'' from Gary

Methodology

The Department is conducting these reviews 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 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 (''ACCESS'').[7] ACCESS is available to registered users at *http://access.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://www.trade.gov/enforcement/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Bona Fides Analysis

As discussed in the *bona fides* memos, the Department preliminarily finds that the sales by Nam Phuong and NTACO are not *bona fide,* and that these sales do not provide a reasonable or reliable basis for calculating dumping margins.[8] With respect to Nam Phuong, the Department reached this conclusion based on the totality of circumstances, namely: (a) The atypical nature of Nam Phuong's price; (b) the atypical involvement of other entities in the sale; (c) atypical circumstances surrounding production; and (d) late payment. With respect to NTACO, the Department reached this conclusion based on the totality of circumstances, namely: (a) The atypical nature of NTACO's price; (b) the atypical involvement of another entity in the sale; (c) atypical circumstances surrounding production; and (d) late payment. Because these non-*bona fide* sales were the only sales of subject merchandise that Nam Phuong and NTACO made during the POR, the Department is preliminarily rescinding these new shipper reviews.

Disclosure and Public Comments

The Department will disclose analysis performed to parties to the proceeding within five days after the date of publication of this notice.[9]

Interested parties are invited to comment on the preliminary results of these reviews. Interested parties may submit case briefs no later than 30 days after the date of publication of the preliminary results.[10] Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than five days after the time limit for filing the case briefs.[11]

Any interested party may request a hearing within 30 days of publication of the preliminary results in the **Federal Register**.[12] 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.[13]

The Department intends to issue the final results of these new shipper reviews, 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 these new shipper reviews, Nam Phuong's and NTACO's entries will be assessed at the rate entered.[14] If we do not proceed to a final rescission of these new shipper reviews, pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) assessment rates on a per unit basis.[15] We will instruct CBP to assess antidumping duties on all appropriate entries covered by these reviews if any importer-specific assessment rate calculated in the final results of these reviews is above *de minimis.*[16]

In either case, the Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results in the **Federal Register**. The final results of these reviews shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of these new shipper reviews, 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 Nam Phuong and NTACO. If the Department proceeds to a final rescission of these new shipper reviews, the cash deposit rate will continue to be the per-unit Vietnam-wide rate for Nam Phuong and NTACO because the Department will not have determined an individual margin of dumping for Nam Phuong and NTACO. If the Department issues final results for these new shipper reviews, 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

Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated January 20, 2015 (''Preliminary Decision Memorandum''), which is hereby adopted by this notice, for a complete description of the Scope of the Order.

[7] On November 24, 2014, Enforcement and Compliance changed the name of its centralized electronic service system to ACCESS. The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the centralized electronic service system to ACCESS in the Department's regulations can be found at 79 FR 69046 (November 20, 2014).

[8] *See* Memorandum to James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, From Matthew Renkey, Senior International Trade Compliance Analyst, Office V, titled ''New Shipper Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: *Bona Fide* Nature of Nam Phuong Seafood Co., Ltd.'s Sale,'' dated concurrently and hereby adopted by this notice; Memorandum to James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations, through Scot T. Fullerton, Program Manager, Office V, Antidumping and Countervailing Duty Operations, from Steven Hampton, International Trade Compliance Analyst, Office V, titled ''New Shipper Review of Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: *Bona Fide* Nature of NTACO Corporation's Sale,'' dated concurrently and hereby adopted by this notice.

[9] *See* 19 CFR 351.224(b).

[10] *See* 19 CFR 351.309(c)(1)(ii). Parties submitting written comments must submit them pursuant to the Department's e-filing regulations. *See http://enforcement.trade.gov/download/access/home.html.*

[11] *See* 19 CFR 351.309(d)(1)–(2).

[12] *See* 19 CFR 351.310(c).

[13] *See* 19 CFR 351.310(d).

[14] *See* 19 CFR 351.212(c).

[15] In the third administrative review, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission,* 73 FR 15479 (March 24, 2008).

[16] *See* 19 CFR 351.106(c)(2).

responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the 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: January 20, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. *Bona Fides* Analysis
5. Conclusion

[FR Doc. 2015–01599 Filed 1–27–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD738

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of final determination and discussion of underlying biological analysis.

SUMMARY: NMFS has evaluated the joint resource management plan (RMP), represented by five Hatchery and Genetic Management Plans (HGMPs), submitted by the Lower Elwha Klallam Tribe and the Washington Department of Fish and Wildlife to NMFS pursuant to the limitation on take prohibitions for actions conducted under Limit 6 of the 4(d) Rule for salmon and steelhead promulgated under the Endangered Species Act (ESA). The plans specify the propagation of five species of salmon and steelhead in the Elwha River of Washington state. This document serves to notify the public that NMFS, by delegated authority from the Secretary of Commerce, has determined pursuant to Limit 6 of the ESA 4(d) Rule for salmon and steelhead that implementing and enforcing the RMP will not appreciably reduce the likelihood of survival and recovery of ESA-listed Puget Sound Chinook salmon and Puget Sound steelhead.

DATES: The final determination on the plans was made on January 9, 2015.

ADDRESSES: Written responses to the determination should be sent to Sustainable Fisheries Division, 1201 NE., Lloyd Boulevard, Suite 1100, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Tim Tynan at (360) 753–9579 or email: *tim.tynan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notice

Chinook salmon (*Oncorhynchus tshawytscha*): threatened, Puget Sound, naturally produced and artificially propagated.

Steelhead (*O. mykiss*): threatened, Puget Sound, naturally produced and artificially propagated.

Background

The plans describe hatchery operations intended to protect five species of salmon and steelhead (two of them ESA-listed) during the removal of two dams on the Elwha River, and subsequent propagation intended to enhance the rebuilding of those salmonid species. Four of the plans are submitted by the Lower Elwha Klallam Tribe, and one by the Washington Department of Fish and Wildlife (WDFW); the plans were developed jointly by the Tribe and the WDFW. NMFS has determined that implementing and enforcing the RMP will not appreciably reduce the likelihood of survival and recovery of ESA-listed Puget Sound Chinook salmon or Puget Sound steelhead.

As required by § 223.203(b)(6) of the ESA 4(d) Rule, NMFS must determine pursuant to 50 CFR 223.209 and pursuant to the government-to-government processes therein whether the RMP for Elwha River basin hatcheries would appreciably reduce the likelihood of survival and recovery of the Puget Sound Chinook Salmon ESU or Puget Sound Steelhead DPS. NMFS must take comments on how the RMP addresses the criteria in § 223.203(b)(5) in making that determination.

Discussion of the Biological Analysis Underlying the Determination

The proposed hatchery activities described in the RMP are intended to conserve salmon and steelhead populations in the Elwha River basin during operations to remove two dams on the Elwha River, and for a period of time after the dams have been removed, as the salmonid habitat is restored. The RMP provides the framework through which the Lower Elwha Klallam Tribe and the State of Washington can jointly manage Elwha River salmon and steelhead hatchery, monitoring, and evaluation activities while meeting requirements specified under the ESA. The proposed action covers continued operation of the five hatchery programs over the initial phases of fish restoration in the Elwha River—the preservation and recolonization phases—with transitions between phases gauged by achievement of population viability parameters for listed Chinook salmon and steelhead. Using native Elwha River fish as broodstock, the programs would continue to be operated to minimize any impacts on genetic integrity of the natural salmon and steelhead populations while providing the intended benefits. The benefits include preserving and assisting in the recolonization of the indigenous populations of Elwha River salmon and steelhead in the wake of dam removal when natural productivity conditions will be poor. The hatchery programs would add marine-derived nutrients to the aquatic and terrestrial ecosystems above Glines Canyon Dam, which were inaccessible to salmon and steelhead from the early 1900s until completion of dam removal in 2014. The programs would increase total and natural-origin abundance and spatial structure of the Chinook salmon and steelhead populations as hatchery-origin fish of the same native lineage return to spawn naturally with fish produced naturally, and as new habitat becomes available. The hatchery programs would protect the Elwha River salmon and steelhead populations when turbidity and bedload movement levels are high and detrimental to natural-origin fish survival due to dam removal activities. The proposed plans are interrelated and interdependent through shared population preservation and recolonization objectives and effects, broodstock collection locations and actions, fish rearing and release sites, monitoring and evaluation actions, and funding sources.

The RMP includes provisions for annual reports that will assess compliance with performance standards established through the RMP. Reporting and inclusion of new information derived from RMP research, monitoring, and evaluation activities provides assurance that performance standards will be achieved in future seasons.

NMFS' evaluation is available on the Sustainable Fisheries Division Web site at *http://www.westcoast.fisheries.noaa.gov/.*

Summary of Comments Received in Response to the Proposed Evaluation and Pending Determination

NMFS published notice of its proposed evaluation and pending determination on the RMP for public review and comment on August 5, 2014 (79 FR 45426). The proposed evaluation and pending determination and an associated draft environmental assessment were available for public review and comment for 30 days.

NMFS received no comments in response to the notice. However, NMFS did receive comments from one environmental group pertaining to the proposed evaluation and pending determination on the RMP in response to a prior, separate notice published to announce availability for public review of NMFS's draft Supplemental Environmental Assessment for the RMP (79 FR 35318, June 20, 2014). NMFS considered these comments in completing the final Evaluation and Recommended Determination document, but no substantive changes were required to the RMP. A detailed summary of the comments and NMFS' responses is also available on the Sustainable Fisheries Division Web site. Based on its evaluation and recommended determination and taking into account the public comments, NMFS issued its final determination on the Elwha River basin salmon and steelhead hatchery RMP.

Authority

Under section 4 of the ESA, the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. The ESA salmon and steelhead 4(d) Rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The Rule further provides that the prohibitions of paragraph (a) of the Rule do not apply to actions undertaken in compliance with a RMP developed jointly by the State of Washington and the Tribe and determined by NMFS to be in accordance with the salmon and steelhead 4(d) Rule (65 FR 42422, July 10, 2000).

Dated: January 23, 2015.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–01567 Filed 1–27–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD696

Pacific Fishery Management Council; Public Meetings and Hearings

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

ACTION: Notice of opportunities to submit public comments.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) has announced its annual preseason management process for the 2015 ocean salmon fisheries. This notice informs the public of opportunities to provide comments on the 2015 ocean salmon management measures.

DATES: Written comments on the salmon management alternatives adopted by the Pacific Council at its March 2015 meeting, and described in Preseason Report II, submitted electronically or in hard copy by 11:59 p.m. Pacific Time, April 2, 2015, will be considered in the Pacific Council's final recommendation for the 2015 management measures.

ADDRESSES: Documents will be available from Ms. Dorothy Lowman, Chair, Pacific Fishery Management Council, 7700 NE., Ambassador Place, Suite 101, Portland, OR 97220–1384, telephone: 503–820–2280 (voice) or 503–820–2299 (fax), and posted on the Pacific Council Web site at *http://www.pcouncil.org.* You may submit comments, identified by NOAA–NMFS–2015–0001, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0001, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.*
- *Mail:* Ms. Dorothy Lowman, Chair, Pacific Fishery Management Council, 7700 NE. Ambassador Place, Suite 101, Portland, OR 97220–1384.
- *Fax:* 503–820–2299, Attn: Mr. Mike Burner.
- Comments can also be submitted via email at *PFMC.comments@noaa.gov.*

Instructions: Comments sent by any other method, to any other address or individual may not be considered by NMFS or the Pacific Council. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS and the Pacific Council will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Burner, telephone: 503–820–2280. For information on submitting comments via the Federal e-Rulemaking portal, contact Peggy Mundy, telephone: 206–526–4323.

SUPPLEMENTARY INFORMATION: The Pacific Council has published its annual notice of availability of reports; public meetings, and hearings for the 2015 ocean salmon fisheries (79 FR 78805, December 31, 2014). The Pacific Council will adopt alternatives for 2015 ocean salmon fisheries at its meeting, March 6–12, 2015, at the Hilton Hotel in Vancouver, WA. Details of this meeting are available on the Pacific Council's Web site (*www.pcouncil.org*) and will be published in the **Federal Register** in February 2015. On March 20, 2015, ''Preseason Report II-Proposed Alternatives and Environmental Assessment Part 2 for 2015 Ocean Salmon Fishery Regulations'' and public hearing schedule will be mailed to the public that have requested to receive these documents (see **ADDRESSES**) and posted on the Pacific Council Web site at *http://www.pcouncil.org.* The report will include a description of the salmon management alternatives and a summary of their biological and economic impacts.

Comments on the alternatives the Pacific Council adopts at its March 2015 meeting, and described in Preseason Report II, may be submitted in writing or electronically as described under **ADDRESSES**, or verbally or in writing at any of the public hearings held on March 30–31, 2015, or at the Pacific Council's meeting, April 10–16, 2015, at the DoubleTree by Hilton Sonoma in Rohnert Park, CA. Details of these meetings are available on the Pacific Council's Web site (*www.pcouncil.org*) and will be published in the **Federal**

Register. Written and electronically submitted comments must be received no later than 11:59 p.m. Pacific Time, April 2, 2015, in order to be included in the briefing book for the April Council meeting where they will be considered in the adoption of the Pacific Council's final recommendation for the 2015 salmon fishery management measures. All comments received accordingly will be reviewed and considered by the Pacific Council and NMFS.

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

Dated: January 23, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–01570 Filed 1–27–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the NOAA Science Advisory Board. The members will discuss and provide advice on issues outlined in the section on Matters to be considered.

TIME AND DATE: The meeting is scheduled for February 13, 2015 from 11 a.m. to 1 p.m. Eastern Standard Time.

ADDRESSES: Conference call. Public access is available at: NOAA, SSMC 3, Room 11836, 1315 East-West Highway, Silver Spring, MD. Members of the public will not be able to dial in to this meeting.

Status: The meeting will be open to public participation with a 5-minute public comment period from 12:50–12:55 p.m. Eastern Standard Time. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of one minute. Written comments should be received in the SAB Executive Director's Office by February 4 to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after February 4, will be distributed to the SAB, but may not be reviewed prior to the meeting date.

Special Accommodations: These meetings are physically accessible to people with disabilities. Requests for special accommodations may be directed no later than 12 p.m. on February 4, to Dr. Cynthia Decker, SAB Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION: The NOAA Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Matters To Be Considered: The meeting will include the following topics: (1) Review of the Cooperative Institute for Marine and Atmospheric Studies (CIMAS) and (2) SAB Strategy Subcommittee Presentation and Discussion. For the latest agenda, please visit the SAB Web site at *http://www.sab.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, Science Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov*)

Dated: January 22, 2015.

Jason Donaldson,

Chief Financial Officer and Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2015–01540 Filed 1–27–15; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Submission for OMB Review; Comment Request; Fastener Quality Act Insignia Recordal Process

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office, Commerce.

Title: Fastener Quality Act Insignia Recordal Process.

OMB Control Number: 0651–0028.

Form Number(s):

- PTO–1611.

Type of Request: Regular.

Number of Respondents: 82.

Average Hours per Response: 0.25.

Burden Hours: 20.5.

Cost Burden: $1,683.52.

Needs and Uses:

Under Section 5 of the Fastener Quality Act of 1999 (FQA), 15 U.S.C. 5401 *et seq.,* certain industrial fasteners must bear an insignia identifying the manufacturer. It is also mandatory for manufacturers of fasteners covered by the FQA to submit an application to the United Stated Patent and Trademark Office (USPTO) for recordal of the insignia on the Fastener Insignia Register.

The procedures for the recordal of fastener insignia under the FQA are set forth in 15 CFR 280.300 *et seq.* The purpose of requiring both the insignia and the recordation is to ensure that certain fasteners can be traced to their manufacturers and to protect against the sale of mismarked, misrepresented, or counterfeit fasteners.

The insignia may be either a unique alphanumeric designation that the USPTO will issue upon request or a trademark that is registered at the USPTO or is the subject of an application to obtain a registration. After a manufacturer submits a complete application for recordal, the USPTO issues a Certificate of Recordal. These certificates remain active for five years. Applications to renew the certificates must be filed within six months of the expiration date or, upon payment of an additional surcharge, within six months following the expiration date.

If a recorded alphanumeric designation is assigned by the manufacturer, the designation becomes ''inactive,'' and the new owner must submit an application to reactivate the designation within six months of the date of assignment. If the recordal is based on a trademark application or registration, and that registration is assigned, the recordal becomes ''inactive'' and cannot be reactivated. Instead, the new owner of the trademark application or registration must apply for a new recordal. Manufacturers who record insignia must notify the USPTO of any changes of address.

This information collection includes one form, the Application for Recordal

of Insignia or Renewal/Reactivation of Recordal Under the Fastener Quality Act (PTO–1611), which provides manufacturers with a convenient way to submit a request for the recordal of a fastener insignia or to renew or reactivate an existing Certificate of Recordal. Use of Form PTO–1611 is not mandatory, and applicants may instead prepare requests for recordal using their own format.

The public uses this information collection to comply with the insignia recordal provisions of the FQA. The USPTO uses the information in this collection to record or renew insignias under the FQA and to maintain the Fastener Insignia Register, which is open to public inspection. The public may download the Fastener Insignia Register from the USPTO Web site.

Affected Public: Businesses or other for-profits.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments may be submitted by any of the following methods:

- *Email: InformationCollection@uspto.gov.* Include ''0651–0028 Fastener Quality Act Insignia Recordal Process'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

Dated: January 21, 2015.

Marcie Lovett,

Records Management Division Director, USPTO, Office of the Chief Information Officer.

[FR Doc. 2015–01394 Filed 1–27–15; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0069, Information Management Requirements for Derivatives Clearing Organizations

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 (''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. This notice solicits comments on reporting and recordkeeping requirements relating to information management requirements for derivatives clearing organizations.

DATES: Comments must be submitted on or before March 30, 2015.

ADDRESSES: You may submit comments, identified by ''Information Management Requirements for Derivatives Clearing Organizations,'' 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.* Follow the instructions for submitting comments through the Portal.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Eileen Chotiner, Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; (202) 418–5467; email: *echotiner@cftc.gov,* and refer to OMB Control No. 3038–0069.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the collection of information listed below.

Title: Information Management Requirements for Derivatives Clearing Organizations (OMB Control No. 3038–0069). This is a request for extension of a currently approved information collection.

Abstract: Part 39 of the Commission's regulations establishes information management requirements for derivatives clearing organizations (''DCOs''), which are required to be registered with the Commission. The Commission will use the information in this collection to assess compliance of DCOs with requirements for DCOs prescribed in the Commodity Exchange Act and Commission regulations.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

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

[1] 17 CFR 145.9.

publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request 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.

Burden Statement: The respondent burden for this collection is estimated to be 11 hours per response.

Respondents/Affected Entities: Derivatives clearing organizations.

Estimated number of respondents: 14.

Estimated total annual burden on respondents: 38,546.

Frequency of collection: Daily, annual, and on occasion.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: January 23, 2015.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2015–01563 Filed 1–27–15; 8:45 am]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled Alumni Outcomes Survey for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Diana Epstein at 202–606–7564 or email to *depstein@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8 a.m. and 8 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, Desk Officer for the Corporation for National and Community Service, by any of the following methods within 30 days from the date of publication in the **Federal Register**:

(1) By fax to: 202–395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) By email to: *smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on November 10, 2014. This comment period ended January 9, 2015. No public comments were received from this Notice.

Description: Information will be collected from AmeriCorps alumni through an online survey that will be administered by a contractor on behalf of CNCS. The purpose of the survey is to support CNCS in documenting the long-term civic participation and career pathways of AmeriCorps alumni and to help the agency determine whether or not national service members continue to be civically engaged or choose service-oriented careers. In addition, the agency is interested in exploring whether or not AmeriCorps members are as, or more, likely than those who participate in other types of service to maintain a sense of civic duty and pursue service-oriented careers. This is a new information collection request. Information will be collected from a nationally representative sample of AmeriCorps alumni who served in AmeriCorps NCCC, AmeriCorps VISTA, and AmeriCorps State and National programs and completed their most recent term of service 2, 5, or 10 years ago.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Alumni Outcomes Survey.

OMB Number: TBD.

Agency Number: None.

Affected Public: AmeriCorps alumni.

Total Respondents: 3,465.

Frequency: One time.

Average Time per Response: Averages 20 minutes.

Estimated Total Burden Hours: 1,155.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: January 22, 2015.

Stephen Plank,

Director, Office of Research and Evaluation.

[FR Doc. 2015–01617 Filed 1–27–15; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0005]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces a proposed public information collection and seeks public comment on the provisions thereof. 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 of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 30, 2015.

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

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal**

Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information. Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness), Department of Defense Education Activity (DoDEA), ATTN: Dr. Sandra Embler, Alexandria, VA 22305, or call DoDEA Research and Evaluation Branch at 571–372–6006.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Department of Defense Education Activity (DoDEA) Non-Sponsored Research Program—Research Study Request form; DoDEA Form 2071.3–F1; OMB Control Number: 0704–0457.

Needs and Uses: The DoDEA receives requests from researchers to conduct non-DoDEA sponsored research studies in DoDEA schools, districts, and/or areas. To review the proposed research requests, DoDEA is seeking renewal for the DoDEA Administrative Instruction 2071.3 (DoDEA AI 2071.3) that includes Form 1, ''Research Study Request.'' The DoDEA ''Research Study Request'' collects information about the researcher, the research project, audience, timeline, and the statistical analyses that will be conducted during the proposed research study. This information is needed to ensure that the proposed non-DoDEA sponsored research does not unduly interfere with the classroom instructional process or the regular operations of the school, district, and/or areas.

Affected Public: Individuals or households.

Annual Burden Hours: 50 hours.

Number of Respondents: 50.

Responses per Respondent: 1.

Total Annual Responses: 50.

Average Burden per Response: 1 hour.

Frequency: On Occasion.

The DoDEA Administrative Instruction 2071.3 (DoDEA AI 2071.3) follows the DoD Directive 3216.2, ''Protection of Human Subjects and Adherence to Ethical Standards in DoD-Supported Research,'' March 25, 2002, which states that ''The rights and welfare of human subjects in research supported or conducted by the DoD Components shall be protected. This protection encompasses basic respect for persons, beneficence, and justice in the selection of subjects.'' To ensure that all non-DoDEA sponsored research conducted in the DoDEA school system aligns with these directives, DoDEA created the DoDEA AI 2071.3-Form 1, ''Research Study Request'' that collects information that is necessary to review the proposed research study. The ''Research Study Request'' is required from individuals or organizations who wish to conduct research that involve DoDEA school personnel, school facilities, sponsors, students, and/or data. This documentation is required to show that the research meets all the requirements for human subjects protection, has scientific merit, and does not unduly interfere with the classroom instructional process or the regular operations of the school, district, and/or areas. Information collected on the DoDEA AI 2071.3-Form 1 includes the researchers name, address, telephone number, email address, FAX number (if available), school affiliation (if applicable), the study title, and the study methodology, including the hypotheses to be tested, the proposed population, and the statistical methodologies that will be employed.

Dated: January 23, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–01579 Filed 1–27–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Publication of Housing Price Inflation Adjustment

AGENCY: Office of the Under Secretary (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: The Servicemembers Civil Relief Act prohibits a landlord from evicting a Service member (or the Service member's family) from a residence during a period of military service except by court order. The law as originally passed by Congress applied to dwellings with monthly rents of $2,400 or less. The law requires the Department of Defense to adjust this amount annually to reflect inflation and to publish the new amount in the **Federal Register**.

DATES: *Effective Date:* January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Lt Col Ryan Oakley, Office of the Under Secretary of Defense for Personnel and Readiness, (703) 571–9301.

SUPPLEMENTARY INFORMATION: We have applied the inflation index required by the statute. The maximum monthly rental amount for 50 U.S.C. App. section 531 (a)(1)(A)(ii) as of January 1, 2015, will be $3,329.84.

Dated: January 23, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–01568 Filed 1–27–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0150]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; National Blue Ribbon Schools Program

AGENCY: Department of Education (ED), Office of Communication and Outreach (OCO).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before February 27, 2015.

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–0150 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education,

400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Aba Kumi, 202–401–1767.

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: National Blue Ribbon Schools Program.

OMB Control Number: 1860–0506.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, Tribal Governments.

Total Estimated Number of Annual Responses: 413.

Total Estimated Number of Annual Burden Hours: 16,520.

Abstract: The National Blue Ribbon Schools Program honors public and private elementary, middle and high schools where students achieve at high levels or where the achievement gap is narrowing among all student subgroups. Each year since 1982, the U.S. Department of Education (ED) has sought out schools where students attain and maintain high academic goals, including those that beat the odds. The Program, part of a larger ED effort to identify and disseminate knowledge about best school leadership and teaching practices, is authorized by Public Law 107–110 (January 8, 2002), Part D—Fund for the Improvement of Education, Subpart 1, Sec. 5411(b)(5).

Dated: January 23, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–01550 Filed 1–27–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2015–ICCD–0008]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Program for International Student Assessment 2015 (PISA: 2015) Main Study

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before February 27, 2015.

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–2015–ICCD–0008 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–502–7411.

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: Program for International Student Assessment 2015 (PISA: 2015) Main Study.

OMB Control Number: 1850–0755.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Responses: 20,445.

Total Estimated Number of Annual Burden Hours: 10,671.

Abstract: The Program for International Student Assessment (PISA) is an international assessment of 15-year-olds' knowledge, skills, and competencies primarily in three subject areas: science, reading, and mathematics literacy. PISA was first administered in 2000 and is conducted every three years. The sixth cycle of PISA, in 2015, will be administered in approximately 70 countries and jurisdictions. The United States has participated in all of the previous cycles and will participate in 2015 in order to track trends and to compare the performance of U.S. students with that in other education systems. As in 2006, in PISA 2015, science will be the major subject domain. PISA 2015 will also include computer-based assessments in reading, mathematics, collaborative problem

solving, and financial literacy. In addition to these assessments, PISA 2015 will include questionnaires administered to the assessed students, as well as teachers and principals in their schools. This request is to conduct PISA main study data collection in the United States from October to November 2015.

Dated: January 22, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2015–01487 Filed 1–27–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, February 18, 2015; 6 p.m.

ADDRESSES: Beatty Community Center, 100 A Avenue South, Beatty, Nevada 89003.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 505, North Las Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–5300 or Email: *NSSAB@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Recommendation Development for Assessment of the Underground Test Area Quality Assurance Plan Implementation—Work Plan Item #8
2. Model Evaluation Completion and Moving to Closure in Frenchman Flat Briefing

Public Participation: The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following Web site: *http://nv.energy.gov/nssab/MeetingMinutes.aspx*

Issued at Washington, DC on January 22, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–01558 Filed 1–27–15; 8:45 am]

BILLING CODE 6450–01–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: EC15–61–000.
Applicants: Malaga Power, LLC.
Description: Application for Authorization for Consolidation of Jurisdictional Facilities and Acquisition of an Existing Generation Facility and Request for Expedited Action of Malaga Power, LLC.
Filed Date: 1/21/15.
Accession Number: 20150121–5142.
Comments Due: 5 p.m. ET 2/11/15.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG15–43–000.
Applicants: Recurrent Energy, LLC.
Description: Self-Certification of RE Roserock LLC of Exempt Wholesale Generator Status.
Filed Date: 1/21/15.
Accession Number: 20150121–5084.
Comments Due: 5 p.m. ET 2/11/15.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1342–003; ER10–1344–002; ER11–3051–002.
Applicants: CP Energy Marketing (US) Inc., CPI USA North Carolina LLC, Macho Springs Power I, LLC.
Description: Notice of Change in Status of the Capital Power Corporation Entities.
Filed Date: 1/20/15.
Accession Number: 20150120–5602.
Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER10–1577–002.
Applicants: Dogwood Energy LLC.
Description: Notice of Change in Status of Dogwood Energy LLC.
Filed Date: 1/20/15.
Accession Number: 20150120–5626.
Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER10–2984–019.
Applicants: Merrill Lynch Commodities, Inc.
Description: Notice of Change in Status of Merrill Lynch Commodities, Inc.
Filed Date: 1/20/15.
Accession Number: 20150120–5651.
Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER10–3300–008.
Applicants: La Paloma Generating Company, LLC.
Description: Notice of Change in Status of La Paloma Generating Company, LLC.
Filed Date: 1/20/15.
Accession Number: 20150120–5650.
Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER12–1179–021.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing per 35: Integrated Marketplace Compliance Filing in Docket No. ER12–1179–020 to be effective 3/1/2014.
Filed Date: 1/20/15.
Accession Number: 20150120–5543.
Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER12–1901–001.
Applicants: GenOn Power Midwest, LP.
Description: eTariff filing per 35.19a(b): Refund Report—Informational Filing to be effective N/A.
Filed Date: 1/21/15.
Accession Number: 20150121–5125.
Comments Due: 5 p.m. ET 2/11/15.

Docket Numbers: ER13–1487–005; ER13–1489–006; ER13–1488–004.
Applicants: Quantum Auburndale Power, LP.
Description: Notice of Non-Material Change in Status of the Quantum Entities.
Filed Date: 1/20/15.
Accession Number: 20150120–5633.
Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER15–63–000.
Applicants: PJM Interconnection, L.L.C., American Transmission Systems,

Incorporated, Pennsylvania Electric Company, The Potomac Edison Company.

Description: eTariff filing per 35.19a(b): ATSI, et al. submits Refund Report Under Docket No. ER15–63–000 to be effective N/A.

Filed Date: 1/20/15.

Accession Number: 20150120–5507.

Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER15–502–001.

Applicants: Bayou Cove Peaking Power, LLC.

Description: Tariff Amendment per 35.17(b): Revised Cost Support to be effective 2/1/2015.

Filed Date: 1/21/15.

Accession Number: 20150121–5165.

Comments Due: 5 p.m. ET 2/11/15.

Docket Numbers: ER15–877–000.

Applicants: Entergy Nuclear Vermont Yankee, LLC.

Description: Errata to January 20, 2015 Entergy Nuclear Vermont Yankee, LLC tariff filing.

Filed Date: 1/20/15

Accession Number: 20150120–5632.

Comments Due: 5 p.m. ET 2/10/15.

Docket Numbers: ER15–884–000.

Applicants: Midcontinent Independent System Operator, Inc., ITC Midwest LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–01–21_SA 2728 MidAmerican-ITC Midwest FSA (H021) to be effective 1/31/2015.

Filed Date: 1/21/15.

Accession Number: 20150121–5082.

Comments Due: 5 p.m. ET 2/11/15.

Docket Numbers: ER15–885–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–1–21_NSP–AIM–GIA & Dist Wheeling Filing to be effective 12/1/2014.

Filed Date: 1/21/15.

Accession Number: 20150121–5128.

Comments Due: 5 p.m. ET 2/11/15.

Docket Numbers: ER15–886–000.

Applicants: PJM Interconnection, L.L.C., American Electric Power Service Corporation.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): AEP submits 11th Revised Service Agreement No. 1262 to be effective 1/1/2015.

Filed Date: 1/21/15.

Accession Number: 20150121–5166.

Comments Due: 5 p.m. ET 2/11/15.

Docket Numbers: ER15–887–000.

Applicants: PJM Interconnection, L.L.C., American Electric Power Service Corporation.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): AEP submits 45th Revised Service Agreement No. 1336 to be effective 1/1/2015.

Filed Date: 1/21/15.

Accession Number: 20150121–5172.

Comments Due: 5 p.m. ET 2/11/15.

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 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: January 21, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–01443 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–95–281]

San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange; Notice of Compliance Filing

Take notice that on January 16, 2015, Shell Energy North America (US), L.P. submitted a compliance filing pursuant to the Commission's Opinion No. 536.[1]

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 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 February 6, 2015.

Dated: January 20, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01493 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2618–020–ME; 2660–024–ME]

Woodland Pulp LLC; Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the applications for new licenses for the West Branch Project (FERC Project No. 2618) and the Forest City Project (FERC Project No. 2660). The West Branch Project is located on the West Branch of the St. Croix River in Penobscot, Washington, and Hancock Counties, Maine. The Forest City Project is located on the East Branch of the St. Croix River in Washington and Aroostook Counties, Maine.

Staff prepared a multi-project final environmental assessment (EA), which

[1] *San Diego Gas & Elec. Co.* v. *Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange.,* 149 FERC ¶ 61,116 (2014) (Opinion No. 536).

analyzes the potential environmental effects of licensing the projects, and concludes that licensing the projects, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the final EA is on file with the Commission and is available for public inspection. The final EA 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, to access documents. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. 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 these or other pending projects. For assistance, contact FERC Online Support.

For further information, contact Amy Chang at (202) 502–8250 or *amy.chang@ferc.gov*.

Dated: January 20, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01496 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–26–000]

Kaiser-Frontier Midstream, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Silo Pipeline Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Silo Pipeline Project involving construction and operation of facilities by Kaiser-Frontier Midstream, LLC (Kaiser-Frontier) in Laramie County, Wyoming, and Weld County, Colorado. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on February 20, 2015.

You may submit comments in written form. Further details on how to submit written comments are in the Public Participation section of this notice. If you sent comments on this project to the Commission before the opening of this docket on December 5, 2014, you will need to file those comments in Docket No. CP15–26–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Kaiser-Frontier provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Summary of the Proposed Project

Kaiser-Frontier plans to construct, own, and operate 21.3 miles of new natural gas pipeline (Silo Pipeline Project), to connect the Silo Processing Plant in Laramie County, Wyoming, to the Wyoming Interstate Company (WIC) interstate pipeline at the Cheyenne Hub in Weld County, Colorado.

The Silo Pipeline Project would consist of the following facilities:

- 6.8 miles of 6-inch-diameter pipeline (Northern Segment);
- 14.5 miles of 8-inch-diameter pipeline (Southern Segment);
- a 6-inch-diameter pig launcher;
- a 8-inch-diameter pig launcher;
- a 8-inch-diameter pig receiver; and
- three mainline valves.

Additionally, Kaiser-Frontier is requesting a blanket certificate pursuant to part 157, subpart F of the Commission's regulations to engage in certain routine construction, operation, and maintenance activities, and is requesting Commission certification to convert 9.9 miles of existing 6-inch-diameter intrastate pipeline facilities, known as the Middle Segment for continued operation as interstate facilities.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 227.2 acres of land for the pipeline and aboveground facilities including 41.3 acres of additional temporary workspace to be used during construction. Following construction, Kaiser-Frontier would maintain about 123.7 acres for permanent operation of the project's facilities; the remaining 103.5 acres would be restored and allowed revert to former uses.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues and will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office(s) (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO(s) as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before February 20, 2015.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP15–26–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.*, CP15–26). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at title 40, Code of Federal Regulations, part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at title 36, Code of Federal Regulations, part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: January 21, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01454 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14628–000]

Minneapolis Leased Housing Associates IV, Limited Partnership; Notice of Draft License Application and Draft Preliminary Draft Environmental Assessment and Request for Preliminary Terms and Conditions

Take notice that the following Draft License Application (DLA) and draft Preliminary Draft Environmental Assessment (PDEA) have been filed with the Commission and are available for public inspection.

a. *Type of Application:* Original Minor.

b. *Project No.:* 14628–000.

c. *Date Filed:* January 8, 2015.

d. *Applicant:* Minnesota Leased Housing Associates IV, Limited Partnership (Minnesota Housing Associates).

e. *Name of Project:* A-Mill Artists Loft Hydroelectric Project.

f. *Location:* On the Mississippi River, in the city of Minneapolis, Hennepin County, Minnesota. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Owen Metz, 2905 Northwest Blvd., Suite 150, Plymouth, MN 55441; (763) 354–5618; email *ometz@dominiuminc.com.*

i. *FERC Contact:* Janet Hutzel at (202) 502–8675; or email at *janet.hutzel@ferc.gov.*

j. *Status of Project:* With this notice the Commission is soliciting (1) preliminary terms, conditions, and recommendations on the draft PDEA, and (2) comments on the DLA.

k. *Deadline for filing:* 30 days from the issuance of this notice.

All comments on the draft PDEA and DLA should be sent to the addresses noted above in Item (h), and filed with FERC.

The Commission strongly encourages electronic filing. Please file 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 P–1462–000.

All comments must bear the heading Preliminary Comments, Preliminary Recommendations, Preliminary Terms and Conditions, or Preliminary Prescriptions.

l. 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.

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.

Minnesota Housing Associates has mailed a copy of the Preliminary DEA and Draft License Application to interested entities and parties. Copies of these documents are available for review at *http://amillartistloftshydroproject.com* and the Minneapolis Central Library, 300 Nicollet Mall, Minneapolis, MN.

m. With this notice, we are initiating consultation with the Minnesota State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

Dated: January 21, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01455 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF15–1–000]

PennEast Pipeline Company, LLC; Notice of Extension of Comment Period and Clarification of Location of Public Scoping Meetings for the Penneast Pipeline Project

On January 13, 2015, the Federal Energy Regulatory Commission (FERC or Commission) issued a *Notice of Intent to Prepare an Environmental Impact Statement for the Planned PennEast Pipeline Project, Requests for Comments on Environmental Issues, and Notice of Public Scoping Meetings.* The notice solicited comments on the potential environmental impacts of the planned project and announced the time and location of five public scoping meetings being held for the environmental proceeding. The close of the public comment period in that notice is listed as February 12, 2015.

Due to a limited printing delay in the mailing of the notice, we are extending the comment period. Please note that the scoping period will now close on February 27, 2015.

In addition to extending the scoping period, the Commission staff has provided further clarification on its scoping meeting locations. The table below now lists the name of the building or hall at each meeting location. Please note that signage will be placed upon the entry of the meeting venues for your assistance.

Date and time	Location
January 27, 2015, 6:00 p.m. Eastern Time.	College of New Jersey, Kendall Hall, Performance Theater, 2000 Pennington Road, Ewing, NJ 08628.
January 28, 2015, 6:00 p.m. Eastern Time.	Bucks County Community College, Kevin and Sima Zlock Performing Arts Center, Gateway Auditorium, 275 Swamp Road, Newtown, PA 18940.
February 10, 2015, 6:00 p.m. Eastern Time.	Northampton Community College, Main Campus, Kopecek Hall, Lipkin Theater, 3835 Green Pond Rd, Bethlehem, PA 18020.
February 11, 2015, 6:00 p.m. Eastern Time.	Penn's Peak, Main Concert Hall, 325 Maury Road, Jim Thorpe, PA 18229.
February 12, 2015, 6:00 p.m. Eastern Time.	Best Western Hotel & Conference Center, Empress Ballroom, 77 E Market Street, Wilkes-Barre, PA.

Dated: January 21, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01475 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF15–2–000]

Venture Global Calcasieu Pass, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Planned Calcasieu Pass Project, and Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Calcasieu Pass Project involving construction and operation of LNG export facilities by Venture Global Calcasieu Pass, LLC (Venture Global) in Cameron Parish, Louisiana. The Commission will use this EIS in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EIS. Please note that the scoping period will close on February 19, 2015.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice. If you sent comments on this project to the Commission before the opening of this docket on October 10, 2014, you will need to file those comments in Docket No. PF15–2–000 to ensure they are considered as part of this proceeding. In lieu of or in addition to sending written comments, the Commission invites you to attend the public scoping meeting scheduled as follows: FERC Public Scoping Meeting, Calcasieu Pass Project, February 5, 2015/7–9 p.m. CST, Cameron Parish School Board Educational Conference Center, 510 Marshall Street, Cameron, LA 70631.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

The purpose of this scoping meeting is to provide the public an opportunity to learn more about the Commission's environmental review process, and to verbally comment on the project. The scoping meeting will start at 6:00 p.m. and representatives from Venture Global will be present one hour prior to the start of the meeting to answer questions about the project. Additionally, Venture Global has established an Internet Web site at *www.ventureglobalIng.com* that will be updated as the environmental review of its project proceeds.

Affected landowners and interested groups and individuals are encouraged to attend the scoping meetings and present comments on the issues they believe should be addressed in the EIS. A transcript of the meeting will be added to the Commission's administrative record to ensure that your comments are accurately recorded.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Project

Venture Global plans to construct and operate an LNG export facility in Cameron Parish, Louisiana adjacent to the Calcasieu Ship Channel. The facility would receive natural gas from North American sources and would liquefy and store it for export. When constructed, the project could process about 487.2 billion cubic feet per year (Bcf/yr) of natural gas.

The Calcasieu Pass project would consist of the following facilities:

- Ten (10) liquefaction blocks;
- two (2) LNG storage tanks, each with approximately 200,000 cubic meter (''m^3'') storage capacity;
- two (2) marine berthing docks, to accommodate LNG carriers ranging from 120,000 m^3 to 185,000 m^3 of carrying capacity;
- a temporary floating LNG storage vessel berthed at one of the LNG berthing docks, which would be discontinued after the first permanent LNG storage tank becomes operational;
- a turning basin on the Calcasieu Ship Channel;
- a utility dock;
- a gas-fired electric generation facility with generating capacity of approximately 600 megawatts (''MW'') that will be constructed to provide power for the project facilities;
- two natural gas pipelines to connect to existing transmission pipelines, a 23.8-mile-long, 42-inch-diameter pipeline and a 42-inch-diameter, 18.5-mile-long pipeline;
- a Gas Gate Station to receive gas from the two lateral pipelines and will include pig [1] receivers, filter/separators, custody transfer meters, pressure regulators, emergency shutdown valves, and gas analyzers;
- various buildings, including administration, control rooms, electrical equipment, workshop, and warehouse buildings and structures;
- connection to the existing municipal water supply for construction and potable water requirements, and the potential drilling of groundwater wells to allow for water-cooling of the power plant;
- facilities associated with the project site's communication system; and
- facilities associated with plant safety and security.

The general location of the project facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Construction of the planned facilities would disturb about 914.1 acres of land for the aboveground facilities and the pipeline. Following construction, Venture Global would maintain about 347.6 acres for permanent operation of the project's facilities and pipeline.

The Terminal facilities will occupy an approximately 203.6-acre property

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[1] A ''pig'' is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

[2] The appendices referenced in this notice will not appear in the **Federal Register.** Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

adjacent to the Calcasieu Ship Channel. Of the 203.6 acres, 86.8 acres will support permanent operational facilities and 116.8 acres will be used for temporary workspace. Of the 86.8 acres supporting permanent operational facilities, 8.6 acres will be converted to open water through excavation and dredging to create the LNG berthing area.

Collectively, the approximately 42.3-mile long pipelines would require 665.7 acres of construction workspace (of which 415.78 acres will be temporary workspace and 250.0 acres will remain as the permanent operational right-of-way).

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EIS. We will consider all filed comments during the preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- land use;
- socioeconomics;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- reliability and safety; and
- cumulative impacts.

We will also evaluate possible alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

The EIS will present our independent analysis of the issues. We will publish and distribute the draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section on the following page.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the EIS.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Louisiana State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the planned facilities and the environmental information provided by Venture Global. This preliminary list of issues may change based on your comments and our analysis:

- Protected species;
- cultural resources;
- water resources;
- Coastal Zone Management Act;
- fisheries;
- site alternatives;
- ship traffic;
- public safety; and
- cumulative impacts.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before February 19, 2015.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (PF15–2–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.''* You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the

[3] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[5] The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

Copies of the completed draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

Once Venture Global files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* PF15–2). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: January 20, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01497 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–632–000]

CID Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of CID Solar, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is February 9, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 20, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01494 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–876–000]

Malaga Power, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Malaga Power, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal

Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is February 9, 2015.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 20, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01495 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR15–10–000]

Medallion Pipeline Company, LLC; Notice of Petiton for Declaratory Order

Take notice that on January 14, 2015, pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(2)(2014), Medallion Pipeline Company, LLC (Medallion) filed a petition for declaratory order confirming certain procedures and provisions as consistent with Commission precedent, as more fully explained in its petition. The petition also discusses two proposed expansions of Medallion's existing Wolfcamp Connector crude oil pipeline system, further explaining that the expansion projects would extend both the geographic reach of the current Wolfcamp Connector system and substantially expand its capacity.

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 Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern time on February 6, 2014.

Dated: January 21, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01452 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link.

Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866)208–3676, or for TTY, contact (202)502–8659.

Exempt:

Docket No.	File date	Presenter or requester
1. CP13–483–000, CP13–492–000	1–7–12	FERC Staff.[1]
2. CP13–483–000, CP13–492–000	1–13–12	United States Congress.
3. CP15–17–000	1–14–15	Hon. Bill Nelson.
4. CP14–497–000	1–15–15	Hon. Richard Hanna.

Dated: January 20, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01498 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12486–008—Idaho]

Twin Lakes Canal Company; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.2010, provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding. The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Idaho State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to the Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (16 U.S.C. 470 f), to prepare and execute a Programmatic Agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places for the proposed Bear River Narrows Hydroelectric Project (Project No. 12486).

The Programmatic Agreement, when executed by the Commission, Council, and the SHPO would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to section 106 for the proposed Bear River Narrows Hydroelectric Project would be fulfilled through the Programmatic Agreement, which the Commission proposes to draft in consultation with certain parties listed below.

Twin Lakes Canal Company, as licensee for the proposed Bear River Narrows Hydroelectric Project, is invited to participate in consultations to develop the Programmatic Agreement and to sign as a concurring party to the Programmatic Agreement. For purposes of commenting on the Programmatic Agreement, we propose to restrict the service list for the aforementioned project as follows:

John Eddins, or Representative, Office of Planning and Review, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW, Suite 809, Washington, DC 20004.

Jason Walker, or Representative, Brigham Tribal Office, Northwestern Band of the Shoshoni Nation, 707 N. Main Street, Brigham City, UT 84302.

Tim Murphy, or Representative, USDI Bureau of Land Management, Idaho State Office, 1387 South Vinnell Way, Boise, ID 83709.

Nathan Small, or Representative, Shoshone-Bannock Tribes, Fort Hall Reservation, P.O. Box 306, Fort Hall, ID 83203.

Sam Whittington, or Representative, Denver Service Center, National Park Service, 12795 Alameda Parkway, Lakewood, CO 80225.

Lindsey Manning, or Representative, Shoshone-Paiute Tribes, Duck Valley Reservation, P.O. Box 219, Owyhee, NV 89832.

R. Dirk Bowles, or Representative, District # 3, Franklin County Commissioner, 39 West Oneida, Preston, ID 83263.

Darwin Sinclair, Jr., or Representative, Shoshone Business Council, Wind River Reservation, P.O. Box 538, Fort Washakie, WY 82514.

Jody Williams, or Representative, Holland & Hart LLC, 222 South Main Street # 2200, Salt Lake City, UT 84111.

Ken Reid, or Representative, Idaho State Historical Society, 210 Main Street, Boise, ID 83702.

Mark Sturtevant, or Representative, PacifiCorp Energy, 825 NE Multnomah, Suite 1500, Portland, OR 97232.

Allie Hansen, or Representative, Bear River-Battle Creek Monument Assoc., 330 W. 2nd South, Preston, ID 83263.

Nick Josten, or Representative, 2742 Saint Charles Ave. , Idaho Falls, ID 83404.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included.

Any such motions may be filed within 15 days from the date of this notice. The Commission strongly encourages electronic filing. Please file 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* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659. 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 numbers P–12486–008.

If no such motions are filed, the restricted service list will be effective at the end of the 15-day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15-day period.

[1] Phone record.

Dated: January 21, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–01453 Filed 1–27–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0061; FRL—9922–05–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (40 CFR part 63, subpart MM) (Renewal)'' (EPA ICR No. 1805.07, OMB Control No. 2060–0377) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through January 31, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before February 27, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0061, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Respondents are owners or operators of kraft, soda, sulfite, and stand-alone semichemical pulp mills and must submit notification and reports and maintain records required by the general provisions (40 CFR part 63, subpart A). Recordkeeping of parameters related to process and air pollution control technology is required. The reports and records will be used to demonstrate compliance with the applicable emission limits and/or standards.

Form Numbers: None.

Respondents/affected entities: Owners and operators of kraft, soda, sulfite, and stand-alone semichemical pulp mills.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart MM).

Estimated number of respondents: 111 (total).

Frequency of response: Initially, occasionally, quarterly, and semiannually.

Total estimated burden: 126,207 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $13,067,970 (per year), includes $712,000 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no change in the total estimated respondent burden compared with the ICR currently approved by OMB.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–01458 Filed 1–27–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0035; FRL—9920–24–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Sulfuric Acid Plants (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for Sulfuric Acid Plants (40 CFR part 60, subpart H) (Renewal)'' (EPA ICR No. 1057.13, OMB Control No. 2060–0041), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et se*). This is a proposed extension of the ICR, which is currently approved through January 31, 2015. Public comments were previously requested via the **Federal Register** (79 FR 30117) on May 27, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before February 27, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0035, to (1) EPA online using *www.regulations.gov* (our preferred method), or by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless

the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: *yellin.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: Respondents are owners or operators of sulfuric acid plants. A sulfuric acid plant is any facility producing sulfuric acid (H_2SO_4) by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans, or acid sludge. A sulfuric acid plant does not include facilities where conversion to sulfuric acid is used primarily as a means of preventing emissions to the atmosphere of sulfur dioxide (SO_2) or other sulfur compounds.

Form Numbers: None.

Respondents/affected entities: Owners or operators of sulfuric acid plants.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart H).

Estimated number of respondents: 53 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 13,409 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,551,276 (per year), which includes $238,500 in either annualized capital and/or operation & maintenance costs.

Changes in the Estimates: There is an increase of 4,815 hours in the total estimated respondent burden in this ICR as compared to the ICR currently approved by OMB. This is not due to any program changes; rather, it is due to the correction of a mathematical error.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–01457 Filed 1–27–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0805; FRL–9920–16]

EPA Proposal To Improve Corn Rootworm Resistance Management; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is making available for public comment a proposal to improve the corn rootworm insect resistance management program currently in place for registrations of plant-incorporated protectants (PIP) derived from *Bacillus thuringiensis* (Bt) in corn.

EPA is also soliciting input from all affected stakeholders including corn growers, industry, academia, and the general public.

DATES: Comments must be received on or before March 16, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2014–0805, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are a registrant or manufacturer of PIPs for control of corn rootworm, grow corn rootworm-protected corn PIPs for crop or animal production, serve as a corn agronomist, crop consultant or extension specialist, or conduct insect resistance management-related research. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

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

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the agency taking?

EPA is making available for public comment a proposal to improve the corn rootworm insect resistance management program currently in place for registrations of plant-incorporated protectants (PIP) derived from *Bacillus thuringiensis* (Bt) in corn. EPA's proposal contains measures designed to delay corn rootworms' development of

resistance to Bt microbial pesticides genetically engineered into corn. This proposal responds to reports of widespread corn rootworm resistance to two Bt corn traits and reflects advice received by the Agency from the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP). EPA believes that the proposed enhancements would prolong the effectiveness of Bt PIPs for corn rootworm control significantly—which is important because of the long safety record of these PIPs. If used properly, PIPs greatly reduce the need for conventional pesticides and the risks they may present to human health and the environment. EPA is soliciting input from all affected stakeholders including corn growers, industry, academia, and the general public.

A copy of the proposal, entitled ''EPA Framework for PIP Registrants: Proposal to Address Key SAP Recommendations for Corn Rootworm (CRW) IRM,'' is available in the docket.

As part of its regulation of insect resistance management for Bt PIPs, EPA requires a resistance monitoring program for the major target pests of corn and cotton. The primary objective of resistance monitoring is to detect shifts in susceptibility before the onset of resistance leads to widespread field failure. Specific resistance monitoring strategies have consisted of two main components:

1. Investigation of unexpected field damage reports from growers, extension agents, consultants, or company agronomists, and
2. Monitoring for changes in susceptibility through targeted population sampling and testing.

For both objectives, bioassays are used to determine the susceptibility of each sampled population. If resistance is detected in the assays, a remedial action plan is triggered with the goal of containing the resistant population to maintain trait durability.

CRW presents a number of challenges for resistance monitoring. The insect has one generation per year, undergoes obligate diapause, and feeds subterraneanly—factors that limit the ability to conduct susceptibility bioassays. CRW are generally less sensitive to Bt toxins than other target pests of Bt PIPs (*e.g.,* lepidoptera). To illustrate, all of the Bt toxins registered for CRW control (Cry3Bb1, Cry34/35, mCry3A, and eCry3.1Ab) are not considered ''high dose'' (as defined by EPA's 1998 FIFRA SAP), meaning that some susceptible CRW individuals will likely survive exposure to Bt. These factors can complicate both field scouting and interpretation of bioassays. Timing is also a concern; because of obligate diapause, a sampled population may not be tested (and determined to be resistant) until the following season.

EPA is concerned about the ability of CRW to develop resistance to Bt corn PIPs. Recent reports have documented CRW resistance to two Bt traits, Cry3Bb1 and mCry3A, in parts of Iowa and Illinois. Seeking guidance in regards to these concerns, the Agency convened a FIFRA SAP meeting in December 2013. The panel was tasked with evaluating EPA's current resistance monitoring strategy for CRW and providing recommendations for improvement. Meeting materials, including a white paper detailing EPA's concerns with CRW resistance monitoring, the charge to the SAP, and the SAP's final report, are available in docket number EPA–HQ–OPP–2013–0490.

Following the SAP meeting, EPA developed the mitigation proposal to enhance CRW resistance management. EPA's proposed enhancements address the following five aspects of CRW resistance management:

- Integrated Pest Management (IPM) as a component of corn rootworm resistance management.
- Responses to unexpected damage in Bt corn fields.
- Elimination of the requirement for annual random sampling of corn rootworm from the Corn Belt.
- Use of on-plant assays for resistance determinations.
- Enhancements to current remedial action plans.

EPA believes that these proposed enhancements are consistent with the SAP's guidance and will prolong the effectiveness of Bt corn PIPs for CRW control by reducing selection pressure for resistance, improving resistance detection capability, and better mitigate populations that do develop resistance. The Agency's goals are to prolong the durability of Bt corn while maintaining the environmental benefits of these important CRW management tools.

The Agency is seeking input on the proposal from potentially affected entities and other stakeholders, including (but not limited to) registrants of pesticides and PIPs for corn, corn growers, crop consultants/agronomists, commodity groups, extension entomologists, independent researchers, and the general public. Commenters are also encouraged to provide input on the specific recommendations provided by the SAP, including alternate approaches or counter proposals towards addressing the CRW resistance management issues raised by the panel.

Authority: 7 U.S.C. 136 *et seq.*

Dated: December 31, 2014.

Robert McNally,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 2015–01170 Filed 1–27–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0139]

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 Communication 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 February 27, 2015. 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 Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@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 Cathy Williams at (202) 418–2918. 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: 3060–0139.

Title: Application for Antenna Structure Registration.

Form Number: FCC Form 854.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households, business or other for-profit entities, not-for-profit institutions, and State, local, or Tribal governments.

Number of Respondents and Responses: 2,400 respondents; 57,000 responses.

Estimated Time per Response: .33 hours to 2.5 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Sections 1, 2, 4(i), 303, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 303, and 309(j), Section 102(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332(C), and Section 1506.6 of the regulations of the Council on Environmental Quality, 40 CFR 1506.6.

Total Annual Burden: 25,647 hours.

Total Annual Cost: $1,176,375.

Privacy Act Impact Assessment: Yes. This information collection contains personally identifiable information on individuals which is subject to the Privacy Act of 1974. Information on the FCC Form 854 is maintained in the Commission's System of Records, FCC/WTB–1, ''Wireless Services Licensing Records.'' These licensee records are publicly available and routinely used in accordance of subsection b of the Privacy Act, 5 U.S.C. 552a(b), as amended. Taxpayer Identification Numbers (TINs) and materials that are afforded confidential treatment pursuant to a request made under 47 CFR 0.459 of the Commission's rules will not be available for public inspection.

Nature and Extent of Confidentiality: Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

The Commission has in place the following policy and procedures for records retention and disposal: Records will be actively maintained as long as the entity remains a tower owner. Paper records will be archived after being keyed or scanned into the Antenna Structure Registration (ASR) database and destroyed when twelve (12) years old.

Needs and Uses: As discussed below, the Commission is revising the FCC Form 854 to implement measures adopted in a recent Report and Order, and is seeking Office of Management and Budget (OMB) approval for this information collection as revised. The Commission is also reporting an adjustment in the annual burden and annual cost due to an increase in the number of responses and minor increases in hourly wages. After the comment period, the Commission will submit the revised information collection to OMB to obtain the full three year clearance.

The purpose of the FCC Form 854 is to register antenna structures (radio towers) that are used for communication services regulated by the Commission; to make changes to existing antenna structure registrations or pending applications for registration; or to notify the Commission of the completion of construction or dismantlement of such structures, as required by Title 47 of the Code of Federal Regulations (CFR), Chapter 1. In addition, for proposed new antenna structures, the FCC Form 854 is used to facilitate a pre-application public notification process, including a required 30-day period of local and national notice to provide members of the public with a meaningful opportunity to comment on the environmental effects of proposed antenna structures that require registration with the Commission.

The Commission is revising this current information collection due to the adoption of FCC 14–153, Report and Order, which altered the public notification process for certain temporary towers. In the Report and Order, the Commission adopted a narrow exemption from the public notification process for proposed temporary antenna structures meeting defined criteria, including limits on the size and duration of the installation, that greatly reduce the likelihood of any significant environmental effects. Specifically, the exemption from the environmental notification process applies only to temporary antenna structures that: (1) Do not require an Environmental Assessment under the Commission's rules; (2) will be in place for 60 days or less; (3) require notice of construction to the Federal Aviation Administration (FAA); (4) do not require marking or lighting under FAA regulations; (5) will be less than 200 feet above ground level; and (6) will involve minimal or no ground excavation. The Report and Order also provided that applicants may request and obtain a single extension of up to 60 additional days upon an appropriate showing.

As a result, the FCC Form 854 is being revised to permit applicants to indicate that they are claiming the new exemption and certify that they meet the relevant requirements, and to request an extension. These changes are necessary to implement the new exemption from the public notification process for temporary antenna structures. They will therefore enable the Commission to more efficiently process antenna structure registrations and, by allowing licensees to deploy covered temporary structures without first having to complete the notification process, will enable them to more effectively respond to emergencies, natural disasters, and other planned and unplanned short-term spikes in demand without undermining the purposes of the notification process.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–01473 Filed 1–27–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1053]

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 Communication 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 February 27, 2015. 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 Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@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 Cathy Williams at (202) 418–2918. 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: 3060–1053.

Title: Two-Line Captioned Telephone Order, IP Captioned Telephone Service Declaratory Ruling; and Internet Protocol Captioned Telephone Service Reform Order, CG Docket Nos. 13–24 and 03–123.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 148,006 respondents; 556,010 responses.

Estimated Time per Response: 0.25 hours (15 minutes) to 8 hours.

Frequency of Response: Annual, every five years, on-going, and one-time reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for the information collection requirements is found at Sec. 225 [47 U.S.C. 225] Telecommunications Services for Hearing-Impaired Individuals; The Americans with Disabilities Act of 1990, (ADA), Public Law 101–336, 104 Stat. 327, 366–69, was enacted on July 26, 1990.

Total Annual Burden: 399,072 hours.

Total Annual Cost: $1,680,000.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information by the FCC from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On August 1, 2003, the Commission released Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67, Declaratory Ruling, 68 FR 55898, September 28, 2003, clarifying that one-line captioned telephone voice carry over (VCO) service is a type of telecommunications relay service (TRS) and that eligible providers of such services are eligible to recover their costs from the Interstate TRS Fund (Fund) in accordance with section 225 of the Communications Act. The Commission also clarified that certain TRS mandatory minimum standards do not apply to one-line captioned telephone VCO service and waived 47 CFR 64.604(a)(1) and (a)(3) for all current and future captioned telephone VCO service providers, for the same period of time beginning August 1, 2003. The waivers were contingent on the filing of annual reports. On July 19, 2005, the Commission released Telecommunication Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67 and CG Docket No. 03–123, Order, 70 FR 54294, September 14, 2005, clarifying that two-line captioned telephone VCO service, like one-line captioned telephone VCO service, is a type of TRS eligible for compensation from the Fund.

On January 11, 2007, the Commission released Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03–123, Declaratory Ruling, 72 FR 6960, February 14, 2007, granting a request for clarification that Internet Protocol (IP) captioned telephone relay service (IP CTS) is a type of TRS eligible for compensation from the Fund. The Commission also waived certain TRS mandatory minimum standards that do not apply to IP CTS, contingent on the filing of annual reports.

On August 26, 2013, the Commission issued Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 13–24 and 03–123, Report and Order, 78 FR 53684, August 30, 2013, to regulate practices relating to the marketing of IP CTS, impose certain requirements for the provision of this service, and mandate registration and certification of IP CTS users. On June 20, 2014, the DC Circuit vacated the rule prohibiting compensation to providers for minutes of use generated by equipment consumers received from providers for

free or for less than $75 ($75 equipment *69476 charge rule) and the rule requiring providers to maintain captions—off as the default setting for IP CTS equipment. Sorenson Communications, Inc. and CaptionCall, LLC v. FCC, 755 F.3d 702 (D.C. Cir. 2014) (DC Circuit IP CTS Order).

On August 22, 2014, the Commission issued Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Waivers of iTRS Mandatory Minimum Standards, CG Docket No. 03–123, Report and Order, 79 FR 62875, October 21, 2014 (iTRS Waiver Order), to make permanent waivers of certain TRS mandatory minimum standards and eliminate waivers of other TRS mandatory minimum standards for IP CTS and CTS. The Commission also eliminated the requirement that IP CTS and CTS providers file annual reports regarding the TRS mandatory minimum standards.

This notice and request for comments pertains to revisions to the information collection requirements as a result of the iTRS Waiver Order eliminating the requirement that IP CTS and CTS providers file annual reports regarding the TRS mandatory minimum standards and as a result of the DC Circuit IP CTS Order vacating the $75 equipment charge rule and the rule requiring providers to maintain captions-off as the default setting for IP CTS equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–01472 Filed 1–27–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0754, 3060–0249, 3060–0568 and 3060–0716]

Information Collections 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 Communication 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 February 27, 2015. 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 Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@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 Cathy Williams at (202) 418–2918. 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: 3060–0754.

Title: Children's Television Programming Report, FCC Form 398.

Form Number: FCC Form 398.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,962 respondents; 7,848 responses.

Estimated Time per Response: 12 hours.

Frequency of Response: Recordkeeping requirement; Quarterly reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i) and 303 of the Communications Act of 1934, as amended.

Total Annual Burden: 94,176 hours.

Total Annual Cost: $4,708,800.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: Commercial full-power and Class A television broadcast stations are required to file the Children's Television Programming Report, FCC Form 398 each calendar quarter. FCC Form 398 is a standardized form that provides a consistent format for reporting the children's educational television programming aired by licensees to meet their obligation under the Children's Television Act of 1990 (CTA) and facilitates efforts by the public and the FCC to monitor compliance with the CTA.

Commercial full-power and Class A television stations are required to complete FCC Form 398 each calendar quarter and to place the form in the station's public inspection file. Stations must also file the form each quarter with the Commission. Stations use FCC Form 398 to report, among other things, the core children's educational and informational programs the station aired the previous calendar quarter and the core programs they plan to air in the upcoming calendar quarter. FCC Form 398 also includes a ''Preemption Report'' that must be completed for each core program that was preempted during the quarter. This ''Preemption Report'' requests information on the date of each preemption, the reason for the preemption and, if the program was rescheduled, the date and time the program was re-aired.

OMB Control Number: 3060–0249.

Title: Sections 74.781, 74.1281 and 78.69, Station Records.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions; State, Federal or Tribal Governments.

Number of Respondents and Responses: 13,811 respondents; 20,724 responses.

Estimated Time per Response: .375 hour–1 hour.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 11,726 hours.

Total Annual Cost: $8,295,600.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: 47 CFR 74.781 requires the following:

(a) The licensee of a low power TV, TV translator, or TV booster station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this Chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment or improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.765(c) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

47 CFR 74.1281 requires the following:

(a) The licensee of a station authorized under this Subpart shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment of improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.1265(b) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years.

47 CFR 78.69 requires each licensee of a CARS station shall maintain records showing the following:

(a) For all attended or remotely controlled stations, the date and time of the beginning and end of each period of transmission of each channel;

(b) For all stations, the date and time of any unscheduled interruptions to the transmissions of the station, the duration of such interruptions, and the causes thereof;

(c) For all stations, the results and dates of the frequency measurements made pursuant to § 78.113 and the name of the person or persons making the measurements;

(d) For all stations, when service or maintenance duties are performed, which may affect a station's proper operation, the responsible operator shall sign and date an entry in the station's records, giving:

(1) Pertinent details of all transmitter adjustments performed by the operator or under the operator's supervision.

(e) When a station in this service has an antenna structure which is required to be illuminated, appropriate entries shall be made as follows:

(1) The time the tower lights are turned on and off each day, if manually controlled.

(2) The time the daily check of proper operation of the tower lights was made, if an automatic alarm system is not employed.

(3) In the event of any observed or otherwise known failure of a tower light:

(i) Nature of such failure.

(ii) Date and time the failure was observed or otherwise noted.

(iii) Date, time, and nature of the adjustments, repairs, or replacements made.

(iv) Identification of Flight Service Station (Federal Aviation Administration) notified of the failure of any code or rotating beacon light not corrected within 30 minutes, and the date and time such notice was given.

(v) Date and time notice was given to the Flight Service Station (Federal Aviation Administration) that the required illumination was resumed.

(4) Upon completion of the 3-month periodic inspection required by § 78.63(c):

(i) The date of the inspection and the condition of all tower lights and associated tower lighting control devices, indicators, and alarm systems.

(ii) Any adjustments, replacements, or repairs made to insure compliance with the lighting requirements and the date such adjustments, replacements, or repairs were made.

(f) For all stations, station record entries shall be made in an orderly and legible manner by the person or persons competent to do so, having actual knowledge of the facts required, who shall sign the station record when starting duty and again when going off duty.

(g) For all stations, no station record or portion thereof shall be erased, obliterated, or willfully destroyed within the period of retention required by rule. Any necessary correction may be made only by the person who made the original entry who shall strike out the erroneous portion, initial the correction made, and show the date the correction was made.

(h) For all stations, station records shall be retained for a period of not less than 2 years. The Commission reserves the right to order retention of station records for a longer period of time. In cases where the licensee or permittee

has notice of any claim or complaint, the station record shall be retained until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for filing of suits upon such claims.

OMB Control Number: 3060–0568.

Title: Sections 76.970, 76.971 and 76.975, Commercial Leased Access Rates, Terms and Conditions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit, State, Local or Tribal Government.

Number of Respondents and Responses: 4,030 respondents; 11,970 responses.

Estimated Time per Response: 2 minutes–10 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i) and 612 of the Communications Act of 1934, as amended.

Total Annual Burden: 59,671 hours.

Total Annual Cost: $74,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR 76.970(h) requires cable operators to provide the following information within 15 calendar days of a request regarding leased access (for systems subject to small system relief, cable operators are required to provide the following information within 30 days of a request regarding leased access):

(a) A complete schedule of the operator's full-time and part-time leased access rates;

(b) How much of the cable operator's leased access set-aside capacity is available;

(c) Rates associated with technical and studio costs;

(d) If specifically requested, a sample leased access contract; and

(e) Operators must maintain supporting documentation to justify scheduled rates in their files.

47 CFR 76.971 requires cable operators to provide billing and collection services to leased access programmers unless they can demonstrate the existence of third party billing and collection services which, in terms of cost and accessibility, offer leased access programmers an alternative substantially equivalent to that offered to comparable non-leased access programmers.

47 CFR 76.975(b) requires that persons alleging that a cable operator's leased access rate is unreasonable must receive a determination of the cable operator's maximum permitted rate from an independent accountant prior to filing a petition for relief with the Commission.

47 CFR 76.975(c) requires that petitioners attach a copy of the final accountant's report to their petition where the petition is based on allegations that a cable operator's leased access rates are unreasonable.

OMB Control Number: 3060–0716.

Title: Sections 73.88, 73.318, 73.685 and 73.1630, Blanketing Interference.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and not-for-profit institutions.

Number of Respondents and Responses: 21,000 respondents; 21,000 responses.

Estimated Time per Response: 1 to 2 hours.

Frequency of Response: Third party disclosure requirement.

Total Annual Burden: 41,000 hours.

Total Annual Cost: None.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i) of the Communications Act of 1934, as amended.

Nature and Extend of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: 47 CFR 73.88 states that the licensee of each broadcast station is required to satisfy all reasonable complaints of blanketing interference within the 1 V/m contour.

47 CFR 73.318(b) states that after January 1, 1985, permittees or licensees who either (1) commence program tests, (2) replace the antennas, or (3) request facilities modifications and are issued a new construction permit must satisfy all complaints of blanketing interference which are received by the station during a one year period.

47 CFR 73.318(c) states that a permittee collocating with one or more existing stations and beginning program tests on or after January 1, 1985, must assume full financial responsibility for remedying new complaints of blanketing interference for a period of one year.

Under 47 CFR 73.88, and 73.685(d), the license is financially responsible for resolving complaints of interference within one year of program test authority when certain conditions are met. After the first year, a license is only required to provide technical assistance to determine the cause of interference. The FCC has an outstanding Notice of Proposed Rulemaking (NPRM) in MM Docket No. 96–62, In the Matter of Amendment of Part 73 of the Commission's Rules to More Effectively Resolve Broadcast Blanketing Interference, Including Interference to Consumer Electronics and Other Communications Devices. The NPRM has proposed to provide detailed clarification of the AM, FM, and TV licensee's responsibilities in resolving/eliminating blanketing interference caused by their individual stations. The NPRM has also proposed to consolidate all blanketing interference rules under a new section 47 CFR 73.1630, ''Blanketing Interference.'' This new rule has been designed to facilitate the resolution of broadcast interference problems and set forth all responsibilities of the licensee/permittee of a broadcast station. To date, final rules have not been adopted.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015–01471 Filed 1–27–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: Crawford, Charles E, Station NEW, Facility ID 191560, BMPH–20140929AAX, From Sonora, TX, To Christoval, TX; Everglades City Broadcasting Company, Inc., Station WBGY, Facility ID 47386, BPED–20140825ABL, From Naples, FL, To Everglades City, FL; Penfold Communications, Inc., Station KRTM, Facility ID 91840, BPED–20150113AAE, From Yucca Valley, CA, To Banning, CA; Rudex Broadcasting Limited Corporation, Station KSDT, Facility ID 36830, BP–20141124BHJ, From Hemet, CA, To Redlands, CA; Solid Rock Foundation, Station KBDW, Facility ID 176883, BPED–20141120AGW, From Wheeler, TX, To Lefors, TX; Sunrise

Broadcasting, LLC, Station WILT, Facility ID 74159, BPH–20141119AAN, From Wilmington, NC, To Carolina Beach, NC.

DATES: The agency must receive comments on or before March 30, 2015.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.* A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC, 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2015–01596 Filed 1–27–15; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 010071–042.

Title: Cruise Lines International Association Agreement.

Parties: Acromas Shipping, Ltd./Saga Shipping; Aida Cruises; AMA Waterways; American Cruise Lines, Inc.; American Queen Steamboat Company; Aqua Expeditions Pte. Ltd.; Australian Pacific Touring Pty Ltd.; Avalon Waterways; Azamara Cruises; Carnival Cruise Lines; CDF Croisieres de France; Celebrity Cruises, Inc.; Costa Cruise Lines; Compagnie Du Ponant; Croisieurope; Cruise & Maritime Voyages; Crystal Cruises; Cunard Line; Disney Cruise Line; Emerald Waterways; Evergreen Tours; Fred.Olsen Cruise Lines Ltd.; Hapag-Lloyd Kreuzfahrten Gmbh; Hebridean Island Cruises; Holland America Line; Hurtigruten, Inc.; Iberocruceros, Sucursal en Espana; Island Cruises; Lindblad Expeditions Pty Ltd.; Louis Cruises; Luftner Cruises; Mekong Waterways; MSC Cruises; NCL Corporation; Oceania Cruises; P & O Cruises; P & O Cruises Australia; Paul Gauguin Cruises; Pearl Seas Cruises; Phoenix Reisen Gmbh; Princess Cruises; Pullmantur Cruises Ship Management Ltd.; Regent Seven Seas Cruises; Riviera Tours Ltd.; Royal Caribbean International; Scenic Tours UK Ltd.; Seabourn Cruise Line; SeaDream Yacht Club; Shearings Holidays Ltd.; Silversea Cruises, Ltd.; St. Helena Line/Andrew Weir Shipping Ltd.; Swan Hellenic; Tauck River Cruising; The River Cruise Line; Thomson Cruises; Travelmarvel; Tui Cruises Gmbh; Un-Cruises Adventures; Uniworld River Cruises, Inc.; Venice Simplon-Orient-Express Ltd./Belmond; Voyages of Discovery; Voyages to Antiquity (UK) Ltd.; and Windstar Cruises.

Filing Party: Andre Picciurro, Esq. Kaye, Rose & Partners, LLP; Emerald Plaza, 402 West Broadway, Suite 1300; San Diego, CA 92101–3542.

Synopsis: The amendment updates the agreement's bylaws to clarify that CLIA's Chair is entitled to one vote on all matters submitted to a vote of the Global Executive Committee when the Chair is also a voting Member of the Board.

Agreement No.: 200233–017.

Title: Lease and Operating Agreement between Philadelphia Regional Port Authority and Astro Holdings, Inc.

Parties: Philadelphia Regional Port Authority and Astro Holdings, Inc.

Filing Parties: Paul D. Coleman, Esq.; Hoppel, Mayer & Coleman; 1000 Connecticut Avenue NW., Washington, DC 20036.

Synopsis: The amendment restates the dredging provision in the lease.

By Order of the Federal Maritime Commission.

Dated: January 23, 2015.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2015–01584 Filed 1–27–15; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before March 30, 2015.

ADDRESSES: You may submit comments, identified by Regulation B, Regulation BB, or Regulation M, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* .
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in

paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Acting Clearance Officer—John Schmidt—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information 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.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following information collection:

Report title: Information Collection Associated With the Recordkeeping and Disclosure Requirements of Regulation B (Equal Credit Opportunity Act (ECOA)).

Agency form number: Regulation B.

OMB control number: 7100–0201.

Frequency: Event-generated.

Reporters: State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.

Estimated annual reporting hours: Notifications: 76,536 hours; Furnishing of credit information: 31,890 hours; Record retention, applications, actions, and prescreened solicitations: 8,504 hours; Information for monitoring purposes: 3,189 hours; Rules on providing appraisal reports, providing appraisal reports: 38,268 hours; Self-testing record retention, incentives, 400 hours and self-correction, 400 hours; Rules concerning requests for information, disclosure for optional self-test: 8,400 hours.

Estimated average hours per response: Notifications: 6 hours; Furnishing of credit information: 2.5 hours; Record retention, applications, actions, and prescreened solicitations: 8 hours; Information for monitoring purposes: 15 minutes; Rules on providing appraisal reports, providing appraisal reports: 3 hours; Self-testing record retention, incentives, 2 hours and self-correction, 8 hours; Rules concerning requests for information, disclosure for optional self-test: 3.5 hours.

Number of respondents: 1,063.

General description of report: This information collection is authorized by 15 U.S.C. 1691b, which authorizes the Consumer Financial Protection Bureau (CFPB) to prescribe regulations to carry out the purposes of ECOA. An institution's recordkeeping and disclosure obligations under Regulation B are mandatory. The Federal Reserve does not collect any information; therefore, no issue of confidentiality normally arises.

Abstract: ECOA was enacted in 1974 and is implemented by Regulation B. ECOA prohibits discrimination in any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract), or other specified bases (receipt of public assistance, or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act (15 U.S.C. 1600 *et seq.*)). To aid in implementation of this prohibition, the statute and regulation subject creditors to various mandatory disclosure requirements, notification provisions informing applicants of action taken on the credit application, credit history reporting, monitoring rules, and recordkeeping requirements. These requirements are triggered by specific events and disclosures must be provided within the time periods established by the statute and regulation. There are no required reporting forms associated with the CFPB's Regulation B. To ease the burden and cost of compliance (particularly for small entities), Regulation B provides model disclosure forms.

Current Actions: On December 21, 2011, the CFPB published an interim final rule establishing a new Regulation B, which did not impose any new substantive obligations on regulated persons or entities.[1] On January 31, 2013, the CFPB published a final rule amending its Regulation B to require creditors to provide applicants with a copy of an appraisal or other written valuation developed in connection with certain mortgage transactions as matter of course, rather than only in response to an applicant's request as previously required under Regulation B.[2] The Board proposes to modify its information collection to reflect this new requirement, which became effective January 18, 2014.

Revisions to the Information Collection Associated With Rules on Providing Appraisal Reports (Section 1002.14)

Previously, an applicant had a right to a copy of any appraisal report used in connection with an application for credit to be secured by a dwelling. Creditors could elect either to provide a copy of the appraisal report to all applicants for covered loans or provide the appraisal only upon request. Creditors who choose to provide the appraisal only upon request had to notify all applicants for covered loans of their right to request a copy of the appraisal. The notice was not required to be in any particular format, but the regulation contained model language to ease compliance.

[1] 76 FR 79441 (Dec. 21, 2011).

[2] 78 FR 7216 (Jan. 31, 2013).

The CFPB recently amended Regulation B to now require creditors to provide to an applicant, as a matter of course, a copy of all appraisals and other written valuations developed in connection with an application for credit that is to be secured by a first lien on a dwelling within specified time periods. Applicants are permitted to waive the timing requirements for receipt of the appraisals and other written valuations, but in such cases the creditor must generally provide the copies to the applicant prior to consummation (if closed-end credit) or account opening (if open-end credit). Creditors must also notify applicants in writing within three business days of receiving an application that a copy of all appraisals and other written valuations developed in connection with applications for covered mortgage credit transactions will be provided to the applicant promptly. The notice of an applicant's right to receive a copy of appraisals is not required to be in any particular format, but the regulation contains model language to ease compliance.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following information collections:

1. Report title: Information Collection Associated with the Recordkeeping, Reporting, and Disclosure Requirements of Regulation BB (Community Reinvestment Act (CRA)).

Agency form number: Regulation BB.

OMB control number: 7100–0197.

Frequency: Annually.

Reporters: State member banks (SMBs).

Estimated annual reporting hours: Recordkeeping requirement, small business and small farm loan register: 16,863 hours; Optional recordkeeping requirements, consumer loan data, 4,238 hours and other loan data, 275 hours; Reporting requirements, assessment area delineation, 164 hours; loan data: Small business and small farm, 616 hours, community development, 1,066 hours, and HMDA out of MSA, 17,963 hours; Optional reporting requirements, data on lending by a consortium or third party, 153 hours; affiliate lending data, 152 hours; request for strategic plan approval, 275 hours; request for designation as a wholesale or limited purpose bank, 4 hours; Disclosure requirement, public file, 8,510 hours.

Estimated average hours per response: Recordkeeping requirement, small business and small farm loan register: 219 hours; Optional recordkeeping requirements, consumer loan data, 326 hours, and other loan data, 25 hours; Reporting requirements, assessment area delineation, 2 hours; loan data: Small business and small farm, 8 hours, community development, 13 hours, and HMDA out of MSA, 253 hours; Optional reporting requirements, data on lending by a consortium or third party, 17 hours; affiliate lending data, 38 hours; request for strategic plan approval, 275 hours; request for designation as a wholesale or limited purpose bank, 4 hours; Disclosure requirement, public file, 10 hours.

Number of respondents: Recordkeeping requirement, small business and small farm loan register, 77; Optional recordkeeping requirements, consumer loan data, 13, and other loan data, 11; Reporting requirements, assessment area delineation, 82; loan data: Small business and small farm, 77, community development, 82, and HMDA out of MSA, 71; Optional reporting requirements, data on lending by a consortium or third party, 9; affiliate lending data, 4; request for strategic plan approval, 1; request for designation as a wholesale or limited purpose bank, 1; Disclosure requirement, public file, 851.

General description of report: This information collection is authorized by section 806 of the CRA, which permits the Board to issue regulations to carry out the purpose of CRA (12 U.S.C. 2905), Section 11 of the Federal Reserve Act (FRA), which permits the Board to require such statements as reports of SMBs as it deems necessary (12 U.S.C. 248(a)(1)), and section 9 of the FRA, which permits the Board to examine SMBs (12 U.S.C. 325). The obligation to comply with the recordkeeping, reporting, and disclosure requirements of Regulation BB is generally mandatory and varies depending on whether the bank is a large bank. Other parts of the collection—specifically, the request for designation as a wholesale or limited purpose bank, the strategic plan, and the recordkeeping and reporting requirements associated with data regarding consumer loans and lending performance, affiliate lending data, data on lending by a consortium or a third party, are required to obtain a benefit. The data that are reported to the Federal Reserve are not considered confidential.

Abstract: CRA was enacted in 1977 and is implemented by Regulation BB. The CRA directs the federal banking agencies [3] to evaluate financial institutions' records of helping to meet the credit needs of their entire communities, including low- and moderate-income areas consistent with the safe and sound operation of the institutions. The CRA is implemented through regulations issued by the federal banking agencies.[4]

In 1995, the federal banking agencies issued substantially identical regulations under CRA to reduce unnecessary compliance burden, promote consistency in CRA assessments, and encourage improved performance.[5] As a result, the current recordkeeping, reporting, and disclosure requirements under Regulation BB depend in part on a bank's size, and are discussed more fully below in the description of information collection.

Under Regulation BB, large banks are defined as those with assets of $1.202 billion or more for the past two consecutive year-ends; all other banks are considered small or intermediate.[6] The banking agencies amend the definition of a small bank and an intermediate small bank in their CRA regulations each year when the asset thresholds are adjusted for inflation pursuant to Regulation BB, most recently in December 2013.[7]

Other than the information collections pursuant to the CRA, the Board has no information collection that supplies data regarding the community reinvestment activities of SMBs.

2. Report title: Information Collections Associated with the Recordkeeping and Disclosure requirements of Regulation M (Consumer Leasing).

Agency form number: Regulation M.

OMB control number: 7100–0202.

Frequency: On occasion.

Reporters: Consumer lessors.

Estimated annual reporting hours: Disclosures: 33 hours; Advertising: 7 hours.

Estimated average hours per response: Disclosures: 2.08 hours; Advertising: 25 minutes.

Number of respondents: 4.

[3] In addition to the Board, the federal banking agencies currently responsible for CRA rules are the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC).

[4] The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 transferred from the Office of Thrift Supervision (OTS) all authorities (including rulemaking) relating to savings associations to the OCC and all authorities (including rulemaking) relating to savings and loan holding companies (SLHCs) to the Board on July 21, 2011.

[5] 60 FR 22156 (May 4, 1995).

[6] Beginning January 1, 2014, banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than $1.202 billion are small banks or small savings associations. Small banks or small savings associations with assets of at least $300 million as of December 31 of both of the prior two calendar years, and less than $1.202 billion as of December 31 of either of the prior two calendar years, are intermediate small banks or intermediate small savings associations.

[7] 78 FR 79283 (December 30, 2013).

General description of report: This information collection is authorized by sections 105(a) and 187 of TILA (15 U.S.C. 1604(a) and 1667f respectively, which authorize the Consumer Financial Protection Bureau (CFPB) to issue regulations to carry out the provisions of the Consumer Leasing Act (CLA). The CFPB's Regulation M, 12 CFR part 1013, implements these statutory provisions. An institution's recordkeeping and disclosure obligations under Regulation M are mandatory. Because the Federal Reserve does not collect any information pursuant to the CFPB's Regulation M, no issue of confidentiality normally arises. Furthermore, the lease information regarding individual leases with consumers is confidential between the institution and the consumer. In the event the Board were to retain regarding consumer leases during the course of an examination, the information regarding the consumer and the lease would be kept confidential pursuant to section (b)(8) of the Freedom of Information Act (5 U.S.C. 522 (b)(8)).

Abstract: The CLA and Regulation M are intended to provide consumers with meaningful disclosures about the costs and terms of leases for personal property. The disclosures enable consumers to compare the terms for a particular lease with those for other leases and, when appropriate, to compare lease terms with those for credit transactions. The CLA and Regulation M also contain rules about advertising consumer leases and limit the size of balloon payments in consumer lease transactions.

The CFPB's Regulation M applies to all types of lessors of personal property (except motor vehicle dealers excluded from the Bureau's authority under Dodd-Frank Act section 1029, which are covered by the Board's Regulation M [8]). The CLA and Regulation M require lessors to disclose to consumers uniformly the costs, liabilities, and terms of consumer lease transactions. Disclosures are provided to consumers before they enter into lease transactions and in advertisements that state the availability of consumer leases on particular terms. The regulation generally applies to consumer leases of personal property in which the contractual obligation does not exceed $53,500 and has a term of more than four months. The CLA does not provide exemptions for small entities.

In April 2011, shortly before primary rule writing authority for the CLA transferred to the CFPB, the Board published a final rule that established a new dollar threshold for lease transactions subject to Regulation M, implementing an amendment to the CLA by the Dodd-Frank Act.[9] This amendment increased the dollar threshold for lease contracts subject to the CLA and Regulation M from $25,000 to $50,000. The amendment also required that this threshold be adjusted annually for inflation by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W), as published by the Bureau of Labor Statistics. For 2014, the Regulation M threshold is $53,500,[10] which will be increased to $54,600 effective January 1, 2015.[11]

Board of Governors of the Federal Reserve System, January 21, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–01521 Filed 1–27–15; 8:45 am]

BILLING CODE 6210–01–P

[8] 12 U.S.C. 5519; 12 CFR part 213.

[9] Public Law 111–203, § 1100E, 124 Stat. 1376 (2010), amending 15 U.S.C. 1667(1). *See* 76 FR 18349, Apr. 4, 2011.

[10] 78 FR 70193 (Nov. 25, 2013). This threshold adjustment was issued jointly by the Board, for its Regulation M at 12 CFR part 213, and the CFPB, for its Regulation M at 12 CFR 1013.

[11] 79 FR 56482 (Sept. 22, 2014).

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 12, 2015.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Richard T. Spurzem*, Charlottesville, Virginia; to acquire voting shares of Blue Ridge Bankshares, Inc., and thereby indirectly acquire voting shares of Blue Ridge Bank, Inc., both in Luray, Virginia.

B. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *SABCO Irrevocable Stock Ownership Trust*, with Guy Richard Smith and Raymond Tracy Fox as co-trustees, all of Hot Springs Arkansas; to acquire voting shares of Smith Associated Banking Corporation, Hot Springs, Arkansas, and thereby indirectly acquire voting shares of Bank of Salem, Salem, Arkansas, and Security Bank, Stephens, Arkansas.

C. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *John Creighton, Longmont, Colorado, individually and as trustee of High Plains Banking Group, Inc. KSOP; T. Rick Newton and Frederick Newton, both of Snowmass, Colorado; Landon Newton, Somerville, Massachusetts; and Betty Mickey, Fort Collins, Colorado*; all to become members of the Creighton Family Group acting in concert, to acquire voting shares of High Plains Banking Group, Inc., and thereby indirectly acquire voting shares of High Plains Bank, both in Flagler, Colorado.

Board of Governors of the Federal Reserve System, January 23, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–01543 Filed 1–27–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 10, 2015.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Ben J. Scott, Coleman, Texas, individually and as co-trustee of Coleman Bancshares, Inc., Employee Stock Ownership Plan, Coleman, Texas;* Reave Jay Scott, Abilene, Texas; and David or Amy Scott, Georgetown, Texas, collectively a group acting in concert, to retain 10 percent or more of Coleman Bancshares, Inc., Coleman, Texas, and thereby indirectly control of Coleman County State Bank, Coleman, Texas.

Board of Governors of the Federal Reserve System, January 22, 2015.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2015–01520 Filed 1–27–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 122 3153]

Focus Education, LLC; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before February 20, 2015.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/FTC/focuseduconsent/* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Focus Education, LLC—Consent Agreement; File No. 122 3153'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/FTC/focuseduconsent/* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''Focus Education, LLC—Consent Agreement; File No. 122 3153'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Annette Soberats, Bureau of Consumer Protection, (202–326–2921), 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR § 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for January 20, 2015), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 20, 2015. Write ''Focus Education, LLC—Consent Agreement; File No. 122 3153'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publicComments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR § 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR § 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/FTC/focuseduconsent/* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Focus Education, LLC—Consent Agreement; File No. 122 3153'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 20, 2015. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted,

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR § 4.9(c).

subject to final approval, an agreement containing a consent order from Focus Education, LLC (''Focus Education''), Chief Executive Officer, Michael Apstein, and Chief Financial Officer, John Able (''Respondents'').

The proposed consent order (''proposed order'') has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter involves Focus Education's advertising for the ifocus System, which included the Jungle Rangers computer game and comic book, and information on children's behavior, exercise, and diet. The Commission's complaint alleges that the Respondents violated Sections 5(a) and 12 of the Federal Trade Commission Act by making false or unsubstantiated representations that playing the ifocus System's Jungle Rangers computer game improves children's focus, memory, attention, behavior, and/or school performance, including in children with ADHD, and that these improvements were permanent. The complaint also alleges that Respondents violated Sections 5(a) and 12 by making false representations that scientific studies prove these claims.

The proposed order includes injunctive relief that prohibits these alleged violations and fences in similar and related violations. For purposes of the order, ''Covered Product'' means any product, program, device, or service that purports to alter the brain's structure or function, improve cognitive abilities, behavior, or academic performance, or treat or lessen the symptoms of cognitive abnormalities or disorders, including ADHD.

Part I of the Order prohibits the Respondents from making any representation that the ifocus System or any substantially similar product improves children's cognitive abilities, behavior, or academic performance, including in children with ADHD unless any such representation is non-misleading and the Respondents possess and rely upon competent and reliable scientific evidence. For purposes of this Part, competent and reliable scientific evidence is defined as ''human clinical testing of such product that is sufficient in quality and quantity, based on standards generally accepted by experts in the relevant field, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. Such testing shall be (1) randomized, double-blind, and adequately controlled; and (2) conducted by researchers qualified by training and experience to conduct such testing.'' In addition, competent and reliable scientific evidence is subject to the preservation requirements set forth in Part IV.

Part II is a fencing-in provision. It prohibits the Respondents from making any claim about the benefits, performance, or efficacy of any Covered Product unless the claim is non-misleading and the Respondents possess competent and reliable scientific evidence that is sufficient in quality and quantity, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true. For purposes of this Part, Covered Product is defined as any product, program, device, or service that purports to alter the brain's structure or function, improve cognitive abilities, behavior, or academic performance, or treat or lessen the symptoms of cognitive abnormalities or disorders, including ADHD. Competent and reliable scientific evidence means ''tests, analyses, research, or studies (1) that have been conducted and evaluated in an objective manner by qualified persons; (2) that are generally accepted in the profession to yield accurate and reliable results; and (3) as to which, when they are human clinical tests or studies, all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of such testing as set forth Part IV are available for inspection and production to the Commission.''

Part III prohibits the Respondents from misrepresenting, in relation to the advertising of any Covered Product, (1) the results of any test, study, or research; or (2) that the benefits of any such Covered Product are scientifically proven.

Part IV requires the Respondents, for human clinical tests or studies, to secure and preserve all underlying or supporting data and documents generally accepted by experts in the field as relevant to an assessment of the test. There is an exception for a ''Reliably Reported'' test, defined as a test published in a peer-reviewed journal that was not conducted, controlled, or sponsored by Respondents, affiliates, or others in the manufacturing and supply chain. Also, the published report must provide sufficient information about the test for experts in the relevant field to assess the reliability of the results.

Part V contains recordkeeping requirements for advertisements and substantiation relevant to representations covered by Parts I through III of the order.

Parts VI through IX of the proposed order require Respondents to: Deliver a copy of the order to principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the subject matter of the order; notify the Commission of changes in corporate structure, discontinuance of current business or employment, or affiliation with any new business or employment that might affect compliance obligations under the order; and file compliance reports with the Commission.

Part X provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2015–01516 Filed 1–27–15; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Full Committee Meeting.

Time and Date:

February 24, 2015 9:00 a.m.–5:30 p.m. EST
February 25, 2015 8:30 a.m.–12:00 p.m. EST

Place: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, 3311 Toledo Road, Auditorium A and B, Hyattsville, Maryland 20782, (301) 458–4524.

Status: Open.

Purpose: The purpose of this meeting is to review the status of current NCVHS activities and to strategically plan for 2015 NCVHS objectives and deliverables. The Committee will review its ongoing efforts in coordinating Subcommittee projects. Additional topics will include implementation plans for the ACA Review Committee process and reviewing the summary from the Roundtable on Supporting

Community Data Engagement. The Working Group on HHS Data Access and Use will continue strategic discussions on Building a Framework for Guiding Principles for Data Access and Use.

The times shown above are for the full Committee meeting. Subcommittee issues will be included as part of the Full Committee schedule.

Contact Person for More Information: Substantive program information may be obtained from Debbie M. Jackson, Acting Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2339, Hyattsville, Maryland 20782, telephone (301) 458–4614. Summaries of meetings and a roster of committee members are available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/*, where further information including an agenda will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: January 22, 2015.

James Scanlon,

Deputy Assistant Secretary for Planning and Evaluation (Science and Data Policy), Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 2015–01536 Filed 1–27–15; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics; Meeting Standards Subcommittee

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Standards

Time and Date: February 26, 2015, 8:30 a.m.–5:00 p.m. EST

Place: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, 3311 Toledo Road, Auditorium A and B, Hyattsville, Maryland 20782, (301) 458–4524.

Status: Open.

Purpose: The purpose of this hearing is to review and discuss the current status of selected administrative simplification topics of interest to the National Committee on Vital and Health Statistics.

The objectives of this hearing will be to (1) review, discuss and consider for recommendations the operating rules presented for adoption for four HIPAA transactions—Health Care Claims, Enrollment/Disenrollment, Premium Payment, and Prior Authorization; and (2) discuss and consider suggestions of the Review Committee evaluation criteria for existing standards, code sets, identifiers, and operating rules.

Contact Person for More Information: Debbie M. Jackson, Acting Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2339, Hyattsville, Maryland 20782, telephone (301) 458–4614 or Terri Deutsch, Centers for Medicare and Medicaid Services, Office of E-Health Standards and Services, 7500 Security Boulevard, Baltimore, Maryland 21244, telephone (410) 786–9462. Program information as well as summaries of meetings and a roster of committee members are available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/*, where further information including an agenda will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: January 22, 2015.

James Scanlon,

Deputy Assistant Secretary for Planning and Evaluation (Science and Data Policy), Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 2015–01537 Filed 1–27–15; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Availability: Test Tools and Test Procedures Approved by the National Coordinator for the ONC HIT Certification Program

AGENCY: Office of the National Coordinator for Health Information Technology (ONC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice announces the availability of test tools and test procedures approved by the National Coordinator for Health Information Technology (the National Coordinator) for the testing of EHR technology to the 2014 Edition Release 2 EHR certification criteria under the ONC HIT Certification Program. The approved test tools and test procedures are identified on the ONC Web site at: *http://healthit.gov/policy-researchers-implementers/testing-and-test-methods.* The test tools and test procedures for the ''optional—transitions of care'' certification criterion (§ 170.314(b)(8)) and the optional testing and certification for the ''view, download, and transmit to 3rd party'' certification criterion (§ 170.314(e)(1)) have not yet been approved.

FOR FURTHER INFORMATION CONTACT: Alicia Morton, Director, Office of Certification, Office of the National Coordinator for Health Information Technology, 202–549–7851.

SUPPLEMENTARY INFORMATION: On January 7, 2011, the Department of Health and Human Services issued a final rule establishing a permanent certification program for the purposes of testing and certifying health information technology (''Establishment of the Permanent Certification Program for Health Information Technology,'' 76 FR 1262) (Permanent Certification Program final rule). The permanent certification program was renamed the ''ONC HIT Certification Program'' in a final rule published on September 4, 2012 (77 FR 54163) (''2014 Edition EHR Certification Criteria final rule''). In the preamble of the Permanent Certification Program final rule, we stated that when the National Coordinator had approved test tools and test procedures for certification criteria adopted by the Secretary ONC would publish a notice of availability in the **Federal Register** and identify the approved test tools and test procedures on the ONC Web site.

In the 2014 Edition Release 2 EHR Certification Criteria final rule the Secretary adopted additional and revised certification criteria as part of the 2014 Edition EHR certification criteria (79 FR 54430). The National Coordinator has approved test tools and test procedures for testing EHR technology to most of these additional and revised certification criteria under the ONC HIT Certification Program.[1] These approved test tools and test procedures are identified on the ONC Web site at: *http://healthit.gov/policy-researchers-implementers/testing-and-test-methods.* The test tools and test procedures for the ''optional—transitions of care'' certification criterion (§ 170.314(b)(8)) and the optional testing and certification for the ''view, download, and transmit to 3rd party'' certification criterion (§ 170.314(e)(1)) have not yet been approved. Draft test procedures for § 170.314(b)(8) and the optional testing and certification for § 170.314(e)(1) are available on the Web site listed above.

Authority: 42 U.S.C. 300jj–11.

Dated: January 21, 2015.

Lisa Lewis,

Acting National Coordinator for Health Information Technology.

[FR Doc. 2015–01535 Filed 1–27–15; 8:45 am]

BILLING CODE 4150–45–P

[1] These certification criteria are: § 170.314(a)(18), (a)(19), (a)(20), (b)(9), (f)(7), (g)(1), (g)(3), (h)(1), (h)(2), and (h)(3).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0001]

Joint Meeting of the Dermatologic and Ophthalmic Drugs Advisory Committee and Ophthalmic Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committees: Dermatologic and Ophthalmic Drugs Advisory Committee and Ophthalmic Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on February 24, 2015, from 8 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

Contact Person: Moon Hee V. Choi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2147, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *DODAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committees will discuss new drug application (NDA) 203324, for riboflavin ophthalmic solutions with UV–A irradiation, submitted by Avedro, Inc. The combination products are used in corneal collagen cross-linking and proposed to be indicated for the treatment of progressive keratoconus or corneal ectasia following refractive surgery.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 9, 2015. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before January 30, 2015. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 2, 2015.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Moon Hee V. Choi at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 23, 2015.

Jill Hartzler Warner,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2015–01534 Filed 1–27–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Muscular Dystrophy Coordinating Committee (MDCC).

The meeting will be open to the public and accessible by live webcast.

Name of Committee: Muscular Dystrophy Coordinating Committee.

Type of meeting: Open Meeting.

Date: March 17, 2015.

Time: 8:30 a.m. to 4:30 p.m. *Eastern Time*—Approximate end time.

Agenda: The Muscular Dystrophy Coordinating Committee (MDCC) is mandated by the MD–CARE Act to ''develop a plan for conducting and supporting research and education on muscular dystrophy through the national research institutes, and will periodically review and revise the plan.'' The Committee will discuss the draft 2015 Action Plan for the Muscular Dystrophies at this meeting. Prior to the meeting, an agenda will be posted to the MDCC meeting registration Web site: *https://meetings.ninds.nih.gov/meetings/MDCC/.*

Registration: To register, please go to: *https://meetings.ninds.nih.gov/meetings/MDCC/.*

Webcast Live: For those not able to attend in person, this meeting will be webcast at: *http://videocast.nih.gov/.*

Place: Natcher Conference Center (Building 45), Conference Room D, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

Contact Person: Glen H. Nuckolls, Ph.D., Executive Secretary, Muscular Dystrophy Coordinating Committee, National Institute of Neurological Disorders and Stroke, NIH, 6001 Executive Boulevard, NSC 2203, Bethesda, MD 20892, (301) 496–5739, *glen.nuckolls@ninds.nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the

business or professional affiliation of the interested person.

Attendance is limited to seating space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

All visitors must go through a security check at the NIH main campus to receive a visitor's badge. A government issued photo ID is required. Further information can be found at the registration Web site: *https://meetings.ninds.nih.gov/meetings/MDCC/.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: January 22, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01484 Filed 1–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cellular Aspects of Diabetes and Obesity.

Date: February 19, 2015.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Reed A Graves, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 402–6297, *gravesr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Thrombosis and Vascular.

Date: February 19, 2015.

Time: 4:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0952, *espinozala@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical and Translational Imaging Applications.

Date: February 20, 2015.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Eileen W Bradley, DSC, Chief, SBIB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Targets for Cancer Intervention.

Date: February 23, 2015.

Time: 7:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Careen K Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 435–3504, *tothct@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Developmental Therapeutics Study Section.

Date: February 23–24, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Sharon K Gubanich, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 408–9512, *gubanics@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Motor Function, Speech and Rehabilitation Study Section.

Date: February 23–24, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: El Tropicano Riverwalk Hotel, 110 Lexington Ave, San Antonio, TX 78205.

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, 301–402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Tumor Microenvironment Study Section.

Date: February 23–24, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Angela Y Ng, Ph.D., MBA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, Bethesda, MD 20892, 301–435–1715, *ngan@mail.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Vascular Cell and Molecular Biology Study Section.

Date: February 23–24, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Guest Suites Santa Monica, 1707 Fourth Street, Santa Monica, CA 90401.

Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Diseases and Pathophysiology of the Visual System Study Section.

Date: February 23–24, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Westin Long Beach, 333 East Ocean Boulevard, Long Beach, CA 90802.

Contact Person: Nataliya Gordiyenko, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7846, Bethesda, MD 20892, 301–435–1265, *gordiyenkon@csr.nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Health Services Organization and Delivery Study Section.

Date: February 23–24, 2015.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Jacinta Bronte-Tinkew, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3164, MSC 7770, Bethesda, MD 20892, (301) 806–0009, *brontetinkewjm@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Neurodegeneration Study Section.

Date: February 23–24, 2015.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 700 F Street NW., Washington, DC 20001.

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, 301–435–1203, *taupenol@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Bacterial Pathogenesis Study Section.

Date: February 23–24, 2015.

Time: 8:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Alexandria Old Town, 1456 Duke Street, Alexandria, VA 22314.

Contact Person: Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov.*

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Community-Level Health Promotion Study Section.

Date: February 23–24, 2015.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

Contact Person: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Bacterial Pathogenesis.

Date: February 23, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Old Town Alexandria, 1456 Duke St., Alexandria, VA 22314.

Contact Person: Fouad A. El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435–1149, *elzaataf@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biology of Neurodegeneration.

Date: February 23, 2015.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco, 700 F Street NW., Washington, DC 20001.

Contact Person: Peter B Guthrie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Integrative Neuroscience.

Date: February 24, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated; Review Group, Pregnancy and Neonatology Study Section.

Date: February 24–25, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael Knecht, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435–1046, *knechtm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Motor Function, Speech and Rehabilitation.

Date: February 24, 2015.

Time: 3:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Dana Jeffrey Plude, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848, Bethesda, MD 20892, 301–435–2309, *pluded@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: High Throughput Screening Assays for Probe Discovery.

Date: February 25–26, 2015.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kee Hyang Pyon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7806, Bethesda, MD 20892, (301) 272–4865, *pyonkh2@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Tumor Progression and Metastasis Study Section.

Date: February 25–26, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Long Beach Downtown, 500 E 1st St., Long Beach, CA 90802.

Contact Person: Rolf Jakobi, Ph.D. Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Pathobiology of Kidney Disease Study Section.

Date: February 25–26, 2015.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville Hotel, Executive Meeting Center, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIB Clinical Pediatric Applications.

Date: February 25, 2015.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: John Firrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Risk Prevention, Stress and Social Behavior.

Date: February 25, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, (301) 594–3292, *niw@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 22, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01485 Filed 1–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Targeting Temporal Dynamics of the Brain Activity for the Treatment of Cognitive Deficits.
Date: February 17–18, 2015.
Time: 8:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181 MSC 7846, Bethesda, MD 20892–7846, 301–435–1236, *zhaow@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Academic Research Enhancement Award.
Date: February 25, 2015.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Lee Rosen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171, *rosenl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Drug Discovery for Aging, Neuropsychiatric and Neurologic Disorders.
Date: February 26–27, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: J W Marriott New Orleans, 614 Canal Street, New Orleans, LA 70130.
Contact Person: Yuan Luo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–915–6303, *luoy2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Sensory and Motor Neurosciences, Cognition and Perception.
Date: February 26–27, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: JW Marriott Hotel, 614 Canal St, New Orleans, LA 70130.
Contact Person: Sharon S Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 7846, Bethesda, MD 20892, 301–237–1487, *lowss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Aging and Development, Auditory, Vision and Low Vision Technologies.
Date: February 26–27, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites DC Convention Center, Embassy Hotel, 900 10th street, Washington, DC 20001.
Contact Person: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, (301) 613–2064, *leepg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Medical Imaging.
Date: February 26–27, 2015.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Los Angeles Marriott at LAX, 5855 West Century Blvd., Los Angeles, CA 90245.
Contact Person: Leonid V Tsap, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, (301) 435–2507, *tsapl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Immunology.
Date: February 26–27, 2015.
Time: 8:30 a.m. to 5:00 a.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Patrick K Lai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2215, MSC 7812, Bethesda, MD 20892, 301–435–1052, *laip@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Basic and Integrative Bioengineering.
Date: February 26, 2015.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Paul Sammak, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, MSC 7892, Bethesda, MD 20892, 301–435–0601, *sammakpj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Bioengineering Sciences.
Date: February 26–27, 2015.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Ping Fan, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7840, Bethesda, MD 20892, 301–408–9971, *fanp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PARs: Developmental Pharmacology and Toxicology.
Date: February 26, 2015.
Time: 1:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Bonnie L Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.
Date: February 26, 2015.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: David R Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Musculoskeletal Rehabilitation.
Date: February 26, 2015.
Time: 4:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.
Contact Person: Rajiv Kumar, Ph.D., IRG Chief, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7802, Bethesda, MD 20892, 301–435–1212, *kumarra@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 22, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–01486 Filed 1–27–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–0720]

Request for Public Comment on Waiver Revisions for Certain Medications and Suggestions for Risk Evaluation

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed policy clarification and request for comments.

SUMMARY: The Coast Guard is seeking public comment on the policy clarification proposed in this Notice regarding the criteria for granting medical waivers to mariners who require the use of potentially impairing prescription medications. The Coast Guard is also seeking input regarding effective methods of risk evaluation of such mariners. Current Coast Guard guidance states that the ''use of certain medications is considered disqualifying for the issuance of credentials,'' and that ''the underlying cause or need for use of these medications and potential side effects may result in denial of a credential application or require a waiver.'' Current guidance specifically identifies that use of benzodiazepine medications, opioid and opiate medications, non-benzodiazepine sedative hypnotic medications, and barbiturate medications require a waiver, but does not specify the factors that the Coast Guard will consider in making its determination on whether the risks associated with use of these medications are low enough to warrant consideration for a waiver.

The Coast Guard is proposing additions to the current medication policy that will clarify the circumstances that the Coast Guard will consider when determining whether to grant a medical waiver for use of these medications. Additionally, the Coast Guard is proposing to include a safety warning to mariners advising them to refrain from use of impairing medications while operating under the authority of their credential. The Coast Guard is seeking comments from the public on whether the proposed policy adequately addresses safety concerns regarding merchant mariners whose medical conditions require the use of medications that have the potential to impair cognitive ability, judgment or reaction time.

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before March 30, 2015 or reach the Docket Management Facility by that date.

ADDRESSES: You may submit comments identified by docket number USCG–2014–0720 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or email Lieutenant Ashley Holm, Mariner Credentialing Program Policy Division (CG–CVC–4), U.S. Coast Guard, telephone 202–372–2357, email *MMCPolicy@uscg.mil.* If you have questions on viewing material in the docket, call Docket Operations at 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation

You may submit comments and related material regarding whether the policy clarifications proposed in this Notice should be incorporated into a final policy on issuing medical waivers to mariners whose medical conditions require use of benzodiazepine medications, opioid and opiate medications, non-benzodiazepine sedative hypnotic medications, or barbiturate medications. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this notice (USCG–2014–0720) and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number (USCG–2014–0720) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this notice.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Viewing the comments: To view comments, go to *http://www.regulations.gov,* type the docket number (USCG–2014–0720) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Open Docket Folder'' on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use their Docket Management Facility.

Privacy Act: Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Background and Purpose

Coast Guard regulations in 46 CFR 10.302 contain the medical standards that merchant mariners must meet prior to being issued a merchant mariner credential (MMC). In cases where the mariner does not meet the medical standards in 46 CFR 10.302, waivers may be granted when extenuating circumstances exist that warrant special consideration. 46 CFR 10.303. Additionally, 46 CFR 10.304 specifies

the scope of the general medical exam required for receiving an MMC and directs that ''this exam must also document any condition requiring medication that impairs cognitive ability, judgment, or reaction time.''

On September 8, 2008, the Coast Guard issued Navigation and Vessel Inspection Circular (NVIC) 04–08, ''Medical and Physical Evaluation Guidelines for Merchant Mariner Credentials'' (NVIC 04–08). In Enclosure (4) of NVIC 04–08, the Coast Guard identifies medications that may be disqualifying or may require a medical waiver. (NVIC 04–08 is available on the Internet at: *http://www.uscg.mil/hq/cg5/nvic/pdf/2008/NVIC%2004-08%20CH%201%20with%20Enclosures%2020130607.pdf.*)

The medications identified have a documented potential to impair cognitive ability, judgment and/or reaction time. In many instances, the medication labels also warn against driving or operating heavy machinery while under the influence of these medications. Because of the documented potential for impairment associated with these medications, the Coast Guard considers the use of these medications to be generally disqualifying. In some cases, waivers are granted to allow for limited use of the medication; while in other cases, the mariner is denied medical certification. When waivers are granted for use of these potentially impairing medications, the conditions of the waiver usually stipulate that the mariner must refrain from use of the medication for a specified time period, in order to decrease the likelihood that the mariner will be under the influence of the medication while working. However, such waiver stipulations cannot be applied to mariners who are medically required to take their potentially impairing medications prior to, and while working. As a result, mariners in this situation often have to change their medical treatment plan or risk denial of medical certification.

Enclosure (4) to NVIC 04–08 lists benzodiazepine medications, opioid and opiate medications, non-benzodiazepine sedative hypnotic medications, and barbiturate medications as requiring a waiver. Since the issuance of NVIC 04–08, there have been several instances where mariners sought waivers for use of these specific medications. However, NVIC 04–08 does not provide any guidance on the circumstances that will warrant consideration for a medical waiver. Published guidance on the circumstances that will be considered in determining whether the use of these medications warrant consideration for a medical waiver will support Coast Guard efforts to consistently evaluate merchant mariners whose medical condition requires the use of these medications and to assess whether an applicant's use of one of these medications warrants a medical waiver under 46 CFR 10.303.

The proposed policy changes seek to clarify the extenuating circumstances related to use of potentially impairing medications that the Coast Guard weighs in evaluating risk to public and maritime safety and in determining suitability for a medical waiver. Additionally, the policy would allow for consideration of the treating physician's formal assessment of impairment in determining whether the risk associated with the mariner's medication use is acceptable for a safety sensitive position.

The Coast Guard recognizes that there are instances when a mariner may take a medication or start a prescription for a medication outside of the timeframe of the MMC application process, and thus the medication use has not been included in the Coast Guard's review of the mariner's MMC application. Because a number of prescription medications and over-the-counter medications have effects that may impair cognitive ability, judgment and reaction time, it is critical that each mariner consider the effects of his or her medication before deciding to operate under the authority of his or her credential. Between 1987 and 2000, the National Transportation Safety Board investigated a significant number of accidents across all modes of passenger transportation that involved the use of potentially impairing prescription and over-the-counter medications, and their analysis determined that ''prescription and over-the-counter medications continue to be factors in transportation accidents and incidents.'' [1]

The current Coast Guard guidance advises mariners that certain medications may be considered disqualifying for the issuance of credentials, but the policy does not provide guidance on whether it is appropriate to operate under the authority of the credential while under the effects of a potentially impairing medication. As such, one of the proposed changes to the medication policy includes a safety warning to mariners advising them to refrain from operating under the authority of the credential when they are under the influence of any medication that can cause drowsiness, or impair cognitive ability, judgment or reaction time. The Coast Guard is proposing to include these policy changes in a replacement to Enclosure (4) to NVIC 04–08.

In addition to seeking comments from the public about whether the proposed policy adequately addresses safety concerns regarding merchant mariners whose medical conditions require use of potentially impairing medication, the Coast Guard is also seeking public input on five specific questions relating to the medical waivers for the use of such medications.

Questions for the Public

1. What factors, if any, should the Coast Guard consider in determining whether to grant a waiver for mariners whose conditions require them to use (or be under the effects of) a potentially impairing medication while operating under the authority of the merchant mariner credential?

2. What methods of objective evaluation are available to reliably assure that a mariner is free of any impairing medication effects, specifically effects that would interfere with the safe operation of the vessel?

3. Should the treating physician's opinion that the mariner has no medication impairment be considered sufficient to mitigate risk to public and maritime safety?

4. Should formal neuropsychological/neurocognitive evaluation be required of all mariners who require chronic use of potentially impairing medications, or use of potentially impairing medications while operating under the authority of the credential? If so, what functions should be measured/evaluated, and what would be the appropriate standard for a test's outcome?

5. Under what circumstances, if any, should the Coast Guard consider granting waivers for mariners whose conditions require use of opioid maintenance therapy (for example, methadone or buprenorphine)?

The Proposed Policy

The proposed replacement to Enclosure (4) to NVIC 04–08, provided below, outlines more specific guidance for each class of medication discussed above. Additionally, the guidance advises mariners to carefully consider manufacturers' warnings for any medication(s) they may be taking, whether prescription or over-the-counter, before acting under the authority of the credential. The proposed replacement for Enclosure (4) to NVIC 04–08 follows:

[1] National Transportation Safety Board Safety Recommendation I–00–5, January 13, 2000. *http://www.ntsb.gov/doclib/recletters/2000/I00_5.pdf.*

Medications

Definitions

A. *Acting under the authority of the credential.* The definition of ''acting under the authority of a credential'' is found in 46 CFR 5.57. It states that

(a) A person employed in the service of a vessel is considered to be acting under the authority of a credential or endorsement when the holding of such credential or endorsement is:

(1) Required by law or regulation; or

(2) Required by an employer as a condition for employment.

(b) A person is considered to be acting under the authority of the credential or endorsement while engaged in official matters regarding the credential or endorsement. This includes, but is not limited to, such acts as applying for renewal, taking examinations for raises of grade, requesting duplicate or replacement credentials, or when appearing at a hearing under this part.

(c) A person does not cease to act under the authority of a credential or endorsement while on authorized or unauthorized shore leave from the vessel.

B. *Alcohol* means any form or derivative of ethyl alcohol (ethanol). *See* 33 CFR 95.010.

C. *Controlled substance* has the same meaning assigned by 21 U.S.C. 802 and includes all substances listed on Schedules I through V as they may be revised from time to time (21 CFR part 1308). *See* 33 CFR 95.010.

D. *Dangerous drug* means a narcotic drug, a controlled substance, or a controlled-substance analog (as defined in section 102 of the Comprehensive Drug Abuse and Control Act of 1970 (21 U.S.C. 802)). *See* 46 CFR 16.105.

E. *Drug* means any substance (other than alcohol) that has known mind or function-altering effects on a person, specifically including any psychoactive substance, and including, but not limited to, controlled substances. *See* 33 CFR 95.010.

F. *Intoxicant* means any form of alcohol, drug or combination thereof. *See* 33 CFR 95.010.

Prohibitions

A. *Illegal Substances:* Use of illegal or illegally obtained substances, including all illegal or illegally obtained dangerous drugs (as defined in 46 CFR 16.105), is incompatible with maritime service and is not waiverable under any circumstances.

B. *Intoxicants:* Operation of vessels while under the influence of drugs or alcohol is regulated under 33 CFR part 95. Issuance of a credential does not authorize a mariner to operate a vessel in contravention of 33 CFR part 95. *See also* 46 U.S.C. 2302.

Important Safety Warning

Certain medications, whether prescription or over-the-counter, have known impairing effects and their labels warn about risk of drowsiness and caution against use while driving or operating hazardous machinery.

The nature of shipboard life and shipboard operations is such that mariners may be subject to unexpected or emergency response duties associated with vessel or crew safety, prevention of pollution, and maritime security at any time while aboard a vessel.

In the interest of safety of life and property at sea, the Coast Guard views shipboard life and the attendant shipboard duties that can arise without warning, as safety sensitive duties that are analogous to operating hazardous machinery. As such:

A. Mariners are advised to discuss all medication use with their treating providers and to inform them of the safety sensitive nature of their credential; and

B. Mariners are cautioned against acting under the authority of their merchant mariner credential while under the influence of medications that:

(a) Can cause drowsiness, or

(b) can impair cognitive ability, judgment or reaction time, or

(c) carry warnings that caution against driving or operating heavy machinery.

C. Mariners are advised that they are considered to be acting under the authority of the credential anytime they are aboard a vessel in a situation to which 46 CFR 5.57(a) applies, even when off-watch or while asleep.

Prescription and Over-the-Counter Medications

Credential applicants who are required to complete a general medical exam should disclose on the Merchant Mariner Credential Medical Evaluation Report, CG–719K, all prescription and over the counter medications, filled or refilled and/or taken within 30 days prior to the date that the applicant submits the CG–719K to the Coast Guard. 46 CFR 10.302(a) and 10.304(a).

In addition, credential applicants who are required to complete a general medical exam should disclose on the CG–719K all prescription medications and over-the-counter medications, including dietary supplements and vitamins, that were used for a period of 30 days or more within the 90 days prior to the date the applicant submits the CG–719K to the Coast Guard. 46 CFR 10.302(a) and 10.304(a).

Medications which may impair cognitive ability, judgment or reaction time are considered disqualifying for issuance of credentials. Additionally, the underlying condition requiring use of the potentially impairing medication and/or the possible side-effects of these medications may result in denial of a credential application. Mariners who require the use of disqualifying medications may seek consideration for a waiver in accordance with 46 CFR 10.303.

The following is a non-exhaustive list of medications that may be deemed disqualifying due to risk of impaired cognitive ability, judgment or reaction time. Mariners on these medications are subject to further medical review, in accordance with enclosure (6) of NVIC 04–08, to determine whether the applicant's use of the medication is disqualifying. If the applicant's medication use is deemed disqualifying by the Coast Guard, then the Coast Guard will determine whether the mariner qualifies for a waiver under 46 CFR 10.303. Please refer to the section on Medication Waivers that follows.

A. *Anti-Depressants:*

(1) Conditions which require Selective serotonin reuptake inhibitors (SSRI), serotonin and norepinephrine reuptake inhibitors (SNRIs), or Wellbutrin (bupropion) do not require a waiver unless the underlying condition is deemed disqualifying.

(2) Conditions which require the use of other anti-depressants will be evaluated for stability of the underlying condition and the absence of impairing medication side-effects.

(3) A waiver is not required when used as a smoking cessation aid and with Premenstrual Dysphoric Disorder (PMDD).

B. *Anti-Motion Sickness Agents:* Use is approved and a waiver is not required when used in accordance with manufacturers' warnings and directions.

C. *Anti-Psychotics:* The medication and the underlying condition will be reviewed to determine whether the mariner qualifies for a waiver under 46 CFR 10.303.

D. *Anti-Convulsives:* The medication and the underlying condition will be reviewed to determine whether the mariner qualifies for a waiver under 46 CFR 10.303. See enclosure (8) for guidance on evaluating waivers of underlying conditions that may require anti-convulsives.

E. *Anti-Histamines:*

(1) Non-sedating medications, such as loratadine (Claritin), fexofenadine (Allegra) and desloratadine (Clarinex), are acceptable when used in accordance with manufacturers' warnings and directions.

(2) Sedating medications—The medication and the underlying condition will be reviewed to determine whether the mariner qualifies for a waiver under 46 CFR 10.303.

F. *Barbiturate Medications:* Due to the risk of impaired cognitive ability, judgment, and reaction time, use of barbiturate medications is disqualifying. The medication and the underlying condition will be reviewed to determine whether the mariner qualifies for a waiver under 46 CFR 10.303. Waivers for use within 48 hours prior to, or while acting under the authority of the credential will only be approved on a case-by-case basis if the Coast Guard determines that there are exceptional circumstances that mitigate risk to public safety. See medication waiver discussion below.

G. *Benzodiazepines:* Due to the risk of impaired cognitive ability, judgment, and reaction time, use of benzodiazepine medications is disqualifying. The medication and the underlying condition will be reviewed to determine whether the mariner qualifies for a waiver under 46 CFR 10.303. Waivers for use within 48 hours prior to, or while acting under the authority of the credential will only be approved on a case-by-case basis if the Coast Guard determines that there are exceptional circumstances that mitigate risk to public safety. See Medication Waivers discussion below.

H. *Cough Preparations with Dextromethorphan, Codeine, or other Codeine-Related Analogs:*

(1) Use of over-the-counter medications is approved when used in accordance with manufacturers' warnings and directions.

(2) For prescription medications containing opioid or opiate ingredients, see section K, Legally Prescribed Controlled Substances.

I. *Diet Aids (e.g. Dexatrim, Metabolife, etc.) and Stimulants (e.g. modafinil, amphetamines, etc.):*

(1) Use of over-the-counter medications is approved when used in accordance with manufacturers' warnings and directions.

(2) Prescription medications—The medication and the underlying condition will be reviewed to determine whether the mariner qualifies for a waiver under 46 CFR 10.303.

J. *Non-benzodiazepine Sedative Hypnotic Medications:* Due to the risk of impaired cognitive ability, judgment, and reaction time, use of non-benzodiazepine sedative hypnotic medications is disqualifying. The medication and the underlying condition will be reviewed to determine whether the mariner qualifies for a waiver under 46 CFR 10.303. Waivers for use within 12 hours prior to, or while acting under the authority of the credential will only be approved on a case-by-case basis if the Coast Guard determines that there are exceptional circumstances that mitigate risk to public safety. See medication waiver discussion below.

K. *Legally Prescribed Controlled Substances* (including legally prescribed narcotics, opiates, opioids and legally prescribed medications which contain narcotics or opioids such as Tylenol with codeine): Due to the risk of impaired cognitive ability, judgment, and reaction time, use of legally prescribed controlled substances is disqualifying. The medication and the underlying condition will be reviewed to determine whether the mariner qualifies for a waiver under 46 CFR 10.303. Waivers for use within 12 hours prior to, or while acting under the authority of the credential will only be approved on a case-by-case basis if the Coast Guard determines that there are exceptional circumstances that mitigate risk to public safety. See medication waiver discussion below.

L. *Medical Use of Hallucinogens (e.g. medical marijuana, peyote or ecstasy):* Even if legalized by a state, is disqualifying and not waiverable under any circumstances.

M. *Muscle Relaxants:* Centrally acting (*e.g.* carisoprodol, meprobamate, cyclobenzaprine, methocarbamol, orphenadrine citrate, anti-muscarinics and phenyltoloxamine, etc.): The medication and the underlying condition will be reviewed to determine whether the mariner qualifies for a waiver under 46 CFR 10.303. Waivers for use within 12 hours prior to, or while acting under the authority of the credential will only be approved on a case-by-case basis if the Coast Guard determines that there are exceptional circumstances that mitigate risk to public safety. See medication waiver discussion below.

Medication Waivers

A. As stated previously, medications which may impair cognitive ability, judgment or reaction time are considered disqualifying for issuance of credentials. The underlying condition, as well as the effects of the medications, may lead to denial of a credential application or may result in issuance of a waiver.

B. Due to the documented risks of impaired cognition, judgment and reaction time associated with the use of centrally acting opioid/opiate medications, benzodiazepine medications, non-benzodiazepine sedative hypnotic medications, and barbiturate medications, the Coast Guard has determined that use of these medications while acting under the authority of the credential is generally not waiverable. However, waivers may be considered, on a case-by-case basis, if the Coast Guard determines that there are exceptional circumstances that warrant consideration for a waiver.

C. The Coast Guard retains final authority for the issuance of waivers.

D. Waivers may include restrictions and/or limitations on the credential.

E. Applicants seeking consideration for waivers for the use of medications that may impair cognitive ability, judgment, or reaction time should submit the additional information detailed below, for each medication:

(1) A letter from the prescribing and/or treating physician that includes the following:

a. Whether the physician has familiarized him/herself with the detailed guidelines on medical conditions and medications contained in Navigation and Vessel Inspection Circular 04–08.

b. Whether the physician understands the public-safety sensitive nature of the merchant mariner credential.

c. A detailed discussion of the condition which requires use of the potentially impairing medication.

d. A description of any known complications experienced by the mariner from the use of a particular medication, level of current stability and prognosis of the underlying condition. The physician should also provide his or her professional opinion on whether the condition is suitable for safety-sensitive work.

e. A description of the dosage and frequency of use of the medication (this description should be very specific; ''as needed'' is not sufficient information). The description should also reflect that the physician has reviewed the mariner's pharmacy records for documentation of the number of pills dispensed for use each month and documentation of the length of time that mariner has been on the medication.

f. A detailed statement about whether the mariner is taking the medication as directed and if there are any concerns of misuse or overuse of the medication.

g. A statement about whether the mariner is compliant with therapy and follow-up appointments.

h. A statement about whether the mariner requires use of this medication while at work, or while aboard the vessel. If the mariner requires use of the potentially impairing medication while at work or while aboard the vessel, the physician should provide a detailed explanation and rationale for the use.

i. A statement about whether the physician has advised the mariner of the risks of impairment related to the medication. The physician should also discuss any risks advised, as well as any instructions discussed with the mariner for mitigating risk.

j. A statement about whether the mariner's other medications, medical conditions, and work/sleep conditions might compound the impairing effects of this medication. This discussion should reflect that the physician has knowledge of the specifics of the mariner's medications, medical conditions and work/sleep schedule.

k. A statement about whether the physician has formally evaluated the mariner for the presence of any impairing medication effects. This discussion should include a description of the method of evaluation utilized, as well as the findings.

l. A medical opinion of whether the mariner has any medication effects that would impede safe operation of a vessel or interfere with work in a safety sensitive position. This discussion should include the rationale for the physician's opinion.

m. A statement whether the physician has advised the mariner that it is safe to operate a vessel, operate hazardous machinery and perform safety sensitive functions while under the influence of this medication.

(2) When requested, additional amplifying information, to include formal neuropsychological/neurocognitive evaluation.

a. In particular, mariners seeking waivers to use or be under the influence of potentially impairing opioid/opiate, benzodiazepine, sedative hypnotic, and/or barbiturate medications, while acting under the authority of the credential, may be asked to submit the results of a formal neuropsychological/neurocognitive evaluation.

b. When formal neuropsychologic or neurocognitive evaluation is requested, the assessment should include objective evaluation of the following functions, at a minimum: [2]

i. Alertness, arousal and vigilance

ii. Attention (focused, shifting and divided), processing speed,and working memory

iii. Reaction time (choice and complex), psychomotor function, upper motor speed and coordination

iv. Sensory perceptual function

v. Executive function: Mental flexibility, adaptive problem solving, abstract reasoning, impulse control, risk taking/risk assessment, organizational ability (including visual spatial organization), and planning

Authority

Ths notice is issued under the authority of 5 U.S.C. 552(a) and 46 U.S.C. 7101 *et seq.*

Dated: January, 16, 2015.

J.C. Burton,

Captain, U.S. Coast Guard, Director of Inspections & Compliance.

[FR Doc. 2015–01623 Filed 1–27–15; 8:45 am]

BILLING CODE 9110–04–P

[2] Kay, GG and Logan BK, (2011). Drugged Driving Expert Panel report: A consensus protocol for assessing the potential of drugs to impair driving. (DOT HS 811 438). Washington, DC: National Highway Traffic Safety Administration.

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

New Agency Information Collection Activity Under OMB Review: Application To Participate in the Screening Partnership Program (SPP)

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the new Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on July 2, 2014, 79 FR 37763. The collection involves the TSA's Screening Partnership Program (SPP) (49 U.S.C. 44920 (ATSA § 108)), which enables commercial airports to apply for a qualified private screening company to provide passenger and baggage security screening services. An airport submits the SPP application to have employees of qualified private companies carry out the screening of passengers and property at the airport under a contract entered into with TSA. The application process is the initial notification to TSA Headquarters of an airport's desire to opt-out of the federal screening provided by TSA employees.

DATES: Send your comments by February 27, 2015. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), 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. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

The submission of the SPP application is the first step in an airport's request for private screening; it represents the initial notification to TSA of an airport's desire to opt-out of the federal screening provided by TSA employees. TSA currently has a screening presence at approximately 450 airports, of which 19 airports are actively participating in SPP.

The annual burden for the information collection related to SPP is estimated to be one half (0.50) hour. While TSA estimates that only two airports will respond annually, it is presumed that ten or more airports could respond. The agency estimates that each respondent airport will spend approximately one-quarter (.25) hour to complete the application for a total burden of one-half (0.50) hour. TSA does not require the airports to maintain records of the application submission; however, if the airport choses to do so the burden associated with the action is anticipated to be de minimis.

Title: Screening Partnership Program Application.

Type of Request: New collection.

OMB Control Number: Not yet assigned.

Form(s): TSA Form 424 Screening Partnership Program Application.

Affected Public: Airport operators.

Abstract: TSA's Screening Partnership Program (SPP) (49 U.S.C. 44920 (ATSA § 108)) enables commercial airports to apply for a private screening company to provide passenger and baggage security screening services. An airport submits the SPP application to have employees of qualified private companies carry out the screening of passengers and property at the airport under a contract entered into with TSA. The application process is the initial notification to TSA Headquarters of an airport's desire to opt-out of the federal screening provided by TSA employees.

Number of Respondents: 2.

Estimated Annual Burden Hours: An estimated 0.50 hours annually.

Dated: January 22, 2015.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2015–01513 Filed 1–27–15; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services, Department of Homeland Security

[OMB Control Number 1615–0102]

Agency Information Collection Activities: Freedom of Information/Privacy Act Request, Form G–639; Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on October 20, 2014, at 79 FR 62648, allowing for a 60-day public comment period. USCIS did not receive comments in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 27, 2015. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden

and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806. All submissions received must include the agency name and the OMB Control Number 1615–0102.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0028 in the search box. We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

SUPPLEMENTARY INFORMATION:

Comments

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Freedom of Information/Privacy Act Request.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–639; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form G–639 is provided as a convenient means for persons to provide data necessary for identification of a particular record desired under Freedom of Information/Privacy Act (FOIA/PA).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G–639 is 142,000 and the estimated hour burden per response is .25 hours (15 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 35,500 hours.

Dated: January 22, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–01605 Filed 1–27–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–01]

30-Day Notice of Proposed Information Collection: Choice Neighborhoods

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* February 27, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 17, 2014.

A. Overview of Information Collection

Title of Information Collection: Choice Neighborhoods.

OMB Approval Number: 2577–0269.

Type of Request: Revision of a currently approved collection.

Form Number: SF–424, SF–LLL, HUD 2880, HUD 96010, HUD 96011, HUD 53150, HUD 53152, HUD 53232, HUD 53153, HUD 53151, HUD 53154, HUD 53156, HUD–53233, HUD–53234, HUD–53238, HUD–53231, HUD–53235, HUD–53237, HUD–53236, HUD–53239, HUD–53240, HUD–53230, HUD–53421, HUD–2530, HUD–2991, HUD–2995, HUD–60002, HUD–52515.

Description of the need for the information and proposed use: The information collection is required to administer the Choice Neighborhoods program, including applying for funds and grantee reporting.

Respondents (*i.e.* affected public): Potential applicants and grantees (which would include local governments, tribal entities, public housing authorities, nonprofits, and for-profit developers that apply jointly with a public entity).

Estimated Number of Respondents: 251 annually.

Estimated Number of Responses: 531 annually.

Frequency of Response: Frequency of response varies depending on what

information is being provided (*e.g.,* once per year for applications and four times per year for grantee reporting).

Average Hours per Response: Average hours per response varies depending on what information is being provided (*e.g.,* Choice Neighborhoods Implementation grant application: 73.76; Choice Neighborhoods Planning grant application: 37.76; Choice Neighborhoods information collections unrelated to the NOFA, including grantee reporting: 13.58).

Total Estimated Burdens: Total burden hours is estimated to be 9,924. Total burden cost is estimated to be $396,979.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 22, 2015.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–01500 Filed 1–27–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–C–116]

30-Day Notice of Proposed Information Collection: Indian Community Development Block Grant

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Correction of comment due date.

SUMMARY: On January 7, 2015 at (80 FR 902) in the **Federal Register**, HUD published an information collection notice entitled ''30-Day Notice of Proposed Information Collection: Indian Community Development Block Grant.'' The purpose of the notice is to allow an additional 30 days of public comment. HUD inadvertently published the notice asking for comments to be submitted by March 9, 2015. This notice corrects the comment due date.

DATES: *Comments Due Date:* February 6, 2015.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; telephone 202–402–3400; email at *Colette.Pollard@hud.gov*. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

Dated: January 15, 2015.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–01503 Filed 1–27–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2015–N022; FXES11130200000–156–FF02ENEH00]

Endangered and Threatened Species Permit Applications; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment; correction.

SUMMARY: We, the U.S. Fish and Wildlife Service, correct a typographical error in a recently published notice that announced our receipt of applications. Due to the inadvertent typographical error, the prior notice mischaracterized the area of translocation for a species for which the applicant seeks a permit. The error is not in the application materials, but only in one section of our previous **Federal Register** notice. If you requested documents for review, you need not request them again.

DATES: To ensure consideration, written comments must be received on or before February 17, 2015.

ADDRESSES: Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at Division of Classification and Recovery, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6920.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Division of Classification and Restoration, by U.S. mail at P.O. Box 1306, Albuquerque, NM 87103; or by telephone at 505–248–6920.

SUPPLEMENTARY INFORMATION: The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementation of section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Correction

Due to an inadvertent typographical error, our January 15, 2015 (80 FR 2118), **Federal Register** notice did not accurately reflect the translocation activities for one of the species for which we will consider issuing a recovery permit. In the Applications Available for Review and Comment section of the notice, for Permit TE091551 (applicant: U.S. Fish and Wildlife Service), Vermejo Park Ranch should not have been included as a translocation site. The correct description of the permit application reads as follows:

Permit TE–091551

Applicant: U.S. Fish and Wildlife Service—Mexican Wolf Recovery Program, Albuquerque, New Mexico.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct the following activities for Mexican gray wolf (*Canis lupis baileyi*) within Arizona and New Mexico: Capture, including, but not limited to, leg-hold traps, helicopter or ground darting and net-gunning, and captive capture methods; handle; possession; administration of health care; propagation; radio collar or other marking techniques; release; obtain and preserve blood, tissue, semen, ova, and other samples that are

considered parts of wolves (scat is not considered a part of a wolf and can be collected without a permit); translocate; transport between approved Mexican wolf captive management facilities in the United States and Mexico; to approved release sites; and purposeful lethal take (lethal take is limited to Mexican wolves within the MWEPA in Arizona and New Mexico); hazing via less-than-lethal projectiles; injurious harassment; research; and any other USFWS-approved husbandry practice or management action for Mexican wolves.

Obtaining Documents for Review

Please note that all the documents we made available from the date of publication of our earlier notice (January 15, 2015) are correct. If you already obtained any documents for review, you do not need to request new copies.

National Environmental Policy Act (NEPA)

In compliance with the NEPA (42 U.S.C. 4321 *et seq.*), we have analyzed the proposed activities in permit TE091551 in the *Final Environmental Impact Statement for the Proposed Revision to the Regulations for the Nonessential Experimental Population of the Mexican Wolf (Canis lupus baileyi)* (November 2014).

Dated: January 23, 2015.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2015–01662 Filed 1–26–15; 4:15 pm]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[AAK6006201 156A2100DD AOR3030.999900]

Extending Public Scoping Period for the Snow Mountain Solar Project on the Las Vegas Paiute Indian Reservation, Clark County, NV.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) is extending the public scoping period for the Snow Mountain Solar Project on the Las Vegas Paiute River Indian Reservation.

DATES: Scoping comments are due on January 30, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Chip Lewis at (602) 379–6782; email: *chip.lewis@bia.gov.*

SUPPLEMENTARY INFORMATION: The BIA published a Notice of Intent to Prepare an Environmental Impact Statement in the **Federal Register** on November 19, 2014 (79 FR 68909) and provided for a 30-day scoping comment period. The BIA is extending the comment period from December 19, 2014, to January 30, 2015 and will accept any comments received prior to January 30, 2015. Please refer to the November 19, 2014 (79 FR 68909) Notice of Intent for project details and commenting instructions.

Dated: January 14, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–01585 Filed 1–27–15; 8:45 am]

BILLING CODE 4337–2A–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[AAK6006201 156A2100DD AOR3030.999900]

Extending Public Scoping Period for the Aiya Solar Project on the Moapa River Indian Reservation, Clark County, NV

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs (BIA) is extending the public scoping period for the Aiya Solar Project on the Moapa River Indian Reservation.

DATES: Scoping comments are due on January 30, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Chip Lewis at (602) 379–6782; email: *chip.lewis@bia.gov.*

SUPPLEMENTARY INFORMATION: The BIA published a Notice of Intent to Prepare an Environmental Impact Statement in the **Federal Register** on November 21, 2014 (79 FR 69522) and provided for a 30-day scoping comment period. The BIA is extending the comment period from December 22, 2014, to January 30, 2015. Please refer to the November 21, 2014 (79 FR 69522) Notice of Intent for project details and commenting instructions.

Dated: January 14, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–01583 Filed 1–27–15; 8:45 am]

BILLING CODE 4337–2A–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CR–16980; PPWOCRADI0, PCU00RP14.R50000 (155)]

Proposed Information Collection; Nomination of Properties for Listing in the National Register of Historic Places

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. To comply with the Paperwork Reduction Act of 1995 and as a part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to comment on this IC. This IC is scheduled to expire on September 30, 2015. We may not conduct or sponsor and a person is not required to respond to a collection unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by March 30, 2015.

ADDRESSES: Send your comments on the IC to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 1849 C Street NW. (Mail Stop 2601), Washington, DC 20240 (mail); or *madonna_baucum@nps.gov* (email). Please include ''1024–0018'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Lisa Deline, NPS Historian, National Register of Historic Places, 1849 C Street NW. (Mail Stop 2280), Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Register of Historic Places (National Register) is the official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. National Register properties have significance to the history of communities, States, or the Nation. The National Historic Preservation Act of 1966 requires the Secretary of the Interior to maintain and expand the National Register, and to establish criteria and guidelines for including properties on the National Register. National Register properties must be considered in the planning for Federal or federally assisted projects, and listing in the National Register is required for

eligibility for Federal rehabilitation tax incentives. The National Park Service administers the National Register. Nominations for listing historic properties come from State Historic Preservation Officers (SHPO), from Federal Preservation Officers (FPO), for properties owned or controlled by the United States Government, and from Tribal Historic Preservation Officers (THPO), for properties on tribal lands. Private individuals and organizations, local governments, and American Indian tribes often initiate this process and prepare the necessary documentation. Regulations at 36 CFR 60 and 63 establish the criteria and guidelines for listing and for determining the eligibility of properties. We use three forms for nominating properties and providing documentation for the proposed listings:

- NPS Form 10–900 (National Register of Historic Places Registration Form).
- NPS Form 10–900–a (National Register of Historic Places Continuation Sheet).
- NPS Form 10–900–b (National Register of Historic Places Multiple Property Documentation Form).

These forms and supporting documentation go to the State Historic Preservation Office (SHPO) of the State [or FPO, or THPO, respectively] where the property is located. The State Historic Preservation Officer, Federal Preservation Officer, or Tribal Historic Preservation Officer can take one of several options: Reject the property, ask for more information, (or in the case of the SHPO, list the property just with the State), or send the forms to us for listing on the National Register. An appeals process is also available to any person or local government for the failure or refusal of a nominating authority to nominate a property. Once NPS receives the forms, NPS conducts a similar review process. Listing on the National Register provides formal recognition of a property's historical, architectural, or archeological significance based on national standards used by every State. The listing places no obligations on private property owners, and there are no restrictions on the use, treatment, transfer, or disposition of private property.

II. Data

OMB Control Number: 1024–001.

Expiration Date: September 30, 2015.

Title: Nomination of Properties for Listing in the National Register of Historic Places, 36 CFR 60 and 63.

Service Form Numbers: NPS 10–900, 10–900–a, and 10–900b.

Type of Request: Extension of a previously approved collection of information.

Description of Respondents: State, tribal, and local governments; businesses; nonprofit organizations; and individuals.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

	Annual respondents	Total annual responses	Avg. time per response (hours)	Total annual burden hours
36 CFR 60 and 63, National Register of Historic Places Registration Form; Continuation Sheet; NR Multiple Property Documentation Form Submitted to State & Local Gov't by Individuals (10–900, 10–900–b and 10–900–a)				
Individuals or Households	15	15	250	3,750
Individual Nominations Submitted to State & Local Gov't by Consultants (Forms 10–900 and 10–900–a)				
State, Local, and Tribal Governments	417	417	100	41,700
Existing Multiple Property Submission Submitted to State & Local Gov't by Consultants (Forms 10–900 and 10–900–a)				
State, Local, and Tribal Governments	18	18	50	900
Newly Proposed MPS Cover Document Submitted to State & Local Gov't by Consultants (Forms 10–900–b and 10–900–a)				
State, Local, and Tribal Governments	15	15	150	2,250
New Nominations Submitted to State & Local Gov't by Consultants (Forms 10–900 and 10–900–a)				
Individuals or Households	417	417	150	62,550
Total	882	882	700	111,150

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 22, 2015.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2015–01634 Filed 1–27–15; 8:45 am]

BILLING CODE 4310–EH–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1153 (Review)]

Certain Tow-Behind Lawn Groomers and Parts Thereof From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on certain tow-behind lawn groomers and parts thereof from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on July 1, 2014 (79 FR 37349) and determined on October 6, 2014 that it would conduct an expedited review (79 FR 66403, November 7, 2014).

The Commission completed and filed its determination in this review on January 22, 2015. The views of the Commission are contained in USITC Publication 4516 (January 2015), entitled *Certain Tow-Behind Lawn Groomers and Parts Thereof From China: Investigation No. 731–TA–1153 (Review).*

Issued: January 22, 2015.

By order of the Commission.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–01438 Filed 1–27–15; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The following public hearing on proposed amendments to the Federal Rules of Bankruptcy Procedure has been canceled: Bankruptcy Rules Hearing, February 6, 2015, in Pasadena, California. Announcements for this meeting were previously published in 79 FR 48250 and 79 FR 72702.

FOR FURTHER INFORMATION CONTACT: Jonathan C. Rose, Secretary and Chief Rules Officer, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 22, 2015.

Jonathan C. Rose,

Secretary and Chief Rules Officer.

[FR Doc. 2015–01518 Filed 1–27–15; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure.

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of Open Meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: April 20–21, 2015.

TIME: 8:30 a.m. to 5:00 p.m.

ADDRESSES: United States Court of Appeals for the Ninth Circuit, The Richard H. Chambers Courthouse, 125 South Grand Avenue, Pasadena, California 91105.

FOR FURTHER INFORMATION CONTACT: Jonathan C. Rose, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 23, 2015.

Jonathan C. Rose,

Rules Committee Secretary.

[FR Doc. 2015–01560 Filed 1–27–15; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Appellate Procedure.

ACTION: Notice of Open Meeting.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: April 23–24, 2015.
Time: 8:30 a.m. to 5 p.m.

ADDRESSES: United States Court of Appeals for the Third Circuit, James A. Byrne United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT: Jonathan C. Rose, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 23, 2015.

Jonathan C. Rose,

Rules Committee Secretary.

[FR Doc. 2015–01559 Filed 1–27–15; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Civil Procedure.

ACTION: Notice of Open Meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: April 9–10, 2015.
Time: 8:30 a.m. to 5 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Mecham Conference Center, One Columbus Circle NE., Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: Jonathan C. Rose, Secretary and Chief Rules Officer, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 23, 2015.

Jonathan C. Rose,

Secretary and Chief Rules Officer.

[FR Doc. 2015–01562 Filed 1–27–15; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Evidence

ACTION: Notice of Open Meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a one-day meeting. The meeting will be open to public observation but not participation.

DATES: April 17, 2015.

Time: 8:30 a.m. to 5:00 p.m.

ADDRESSES: Fordham University, School of Law, 150 West 62nd Street, New York, New York 10023.

FOR FURTHER INFORMATION CONTACT: Jonathan C. Rose, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 23, 2015.

Jonathan C. Rose,

Rules Committee Secretary.

[FR Doc. 2015–01565 Filed 1–27–15; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: March 16–17, 2015.

Time: 8:30 a.m. to 5 p.m.

ADDRESSES: Florida A&M University, College of Law, 201 Beggs Avenue, Orlando, Florida 32801.

FOR FURTHER INFORMATION CONTACT: Jonathan C. Rose, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 23, 2015.

Jonathan C. Rose,

Rules Committee Secretary.

[FR Doc. 2015–01564 Filed 1–27–15; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: MALLINCKRODT LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before March 30, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart, R.

In accordance with 21 CFR 1301.33(a), this is notice that on May 20, 2014, Mallinckrodt LLC, 3600 North Second Street, St. Louis, Missouri 63147, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Lisdexamfetamine (1205)	II

The company plans to manufacturer bulk active pharmaceutical ingredients (API) for distribution and product development to its customers.

Dated: January 21, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01576 Filed 1–27–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Cambrex Charles City

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before February 27, 2015. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before February 27, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearings on applications to import narcotic raw materials are not appropriate. 72 FR 3417 (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on May 15, 2014, Cambrex Charles City, 1205 11th Street, Charles City, Iowa 50616–3466, applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
4-Anilino-N-phenethyl-4-piperidine (8333).	II
Phenylacetone (8501)	II
Cocaine (9041)	II
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

The company plans to import the listed controlled substances for internal use, and to manufacture bulk intermediates for sale to its customers.

Dated: January 21, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01587 Filed 1–27–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Research Triangle Institute

ACTION: Notice of registration.

SUMMARY: Research Triangle Institute applied to be registered as an importer of a certain basic class of narcotic controlled substance. The DEA grants Research Triangle Institute registration as an importer of this controlled substance.

SUPPLEMENTARY INFORMATION: By notice dated April 21, 2014, and published in the **Federal Register** on April 28, 2014, 79 FR 23373, Research Triangle Institute, Kenneth S. Rehder, Ph.D., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, applied to be registered as an importer of a certain basic class of narcotic controlled substance. No comments or objections were submitted for this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Research Triangle Institute to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of noroxymorphone (9668), a basic class of narcotic controlled substance listed in schedule II.

The company plans to import small quantities of the listed controlled substance for the National Institute on Drug Abuse for research activities.

Dated: January 21, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01578 Filed 1–27–15; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Rhodes Technologies

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before March 30, 2015.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152. Request for hearings should be sent to: Drug Enforcement Administration, Attention: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on March 13, 2014, Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816, applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Schedule
Tetrahydrocannabinols (7370)	I
Methylphenidate (1724)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Morphine (9300)	II
Oripavine (9330)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Tapentadol (9780)	II
Fentanyl (9801)	II

The company plans to manufacture the listed controlled substances in bulk for conversion and sale to dosage form manufacturers.

In reference to drug code 7370 the company plans to bulk manufacture a synthetic tetrahydrocannabinol. No other activity for this drug code is authorized for this registration.

Dated: January 21, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01598 Filed 1–27–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Manufacturer of Controlled Substances Registration: Johnson Matthey, Inc.

ACTION: Notice of registration.

SUMMARY: Johnson Matthey, Inc. applied to be registered as a manufacturer of certain basic classes of controlled substances. The DEA grants Johnson Matthey, Inc. registration as a manufacturer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated September 25, 2014, and published in the **Federal Register** on October 7, 2014, 79 FR 60498, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066–1742, applied to be registered as a manufacturer of a certain basic class of controlled substance. No comments or objections were submitted to this notice.

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Johnson Matthey, Inc. to manufacture the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above-named company is granted registration as a bulk manufacturer of marihuana (7360), a basic class of controlled substance listed in schedule I.

In reference to drug code 7360, the company plans to manufacture a synthetic version cannabidiol in bulk for sale to its customers, who are final dosage form manufacturers. No other activity for this drug code is authorized for this registration.

Dated: January 21, 2015.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2015–01602 Filed 1–27–15; 8:45 am]

BILLING CODE P

OFFICE OF MANAGEMENT AND BUDGET

2014 Statutory Pay-As-You-Go Act Annual Report

AGENCY: Office of Management and Budget (OMB).

ACTION: Notice.

Authority: 2 U.S.C. 934

SUMMARY: This report is being published as required by the Statutory Pay-As-You-Go (PAYGO) Act of 2010, 2 U.S.C. 931 *et seq.* The Act requires that OMB issue (1) an annual report as specified in 2 U.S.C. 934(a) and (2) a sequestration order, if necessary.

FOR FURTHER INFORMATION CONTACT: Patrick Locke. 202–395–3672.

SUPPLEMENTARY INFORMATION: This report and additional information about the PAYGO Act can be found at *http://www.whitehouse.gov/omb/paygo_default.*

Courtney Timberlake,

Assistant Director for Budget.

This Report is being published pursuant to section 5 of the Statutory Pay-As-You-Go (PAYGO) Act of 2010, Public Law 111–139, 124 Stat. 8, 2 U.S.C. 934, which requires that OMB issue an annual PAYGO report, including a sequestration order if necessary, no later than 14 working days after the end of a congressional session.

This Report describes the budgetary effects of all PAYGO legislation and legislation designated as an emergency under section 4(g) of the PAYGO Act enacted during the second session of the 113th Congress and presents the 5-year and 10-year PAYGO scorecards maintained by OMB. Because neither the 5-year nor 10-year scorecard shows a debit for the budget year, which for purposes of this Report is fiscal year 2015,[1] a sequestration order under subsection 5(b) of the PAYGO Act, 2 U.S.C. 934(b), is not necessary.

The scorecards include no current policy adjustments made under section 4(c) of the PAYGO Act, 2 U.S.C. 933(c), for legislation enacted during the second session of the 113th Congress. The authority for current policy adjustments expired as of December 31, 2011. For these reasons, the Report does not contain any information about or descriptions of any current policy adjustments.

I. PAYGO Legislation With Budgetary Effects

PAYGO legislation is authorizing legislation that affects direct spending or revenues, and appropriations legislation that affects direct spending in the years beyond the budget year or affects revenues in any year.[2] For a more complete description of the Statutory PAYGO Act, see the OMB Web site, *http://www.whitehouse.gov/omb/paygo_description,* and Chapter 9, ''Budget Concepts,'' of the *Analytical Perspectives* volume of the 2015 Budget, *http://www.whitehouse.gov/sites/default/files/omb/budget/fy2015/assets/concepts.pdf.*

The 5-year and 10-year PAYGO scorecards for each Congressional session begin with the balances of costs or savings carried over from previous sessions and then tally the costs or savings of PAYGO laws enacted in that session. The 5-year PAYGO scorecard for the second session of the 113th Congress began with balances of savings of $9,969 million in 2015 and $814 million in 2017, but with balances of costs of $1,066 million in 2016 and $25 million in 2018. The completed 5-year scorecard for the session shows that PAYGO legislation enacted during the session was estimated to have PAYGO budgetary effects that reduced the deficit by an average of $626 million each year from 2015 through 2019.[3] These new savings on the scorecard increased the balances of savings in 2015 and 2017, reduced the balance of costs in 2016, and eliminated the balance of costs in 2018.

The 10-year PAYGO scorecard for the second session of the 113th Congress began with balances of savings of $8,209 million in each year from 2015 to 2020, savings of $1,838 million in 2021, savings of $1,128 million in 2022, and costs of $7 million in 2023. The completed 10-year scorecard for the session shows that PAYGO legislation for the session reduced the deficit by an average of $1,521 million each year from 2015 through 2024. These new savings increased the balances of savings on the 10-year scorecard from 2015 through 2022 and eliminated the costs on the scorecard for 2023.

In the second session of the 113th Congress, 54 laws were enacted that were determined to constitute PAYGO legislation. Of the 54 enacted PAYGO laws, 19 laws were estimated to have PAYGO budgetary effects (costs or savings) in excess of $500,000 over one or both of the 5-year or 10-year PAYGO windows. These were:

- Consolidated Appropriations Act, 2014, Public Law 113–76;
- Agriculture Act of 2014, Public Law 113–79;
- OPM IG Act, Public Law 113–80;
- An Act to ensure that the reduced annual cost-of-living adjustment to the

[1] References to years on the PAYGO scorecards are to fiscal years.

[2] Provisions in appropriations acts that affect direct spending in the years beyond the budget year (also known as ''outyears'') or affect revenues in any year are considered to be budgetary effects for the purposes of the PAYGO scorecards except if the provisions produce outlay changes that net to zero over the current year, budget year, and the four subsequent years. As specified in section 3 of the PAYGO Act, off-budget effects are not counted as budgetary effects. Off-budget effects refer to effects on the Social Security trust funds (Old-Age and Survivors Insurance and Disability Insurance) and the Postal Service.

[3] As provided in section 4(d) of the PAYGO Act, 2 U.S.C. 933(d), budgetary effects on the PAYGO scorecards are based on congressional estimates for bills including a reference to a congressional estimate in the Congressional Record, and for which such a reference is indeed present in the Record. Absent such a congressional cost estimate, OMB is required to use its own estimate for the scorecard. None of the bills enacted during the second session of the 113th Congress had such a congressional estimate and therefore OMB was required to provide an estimate for all PAYGO laws enacted during the session.

retired pay of members and former members of the Armed Forces under the age of 62 required by the Bipartisan Budget Act of 2013 will not apply to members or former members who first became members prior to January 1, 2014, and for other purposes, Public Law 113–82;

• Homeowner Flood Insurance Affordability Act of 2014, Public Law 113–89;

• Gabriella Miller Kids First Research Act, Public Law 113–94;

• Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014, Public Law 113–95;

• Cooperative and Small Employer Charity Pension Flexibility Act, Public Law 113–97;

• Digital Accountability and Transparency Act of 2014, Public Law 113–101;

• An Act to provide additional visas for the Afghan Special Immigrant Visa Program, and for other purposes, Public Law 113–160;

• Continuing Appropriations Resolution, 2015, Public Law 113–164;

• Department of Veterans Affairs Expiring Authorities Act of 2014, Public Law 113–175;

• Preventing Sex Trafficking and Strengthening Families Act, Public Law 113–183;

• Improving Medicare Post-Acute Care Transformation Act of 2014, Public Law 113–185;

• Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235;

• An Act to amend certain provisions of the FAA Modernization and Reform Act of 2012, Public Law 113–243;

• Crooked River Collaborative Water Security and Jobs Act of 2014, Public Law 113–244;

• Federal Duck Stamp Act of 2014, Public Law 113–264;

• An Act to provide for the transfer of naval vessels to certain foreign recipients, and for other purposes, Public Law 113–276; and

• Carl Levin and Howard P. ''Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015, Public Law 113–291.

In addition to the laws identified above, 35 laws enacted in this session were estimated to have negligible budgetary effects on the PAYGO scorecards—costs or savings of less than $500,000 over both the 5-year and 10-year PAYGO windows.

II. Budgetary Effects Excluded From the Scorecard Balances

As shown on the scorecards, one law was enacted in the second session of the 113th Congress with an emergency designation under the Statutory PAYGO Act: the Veterans Access, Choice, and Accountability Act of 2014, Public Law 113–146. The costs of this law appear on the scorecard, but the costs are subtracted before computing the scorecard totals.

In addition, five laws enacted in the second session of the 113th Congress had estimated budgetary effects on direct spending and revenues that are not included in the calculations for the PAYGO scorecards due to provisions in law excluding all or part of the law from section 4(d) of the Statutory Pay-As-You-Go Act of 2010. Three laws included provisions excluding their budgetary effects from the PAYGO scorecards entirely: Public Law 113–93, Protecting Access to Medicare Act of 2014; Public Law 113–159, Highway and Transportation Funding Act of 2014; and Public Law 113–295, To amend the Internal Revenue Code of 1986 to extend certain expiring provisions and make technical corrections, to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes. In addition, two laws included provisions excluding certain portions of those laws from the scorecards: Public Law 113–76, Consolidated Appropriations Act, 2014, for which Section 10001 of Division C was excluded from the scorecards; and Public Law 113–235, Consolidated and Further Continuing Appropriations Act, 2015, for which Divisions M, N, O, and P were excluded from the scorecards.

III. PAYGO Scorecards

STATUTORY PAY–AS–YOU–GO SCORECARDS

[In millions of dollars, negative amounts portray decreases in deficits]

	2015	2016	2017	2018	2019					
Second Session of the 113th Congress	−626	−626	−626	−626	−626	.....	.....	.....	.....	.....
Balances from Previous Sessions	−9,969	1,066	−814	25	0	.....	.....	.....	.....	.....
Five-year PAYGO Scorecard	−10,595	440	−1,440	−601	−626	.....	.....	.....	.....	.....
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Second Session of the 113th Congress	−1,521	−1,521	−1,521	−1,521	−1,521	−1,521	−1,521	−1,521	−1,521	−1,521
Balances from Previous Sessions	−8,209	−8,209	−8,209	−8,209	−8,209	−8,209	−1,838	−1,128	7	0
Ten-year PAYGO Scorecard	−9,730	−9,730	−9,730	−9,730	−9,730	−9,730	−3,359	−2,649	−1,514	−1,521

The total net budgetary effects of all PAYGO legislation enacted during the second session of the 113th Congress on the five-year scorecard reduce the deficit by $3,129 million. This total is averaged over the years 2015 to 2019 on the 5-year PAYGO scorecard, resulting in savings of $626 million in each year. Balances carried over from prior sessions of the Congress create total net savings in 2015 of $10,595 million and $1,440 million in 2017. However, the balances carried over in 2016 create a net cost of $440 million in that year. Balances in 2018 carried over from the prior session add costs to the scorecard which lessen net savings in that year to $601 million. The five-year PAYGO window extended only through 2018 in the first session of the 113th Congress, so there were no five-year scorecard balances in 2019 to carry over.

The total 10-year net impact of legislation enacted during the second session of the 113th Congress was savings of $15,215 million. The 10-year PAYGO scorecard shows the total net impact averaged over the 10-year period, resulting in savings of $1,521 million in each year. Balances from prior sessions add savings to the scorecard which result in net savings of $9,730 million in 2015 through 2020, $3,359 million in 2021, and $2,649 million in 2022. Balances in 2023 carried over from the prior session add costs to the scorecard which lessen net savings in that year to $1,514 million. The 10-year PAYGO window extended only through 2023 in the first session of the 113th Congress, so there were no 10-year scorecard balances in 2024 to carry over.

IV. Sequestration Order

As shown on the scorecards, the budgetary effects of PAYGO legislation enacted in the second session of the 113th Congress, combined with the balances left on the scorecard from previous sessions of the Congress, resulted in net savings on both the 5-year and the 10-year scorecard in the budget year, which is 2015 for the purposes of this Report. Because the costs for the budget year, as shown on the scorecards, do not exceed savings for the budget year, there is no ''debit'' on either scorecard under section 3 of the PAYGO Act, 2 U.S.C. 932, and there is no need for a sequestration order.

The savings shown on the scorecards for 2015 will be removed from the scorecards that are used to record the budgetary effects of PAYGO legislation enacted in the first session of the 114th Congress. The totals shown in 2016 through 2024 will remain on the scorecards and will be used in determining whether a sequestration order will be necessary in the future. All of the years of the 5-year and 10-year scorecards that will carry over into the first session of the 114th Congress will show balances of savings except for the year 2016 on the 5-year scorecard, which will show costs of $440 million. Because 2016 will be the budget year in the first session of the 114th Congress, if the costs in that year on the 5-year scorecard are not offset by savings from PAYGO legislation enacted during the session, the PAYGO Act would require a sequestration order to be issued 14 days after the end of the session.

[FR Doc. 2015–01528 Filed 1–27–15; 8:45 am]

BILLING CODE P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings; National Science Board

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of meetings for the transaction of National Science Board business, as follows:

DATE AND TIME: February 3, 2015 from 8 a.m. to 5 p.m. and February 4, 2015 from 8:30 a.m. to 3 p.m. (EST).

PLACE: These meetings will be held at the National Science Foundation, 4201 Wilson Blvd., Rooms 1235, Arlington, VA 22230. All visitors must contact the Board Office (call 703–292–7000 or send an email message to *nationalscience brd@nsf.gov*) at least 24 hours prior to the meeting and provide name and organizational affiliation. Visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Streets entrance to receive a visitor's badge.

WEBCAST INFORMATION: Public meetings and public portions of meetings will be webcast. To view the meetings, go to *http://www.tvworldwide.com/events/nsf/150203/* and follow the instructions.

UPDATES: Please refer to the National Science Board Web site for additional information. Meeting information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/.*

AGENCY CONTACT: Jennie L. Moehlmann, *jmoehlma@nsf.gov,* (703) 292–7000.

PUBLIC AFFAIRS CONTACT: Nadine Lymn, *nlymn@nsf.gov,* (703) 292–2490.

STATUS: Portions open; portions closed.

OPEN SESSIONS:

February 3, 2015

8–8:05 a.m. (Chairman's introduction)
8:05–8:50 a.m. (joint CPP/CSB)
8:50–10:45 a.m. (CPP)
1:45–3 p.m. (CEH)
3–3:30 p.m. (CSB)
4:15–5 p.m. (AO)

February 4, 2015

9:15–10 a.m. (SEI)
1:15–3 p.m. (Plenary)

CLOSED SESSIONS:

February 3, 2015

11–11:30 a.m. (SCF)
11:30 a.m.–12:30 p.m. (CPP)
3:45–4:15 p.m. (CSB)

February 4, 2015

8:30–9:15 a.m. (AO)
10:15–10:45 a.m. (Plenary executive)
10:45–11:45 a.m. (Plenary)

MATTERS TO BE DISCUSSED:

Tuesday, February 3, 2015

Joint Meeting—Committee on Programs and Plans (CPP) and Committee on Strategy and Budget (CSB)

Open Session: 8:05–8:50 a.m.

- Committee Chairs' remarks
- Discussion of the NSF Annual Facility Plan

Committee on Programs and Plans (CPP)

Open Session: 8:50–10:45 a.m.

- Approval of open minutes of the November 2014 meeting
- Committee Chairman's remarks
- Information item: National Ecological Observatory Network (NEON)
- Information Item: Gemini Observatory
- Information Item: National Optical Astronomy Observatory (NOAO)
- Information Item: Radio Astronomy Facilities—National Radio Astronomy Observatory (NRAO) and Atacama Large Millimeter Array (ALMA)
- Information Item: Update on Blue Waters and strategic planning for high performance computing

CSB Subcommittee on Facilities (SCF)

Closed Session: 11–11:30 a.m.

- Committee Chairman's remarks
- Approval of the November meeting minutes
- Discussion of the Annual Portfolio Review (APR)

Committee on Programs and Plans (CPP)

Closed Session: 11:30 a.m.–12:30 p.m.

- Approval of closed CPP minutes for November 2014
- Committee Chairman's remarks
- Information Item: Regional Class Research Vessel (RCRV)
- Information Item: National High Magnetic Field Laboratory (NHMFL)

Committee on Education and Human Resources (CEH)

Open Session: 1:45–3 p.m.

- Committee Chairman's remarks
- Approval of open CEH minutes for November 2014 meeting
- Presentation and discussion: Appreciating the Power and Promise of Education Research

Committee on Strategy and Budget (CSB)

Open Session: 3–3:30 p.m.

- Approval of CSB open minutes for November 2014
- NSF FY 2015 budget update
- NSF FY 2016 budget update

Committee on Strategy and Budget (CSB)

Closed Session: 3:45–4:15 p.m.

- Committee Chairman's remarks
- Approval of CSB closed minutes for November 2014
- Performance Improvement Officer report on FY 2017 strategic issues

Audit and Oversight Committee (AO)

Open Session: 4:15–5 p.m.

- Committee Chairman's opening remarks
- Approval of November 2014 meeting minutes
- Report on agency Financial Report and Audit
- Inspector General's update

- Chief Financial Officer's update
- Committee Chairman's closing remarks

Wednesday, February 4, 2015

Audit and Oversight Committee

Closed Session: 8:30–9:15 a.m.

- Committee Chairman's opening remarks
- Approval of November 2014 closed meeting and December 2014 closed teleconference minutes
- NSF relocation update
- Discussion of scope of work for proposed external review of issues pertaining to cooperative agreements
- Chairman's closing remarks

Committee on Science & Engineering Indicators (SEI)

Open Session: 9:15–10 a.m.

- Chairman's introduction
- Approval of the November 2014 meeting minutes and the January 2015 teleconference minutes
- Update on *Science and Engineering Indicators 2016* production
- Discussion of the companion report to *Indicators* 2014
- Update on opportunities for outreach and engagement for the *Indicators* suite of products and beyond
- Chairman's closing remarks

Plenary

Executive Closed Session: 10:15–10:45 a.m.

- Approval of executive closed session minutes, November 2014
- Approval of Vannevar Bush award recommendation
- Approval of Alan T. Waterman award recommendation
- Chairman's remarks

Plenary Board Meeting

Closed Session: 10:45– 11:45 a.m.

- Approval of closed session minutes, November 2014
- Discussion of risks to NSF
- Closed committee reports
- Chairman's remarks

Plenary Board Meeting

Open Session: 1:15–3 p.m.

- Approval of open session minutes, November 2014
- Chairman's report
- Director's report
- Open committee reports
- Chairman's remarks

Meeting Adjourns: 3 p.m.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2015–01695 Filed 1–26–15; 4:15 pm]

BILLING CODE 7555–01–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* January 28, 2015.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on January 22, 2015, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail & First-Class Package Service Contract 2 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2015–24, CP2015–32.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2015–01501 Filed 1–27–15; 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:

Rule 23c–1, OMB Control No. 3235–0260, SEC File No. 270–253.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3520), the Securities and Exchange Commission (the ''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 extension and approval.

Rule 23c–1(a) under the Investment Company Act (17 CFR 270.23c–1(a)) permits a closed-end fund to repurchase its securities for cash if, in addition to the other requirements set forth in the rule, the following conditions are met: (i) Payment of the purchase price is accompanied or preceded by a written confirmation of the purchase (''written confirmation''); (ii) the asset coverage per unit of the security to be purchased is disclosed to the seller or his agent (''asset coverage disclosure''); and (iii) if the security is a stock, the fund has, within the preceding six months, informed stockholders of its intention to purchase stock (''six month notice''). Commission staff estimates that 78 closed-end funds undertake a total of 702 repurchases annually under rule 23c–1.[1] Staff estimates further that, with respect to each repurchase, each fund spends 2.5 hours to comply with the rule's written confirmation, asset coverage disclosure and six month notice requirements. Thus, Commission staff estimates the total annual respondent reporting burden is 1755 hours.[2] Commission staff further estimates that the cost of the hourly burden per repurchase is $295 (one half hour of a compliance attorney's time at $334 per hour,[3] and two hours of clerical time at $64 per hour[4]). The total annual cost for all funds is estimated to be $207,090.[5]

In addition, the fund must file with the Commission a copy of any written solicitation to purchase securities given by or on behalf of the fund to 10 or more persons. The copy must be filed as an exhibit to Form N–CSR (17 CFR 249.331 and 274.128).[6] The burden associated

[1] The number of closed-end funds that undertake repurchases annually under rule 23c–1 is based on information provided in response to Item 9 of Form N–CSR from December 30, 2013 through December 30, 2014. Although 112 closed-end funds made disclosures regarding ''publicly announced'' repurchase plans in response to Item 9, not all repurchases are made pursuant to rule 23c–1. We estimate that approximately 30% of such closed-end funds have not made repurchases pursuant to rule 23c–1. Therefore, our estimate does not include all 112 funds that made disclosures of publicly announced repurchases under Item 9, but only a subset thereof.

[2] This estimate is based on the following calculation: 702 repurchases x 2.5 hours per repurchase = 1755 hours.

[3] The $334/hour figure for a compliance attorney is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[4] The $64/hour figure for a compliance clerk is from SIFMA's Office Salaries in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

[5] This estimate is based on the following calculation: 702 repurchases x $295 per repurchase = $207,090.

[6] In addition, Item 9 of Form N–CSR requires closed-end funds to disclose information similar to the information that was required in Form N–23C–1, which was discontinued in 2004.

with filing Form N–CSR is addressed in the submission related to that form.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of 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 Pamela Dyson, Acting 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: January 22, 2015.

Brent Fields,

Secretary.

[FR Doc. 2015–01512 Filed 1–27–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, Washington, DC 20549–2736.

Extension:

Rule 17Ac2–1, SEC File No. 270–95, OMB Control No. 3235–0084.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995(''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the existing collection of information provided for in Rule 17Ac2–1 (17 CFR 240.17Ac2–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

Rule 17Ac2–1, pursuant to Section 17A(c) of the Exchange Act, generally requires transfer agents for whom the Commission is the transfer agent's Appropriate Regulatory Agency (''ARA''), to file an application for registration with the Commission on Form TA–1 and to amend their registrations under certain circumstances.

Specifically, Rule 17Ac2–1 requires transfer agents to file a Form TA–1 application for registration with the Commission where the Commission is their ARA. Such transfer agents must also amend their Form TA–1 if the existing information on their Form TA–1 becomes inaccurate, misleading, or incomplete within 60 days following the date the information became inaccurate, misleading or incomplete. Registration filings on Form TA–1 and amendments thereto must be filed with the Commission electronically, absent an exemption, on EDGAR pursuant to Regulation S–T (17 CFR 232).

The Commission annually receives approximately 174 filings on Form TA–1 from transfer agents required to register as such with the Commission. Included in this figure are approximately 164 amendments made annually by transfer agents to their Form TA–1 as required by Rule 17Ac2–1(c) to address information that has become inaccurate, misleading, or incomplete and approximately 10 new applications by transfer agents for registration on Form TA–1 as required by Rule 17Ac2–1(a). Based on past submissions, the staff estimates that on average approximately twelve hours are required for initial completion of Form TA–1 and that on average one and one-half hours are required for an amendment to Form TA–1 by each such firm. Thus, the subtotal burden for new applications for registration filed on Form TA–1 each year is 120 hours (12 hours times 10 filers) and the subtotal burden for amendments to Form TA–1 filed each year is 246 hours (1.5 hours times 164 filers). The cumulative total is 366 burden hours per year (120 hours plus 246 hours).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: January 22, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–01511 Filed 1–27–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74111; File No. SR–BYX–2015–05]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Period for BATS Y-Exchange, Inc.'s Retail Price Improvement (''RPI'') Program for 12 Months, To Expire on January 31, 2016

January 22, 2015.

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 January 16, 2015, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to extend the pilot period for the Exchange's Retail Price Improvement (''RPI'') Program (the ''Program''), which is currently set to expire on January 31, 2015, for 12 months, to expire on January 31, 2016.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

The text of the proposed rule change is available at the Exchange's Web site at *http://www.directedge.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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

In November 2012, the Commission approved the RPI Program on a pilot basis.[5] The Program is designed to attract retail order flow to the Exchange, and allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, all Exchange Users [6] are permitted to provide potential price improvement for Retail Orders [7] in the form of non-displayed interest that is better than the national best bid that is a Protected Quotation (''Protected NBB'') or the national best offer that is a Protected Quotation (''Protected NBO'', and together with the Protected NBB, the ''Protected NBBO'').[8]

The Program was approved by the Commission on a pilot basis running one-year from the date of implementation.[9] The Commission approved the Program on November 27, 2012.[10] The Exchange implemented the Program on January 11, 2013, and has extended the pilot period one time.[11] The pilot period for the Program is scheduled to end on January 31, 2015.

Proposal To Extend the Operation of the Program

The Exchange established the RPI Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit Retail Price Improvement Orders (''RPI Orders'') [12] to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that the Exchange has committed to provide.[13] As such, the Exchange believes that it is appropriate to extend the current operation of the Program.[14] Through this filing, the Exchange seeks to extend the current pilot period of the Program until January 31, 2016.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[15] In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,[16] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that extending the pilot period for the RPI Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change extends an established pilot program for slightly more than 12 months, thus allowing the RPI Program to enhance competition for retail order flow and contribute to the public price discovery process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[5] *See* Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (''RPI Approval Order'') (SR–BYX–2012–019).

[6] A ''User'' is defined in BYX Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

[7] A ''Retail Order'' is defined in Rule 11.24(a)(2) as an agency order that originates from a natural person and is submitted to the Exchange by a RMO, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any computerized methodology. *See* Rule 11.24(a)(2).

[8] The term Protected Quotation is defined in BYX Rule 1.5(t) and has the same meaning as is set forth in Regulation NMS Rule 600(b)(58). The terms Protected NBB and Protected NBO are defined in BYX Rule 1.5(s). The Protected NBB is the best-priced protected bid and the Protected NBO is the best-priced protected offer. Generally, the Protected NBB and Protected NBO and the national best bid (''NBB'') and national best offer (''NBO'', together with the NBB, the ''NBBO'') will be the same. However, a market center is not required to route to the NBB or NBO if that market center is subject to an exception under Regulation NMS Rule 611(b)(1) or if such NBB or NBO is otherwise not available for an automatic execution. In such case, the Protected NBB or Protected NBO would be the best-priced protected bid or offer to which a market center must route interest pursuant to Regulation NMS Rule 611.

[9] *See* RPI Approval Order, *supra* note 5 at 71652.

[10] *Id.*

[11] *See* Securities Exchange Act Release No. 71249 (January 7, 2014), 79 FR 2229 (January 13, 2014) (SR–BYX–2014–001) (Notice of Filing and Immediate Effectiveness of Proposal Extending Pilot Period Until January 31, 2015).

[12] A ''Retail Price Improvement Order'' is defined in Rule 11.24(a)(3) as an order that consists of non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least $0.001 and that is identified as such. *See* Rule 11.24(a)(3).

[13] *See* RPI Approval Order, *supra* note 5 at 71655.

[14] Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the RPI orders in sub-penny increments. *See* Letter from Eric Swanson, EVP, General Counsel, BATS Global Markets, Inc. to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission dated January 16, 2015.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) [18] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and subparagraph (f)(6) of Rule 19b–4 thereunder.[20]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing.[21] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[22] The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot program to continue uninterrupted. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing.[23]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.[24] If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.[25]

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–BYX–2015–05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2015–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 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–BYX–2015–05, and should be submitted on or before February 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01506 Filed 1–27–15; 8:45 am]

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[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] *Id.*

[23] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78s(b)(3)(C).

[25] *Id.*

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74117; File No. SR–ISE–2015–03]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

January 22, 2015.

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 January 8, 2015, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend the Schedule of Fees to (1) increase the route-out fee applicable to Priority Customer orders routed to away markets, (2) adopt a stock handling fee for stock-option orders executed against other stock-option orders in the complex order book, (3) increase the Crossing Fee Cap subject to a discount for members that agree in advance to pay the full amount regardless of actual trading volume, and (4) remove certain obsolete text related to PrecISE fees. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S. C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Schedule of Fees (1) increase the route-out fee applicable to Priority Customer orders routed to away markets, (2) adopt a stock handling fee for stock-option orders executed against other stock-option orders in the complex order book, (3) increase the Crossing Fee Cap subject to a discount for members that agree in advance to pay the full amount regardless of actual trading volume, and (4) remove certain obsolete text related to PrecISE fees. Each of the proposed changes is described in more detail below. The Exchange's Schedule of Fees has separate fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

I. Route-Out Fees

The Exchange presently charges a route-out fee applicable to orders routed to away markets pursuant to the Options Order Protection and Locked/Crossed Market Plan (the ''Plan''). For Market Maker,[3] Non-ISE Market Maker,[4] and Firm Proprietary [5]/Broker-Dealer,[6] and Professional Customer [7] orders the route-out fee is $0.55 per contract in Select Symbols,[8] and $0.95 per contract in Non-Select Symbols.[9] For Priority Customer [10] orders in both Select and Non-Select Symbols the route-out fee is $0.45 per contract. The Exchange now proposes to increase the route-out fee to $0.48 per contract for Priority Customer orders in all symbols. The route-out fee for all other market participant types will remain at their current rates described above.

II. Stock Handling Fee for Stock-Option Orders

When an ISE member enters a stock-option order,[11] the Exchange electronically communicates the stock leg of the order to one or more broker-dealers for execution pursuant to Supplementary Material .02 to Rule 722. Currently, the Exchange provides this stock routing functionality as a free service to members, and simply passes-through fees charged by the broker-dealer.[12] The Exchange now proposes to introduce a stock handling fee of $0.0010 per share for the stock leg of stock-option orders executed against other stock-option orders in the complex order book.[13] This amount will include any fees charged by the stock venue that prints the trade, and an amount intended to compensate the Exchange for matching these stock-option orders against other stock-option orders on the complex order book. A maximum of $50 per trade will be assessed under this fee in order to ensure that market participants do not pay extremely large fees for the execution of the stock legs of stock-option orders. The Exchange will continue to bill pass-through fees for the stock leg of stock-option orders that trade against liquidity on the stock venue, instead of being matched in the complex order book.

III. Crossing Fee Cap

The Exchange currently has a Crossing Fee Cap of $65,000 per month which applies to Firm Proprietary and Non-ISE Market Maker transactions that are part of the originating or contra side of a Crossing Order [14] executed by a member or its affiliate, provided there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A.[15] The Exchange now proposes to increase the Crossing Fee Cap to $75,000 per month; provided, however, that members that commit in advance to paying the full Crossing Fee Cap at the end of each month will instead have these fees capped at the current $65,000 per month. Members that commit to the discounted Crossing Fee Cap must indicate their desire to do so prior to the start of the month in a form determined by the Exchange. By committing to the Crossing Fee Cap, members agree to pay the full $65,000 per month regardless of actual trading volume.

IV. PrecISE Fee Waiver: Obsolete Text

On October 15, 2014 the Exchange filed an immediately effective proposed rule change that adopted a limited waiver of PrecISE Trade® (''PrecISE'') fees for Electronic Access Members (''EAMs'') and sponsored customers that execute a high volume of Crossing Orders in a given month.[16] As the proposed rule change was filed in the middle of a calendar month, the PrecISE waiver for the first billing cycle was based on a prorated volume threshold for crossing volume executed from October 16, 2014 to October 31, 2014. As the first billing cycle has now passed, the Exchange proposes to remove this outdated reference from the Schedule of Fees.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[17] in general, and Section 6(b)(4) of the Act,[18] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

[3] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

[4] A Non-ISE Market Maker, or Far Away Market Maker (''FARMM''), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934 registered in the same options class on another options exchange.

[5] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[6] A Broker-Dealer order is an order submitted by a Member for a non-Member broker-dealer account.

[7] A Professional Customer is a person who is not a broker/dealer and is not a Priority Customer.

[8] ''Select Symbols'' are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

[9] ''Non-Select Symbols'' are options overlying all symbols excluding Select Symbols.

[10] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[11] *See* ISE Rule 722(a)(2).

[12] The Exchange charges for execution of the options leg(s) of stock-option orders.

[13] The Exchange notes that this stock handling fee, which is for the stock leg of stock-option orders and is therefore charged per share rather than per contract, is the same regardless of whether the options leg(s) is for Standard or Mini Option contracts.

[14] Crossing Orders are contracts that are submitted as part of a Facilitation, Solicitation, PIM, Block or QCC order.

[15] Fees for Responses to Crossing Orders and surcharge fees for licensed products are not included in the calculation of the monthly fee cap.

[16] *See* Securities Exchange Act Release No. 73440 (October 27, 2014), 79 FR 64857 (October 31, 2014) (SR–ISE–2014–48).

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

I. Route-Out Fees

The Exchange believes the proposed route-out fees are reasonable and equitable as they offset costs incurred by the Exchange in connection with using unaffiliated broker-dealers (''Linkage Handlers'') to access other exchanges for linkage executions pursuant to Supplementary Material .03 to Rule 1901. Due to increasing taker fees for accessing liquidity on other markets, the Exchange must periodically raise its route-out fees to recoup the higher costs associated with executing orders on away markets. Other exchanges currently charge a variety of routing related fees associated with orders that are subject to linkage handling. The route-out fees proposed herein are within the range of fees charged by these competitor exchanges. Furthermore, the Exchange believes that the proposed fees are not unfairly discriminatory because these fees would be uniformly applied to all Priority Customer orders routed to away markets. As has historically been the case, Priority Customer orders will continue to pay lower route-out fees than orders from other market participants, including Professional Customers. The Exchange believes that it is equitable and not unfairly discriminatory to charge lower fees for Priority Customer orders as a Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including, Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers. Moreover, the Exchange notes that Priority Customer orders are often charged lower taker fees on other options exchanges, meaning that the execution costs to the Exchange for routing these orders is correspondingly lower. As such, the Exchange believes that it is equitable and not unfairly discriminatory to pass on this cost savings to the firms entering these orders.

II. Stock Handling Fee for Stock-Option Orders

The Exchange believes the proposed stock handling fee for stock-option orders is reasonable and equitable as the proposed fee will cover the costs of developing and maintaining the systems that allow for the matching and processing of the stock legs of stock-option orders executed in the complex order book, and fees assessed to the Exchange by broker-dealers contracted to provide stock execution services. The Exchange notes that the Chicago Board Options Exchange, Inc. (''CBOE'') also charges a similar stock handling fee of $0.0010 per share (capped at $50 per order).[19] The Exchange believes that it is reasonable and equitable to charge a similar fee for the execution of stock-option orders on the ISE. In addition, the Exchange believes that the proposed fee is not unfairly discriminatory as it will be uniformly applied to all members that execute stock-option orders on the Exchange.

III. Crossing Fee Cap

The Exchange believes that it is reasonable and equitable to increase the Crossing Fee Cap, and introduce a discount for members that agree to pay the full Crossing Fee Cap at the end of each month, as these changes are intended to incentivize members to bring Crossing Order flow to the Exchange. Members that do not elect to pay the discounted rate in full at the end of each month will remain eligible to have their fees capped at $75,000—the level previously available on the Exchange before the Crossing Fee Cap was lowered to its current level in August 2014—while also retaining the current benefit of a waived service fee for the execution of orders above the cap.[20] At the same time, members that commit to their Crossing Order fees in advance will receive a discounted rate, which will encourage members to bring their Crossing Order flow to the ISE, to the benefit of all members and investors that trade on the Exchange. Furthermore, the Exchange believes that the proposed changes to the Crossing Fee Cap are not unfairly discriminatory because all members will have the option to make the required commitment in order to qualify for the discounted Crossing Fee Cap. The Crossing Fee Cap will be uniformly applied to members based on their election.

IV. PrecISE Fee Waiver: Obsolete Text

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to remove text in the Schedule of Fees related to PrecISE fees for the billing period that ended on November 15, 2014 as this date has passed. Removing the obsolete text will increase the clarity of the Schedule of Fees to the benefit of members and investors that trade on the ISE.

The Exchange notes that it has determined to charge fees and provide rebates in Mini Options at a rate that is 1/10th the rate of fees and rebates the Exchange provides for trading in Standard Options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees and rebates to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees and rebates are reasonable and equitable in light of the fact that Mini Options have a smaller exercise and assignment value, specifically 1/10th that of a standard option contract, and, as such, is providing fees and rebates for Mini Options that are 1/10th of those applicable to Standard Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[21] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed fees are similar to—and within the range of—fees charged by the Exchange's competitors. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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 unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[22] and

[19] *See* Securities Exchange Act Release No. 67383 (July 10, 2012), 77 FR 41841 (July 16, 2012) (SR–CBOE–2012–063).

[20] *See* Securities Exchange Act Release No. 72817 (August 12, 2014), 79 FR 48801 (August 18, 2014) (SR–ISE–2014–39).

[21] 15 U.S.C. 78f(b)(8).

[22] 15 U.S.C. 78s(b)(3)(A)(ii).

subparagraph (f)(2) of Rule 19b–4 thereunder,[23] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–ISE–2015–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2015–03. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2015–03 and should be submitted on or before February 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Brent J. Fields,

Secretary.

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[23] 17 CFR 240.19b–4(f)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74113; File No. SR–ISE Gemini-2015–02]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

January 22, 2015.

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 January 8, 2015, ISE Gemini, LLC (the ''Exchange'' or ''ISE Gemini'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE Gemini proposes to amend the Schedule of Fees to introduce new fees for Crossing Orders and Responses to Crossing Orders executed in the Price Improvement Mechanism (''PIM''). The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Schedule of Fees to introduce new fees for Crossing Orders and Responses to Crossing Orders executed in the PIM. The Exchange's Schedule of Fees has separate fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

ISE Gemini charges a fee for Crossing Orders executed in the Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism, PIM, or submitted as a Qualified Contingent Cross (''QCC'') order. This fee is currently $0.20 per contract in both Penny [3] and Non-Penny Symbols,[4] and applies to Market Maker,[5] Non-ISE Gemini Market Maker,[6] Firm Proprietary [7]/Broker-Dealer,[8] and

[3] ''Penny Symbols'' are options overlying all symbols listed on ISE Gemini that are in the Penny Pilot Program.

[4] ''Non- Penny Symbols'' are options overlying all symbols excluding Penny Symbols.

[5] The term Market Maker refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. Market Maker orders sent to the Exchange by an Electronic Access Member are assessed fees and rebates at the same level as Market Maker orders. See footnote 2, Schedule of Fees, Section I and II.

[6] A ''Non-ISE Gemini Market Maker'' is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[7] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[8] A ''Broker-Dealer'' order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

Professional Customer[9] (''non-Priority Customer'') orders on both the originating and contra side of a Crossing Order. The Exchange now proposes to reduce this fee for non-Priority Customer Crossing Orders to $0.05 per contract for PIM orders only. Priority Customers[10] do not currently pay a fee for Crossing Orders executed on ISE Gemini. In connection with the above change, the Exchange further proposes to apply a $0.05 per contract fee to Priority Customer Crossing Orders executed in the PIM when the Priority Customer is on the contra-side of a PIM auction.

In addition, the Exchange charges a fee for Responses to Crossing Orders. In Penny Symbols this fee is $0.49 per contract for non-Priority Customer orders, and $0.45 per contract for Priority Customer orders. In Non-Penny Symbols this fee is $0.86 per contract for Market Maker orders, $0.87 per contract for Non-ISE Gemini Market Maker, Firm Proprietary/Broker-Dealer, and Professional Customer orders, and $0.82 per contract for Priority Customer orders. The Exchange now proposes to reduce this fee to $0.05 per contract for PIM orders executed for all market participant types.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[11] in general, and Section 6(b)(4) of the Act,[12] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Exchange believes that the proposed fee changes are reasonable and equitable as members that enter or respond to PIM auctions will benefit from significantly lower overall fees for their PIM trades, leading to greater participation and competition in the PIM, and enhanced price improvement opportunities for investors. By lowering fees for PIM orders, the proposed fee change is designed to encourage members to execute this order flow on ISE Gemini rather than on competing exchanges. In addition, the Exchange believes that decreasing the fee for Responses to Crossing Orders will encourage market participants to be more aggressive in providing additional price improvement when they respond to orders entered into the PIM.

The Exchange believes that the proposed PIM fees are not unfairly discriminatory as the proposed fees apply equally to all members that enter or respond to PIM auctions, except that Priority Customer orders on the originating side of a PIM order will continue to not pay a fee. Priority Customer orders on ISE Gemini are generally entitled to lower fees and higher rebates as the Exchange believes that attracting more liquidity from Priority Customers will benefit all market participants that trade on ISE Gemini.[13] While Priority Customer orders previously enjoyed free executions on both the originating and contra-side of PIM orders, the Exchange has determined to no longer offer this inducement to contra-side orders, which are solicited by members from other sophisticated parties that engage in this type of trading activity. As such, all market participants that trade on the contra-side of a PIM order will pay the same fee for this activity.

The Exchange notes that it has determined to charge fees and provide rebates in Mini Options at a rate that is 1/10th the rate of fees and rebates the Exchange provides for trading in Standard Options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees and rebates to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees and rebates are reasonable and equitable in light of the fact that Mini Options have a smaller exercise and assignment value, specifically 1/10th that of a standard option contract, and, as such, is providing fees and rebates for Mini Options that are 1/10th of those applicable to Standard Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[14] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed fee change will increase competition by making it cheaper to enter or respond to PIM auctions. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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 unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[15] and subparagraph (f)(2) of Rule 19b–4 thereunder,[16] because it establishes a due, fee, or other charge imposed by ISE Gemini.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or

[9] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer.

[10] A ''Priority Customer'' is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in ISE Gemini Rule 100(a)(37A).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

[13] A Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders (many of which do not result in executions) than Priority Customers.

[14] 15 U.S.C. 78f(b)(8).

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 240.19b–4(f)(2).

• Send an email to *rule-comments@sec.gov.* Please include File No. SR–ISE Gemini-2015–02 on the subject line.

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE Gemini–2015–02. 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–ISE Gemini–2015–02 and should be submitted on or before February 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01507 Filed 1–27–15; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74118; File No. SR–MIAX–2015–03]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Adopt Rule 519A Risk Protection Monitor

January 22, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 8, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On January 20, 2015, the Exchange filed Amendment No.1 to the proposal.[3] 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 adopt new risk protections for orders.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange proposed changes to the Form 19b–4, Exhibit 1, and Exhibit 5 to clarify that once triggered, the Risk Protection Monitor described therein will apply to orders in all series in all classes of options from the Exchange Member.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt Rule 519A, Risk Protection Monitor, to provide new risk protections for orders entered by Members on the Exchange. The proposed functionality is similar to the existing Aggregate Risk Protections available to Market Makers that provide risk protections for Market Maker quotations, however it will apply to orders entered by Members.[4] The Exchange also proposes to codify existing functionality regarding the Aggregate Risk Manager to provide additional transparency in the Rule to Members regarding the current functionality.

The Exchange proposes that the MIAX System will maintain a counting program (''counting program'') for each participating Member that will count the number of orders entered and the number of contracts traded via an order entered by a Member on the Exchange within a specified time period that has been established by the Member (the ''specified time period''). The maximum duration of the specified time period will be established by the Exchange and announced via a Regulatory Circular. Members may establish an Allowable Order Rate[5] and/or an Allowable Contract Execution Rate[6]. When a Member's order is entered or when an execution of a Member's order occurs, the System will look back over the specified time period to determine whether the order entered or the execution that occurred triggers the Risk Protection Monitor.[7] Members may establish whether the Risk Protection Monitor, when triggered, will (i) prevent the System from receiving any new orders in all series in all classes from the Member; or (ii) prevent the System from receiving any new orders in all series in all classes from the Member and cancel all existing Day orders in all series in all classes from the Member; or

[4] *See* Rule 612. The proposed Risk Protection Monitor is similar in that it is based on a counting program that triggers a risk protection if a certain predetermined threshold is reached.

[5] The Allowable Order Rate is the number of orders entered during the specific time period that has been established by the Member.

[6] The Allowable Contract Execution Rate is the number of contracts executed during the specific time period that has been established by the Member.

[7] The Exchange notes that the specific time period does not need to be the same for both the Allowable Order Rate and Allowable Contract Execution Rate (*i.e.,* there can be one specific time period for Allowable Order Rate and a different specific time period for Allowable Contract Execution Rate).

(iii) send a notification that the Risk Protection Monitor has been triggered without any further preventative or cancellation action by the System.[8]

The System will trigger the Risk Protection Monitor when the counting program has determined either (i) that a Member has entered during the specified time period a number of orders exceeding their Allowable Order Rate, or (ii) that a Member has executed during the specified time period a number of contracts exceeding their Allowable Contract Execution Rate.[9] Once engaged, the Risk Protection Monitor will then automatically either prevent the System from receiving any new orders in all series in all classes from the Member, and cancel all existing Day orders in all series in all classes from the Member (if designated by the Member's instructions), or send a notification without any further preventative or cancellation action by the System. When engaged, the Risk Protection Monitor will still allow the Member to interact with existing orders entered prior to exceeding the Allowable Order Rate or the Allowable Contract Execution Rate, including sending cancel order messages and receiving trade executions from those orders. The Risk Protection Monitor shall remain engaged until the Member communicates with the Help Desk to enable the acceptance of new orders.[10]

The following examples show how the proposed Risk Protection Monitor would operate.

Example 1.

BD1 designates the following settings:

1. Allowable Order Rate = 500 orders/per 2 second. Reject new orders.

2. Allowable Contract Execution Rate = 1000 contracts/per 2 seconds. Reject new orders and cancel day orders.

Time	Event	Count total
@100 milliseconds	BD1 enters 10 orders	10 orders.
@110 milliseconds	50 contracts execute	50 contracts
@200 milliseconds	BD1 enters 10 orders	20 orders.
@225 milliseconds	355 contracts execute	405 contracts.
@250 milliseconds	45 contracts execute	450 contracts.
@350 milliseconds	150 contracts execute	600 contracts.
@500 milliseconds	BD1 enters 10 orders	30 orders.
@1000 milliseconds	BD1 enters 200 orders	230 orders.
@1500 milliseconds	BD1 enters 200 orders	430 orders.
@1700 milliseconds	BD1 enters 50 orders	480 orders.
@2000 milliseconds	BD1 enters 50 orders	530 orders.

• 530 orders over 2 seconds exceeds the Allowable Order Rate—triggers the RPM

• Once engaged, the System will reject new orders from BD1 until BD1 contacts the Help Desk to request re-enabling the acceptance of new orders from BD1.

• Orders on the book, may continue to trade.

@2200 milliseconds	300 contracts execute	850 contracts.
@2500 milliseconds	500 contracts execute	800 contracts.
@3000 milliseconds	300 contracts execute	1100 contracts.

• 1100 contract executions over 2 seconds exceeds the Allowable Contract Execution Rate—triggers RPM

• Once engaged, the System will then reject new orders and cancel day orders from BD1 until BD1 contacts the Help Desk to request re-enabling the acceptance of new orders for BD1.

Example 2.

BD1 designates the following settings:

1. Allowable Order Rate = 500 orders/per 2 second. Reject new orders.

2. Allowable Contract Execution Rate = 6,000 contracts/per 2 seconds. Reject new orders and cancel day orders.

Time	Event	Count total
@100 milliseconds	BD1 enters 10 orders	10 orders.
@110 milliseconds	5050 contracts execute	5050 contracts.
@200 milliseconds	BD1 enters 10 orders	20 orders.
@225 milliseconds	355 contracts execute	5405 contracts.
@250 milliseconds	45 contracts execute	5450 contracts.
@350 milliseconds	150 contracts execute	5600 contracts.
@500 milliseconds	BD1 enters 10 orders	30 orders.
@1000 milliseconds	BD1 enters 200 orders	230 orders.
@1500 milliseconds	BD1 enters 200 orders	430 orders.
@1700 milliseconds	BD1 enters 50 orders	480 orders.
@2000 milliseconds	BD1 enters 50 orders	530 orders.

[8] *See* Proposed Rule 519A(a). As discussed below, the Risk Protection Monitor will not cancel any existing GTC orders. GTC Orders will remain in the System available for trading when the Risk Protection Monitor is engaged. *See* Proposed Rule 519A, Interpretations and Policies .02.

[9] The Exchange does not believe that establishing a minimum or maximum Allowable Order Rate or Allowable Contract Execution Rate is necessary at this time. The Exchange notes that use of the Risk Protection Monitor is optional and not mandatory. If, after some time of gaining experience with the Risk Protection Monitor, the Exchange sees a need for either minimums or maximums in the interest of maintaining fair and orderly markets, the Exchange will submit a subsequent 19b–4 rule filing as necessary.

[10] *See* Proposed Rule 519A(b). The communication from the Member to the Help Desk can either be via email or phone.

• 530 orders over 2 seconds exceeds the Allowable Order Rate—triggers the RPM

• Once engaged, the System will reject new orders from BD1 until BD1 contacts the Help Desk to request re-enabling the acceptance of new orders from BD1.

• Orders on the book, may continue to trade.

@2200 milliseconds	300 contracts execute	850 contracts.
@2500 milliseconds	500 contracts execute	800 contracts.
@3000 milliseconds	5300 contracts execute	6100 contracts.

• 6100 contract executions over 2 seconds exceeds the Allowable Contract Execution Rate—triggers RPM

• Once engaged, the System will then reject new orders and cancel day orders from BD1 until BD1 contacts the Help Desk to request re-enabling the acceptance of new orders for BD1.

In Examples 1 and 2, the Exchange notes that contracts continued to execute even though the Risk Protection Monitor was triggered because the orders received during the specified time period exceeded the Allowable Order Rate. If BD1 wishes to mitigate the risk of additional executions after the Risk Protection Monitor is triggered in scenarios like Examples 1 or 2, BD1 could designate that the Risk Protection Monitor prevent the System from receiving any new orders in all series in all classes from the Member and cancel all existing Day orders in all series in all classes from the Member if the orders entered equal or exceed the Allowable Order Rate.

Example 3.

BD1 designates the following settings:

1. Allowable Order Rate = 500 orders/per 2 second. Reject new orders.

2. Allowable Contract Execution Rate = 1000 contracts/per 2 seconds. Reject new orders and cancel day orders.

@100 milliseconds	BD1 enters 10 orders	10 orders
@110 milliseconds	50 contracts execute	50 contracts
@200 milliseconds	BD1 enters 10 orders	20 orders
@225 milliseconds	355 contracts execute	405 contracts
@250 milliseconds	45 contracts execute	450 contracts
@350 milliseconds	150 contracts execute	600 contracts
@500 milliseconds	BD1 enters 10 orders	30 orders
@1000 milliseconds	BD1 enters 200 orders	230 orders
@1500 milliseconds	BD1 enters 200 orders	430 orders
@1700 milliseconds	BD1 enters 50 orders	480 orders
@2200 milliseconds	BD1 enters 10 orders	480 orders
@2200 milliseconds	300 contracts execute	850 contracts
@2500 milliseconds	500 contracts execute	800 contracts
@3050 milliseconds	BD1 enters 150 orders	410 orders
@3060 milliseconds	300 contracts execute	1100 contracts

• 1100 contract executions over 2 seconds exceeds the Allowable Contract Execution Rate—triggers RPM

• Once engaged, the System will then reject new orders and cancel day orders from BD1 until BD1 contacts the Help Desk to request re-enabling the acceptance of new orders for BD1.

The Exchange also proposes Interpretation and Policy .01 to provide that Members may elect to group with other Members to enable the Risk Protection Monitor to apply collectively to the group.[11] The Members in the group must designate a group owner. Specifically, Members may elect to group with other Members to enable the Risk Protection Monitor to apply collectively to the group, provided that either: (i) There is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A; or (ii) there is written authorization signed by all Members in the group and the group owner maintains exclusive control of all orders sent to the Exchange from each MPID within the group.[12] A Member may also elect to group with the Member's clearing firm.[13] A clearing firm may also elect to group several Members to enable the Risk Protection Monitor to apply collectively to the group with the clearing firm designated as the group owner, provided that the clearing firm serves as the clearing firm for all the MPIDs of the group and there is written authorization signed by the clearing firm and each Member of the group. A clearing firm that has grouped several Members may only receive warning messages pursuant to Interpretation and Policy .03 of this Rule, unless one Member of the group maintains exclusive control of all orders routed through all MPIDs within the group.[14]

The Exchange believes that the threshold of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, is reasonable and appropriate for determining adequate affiliation between two or more Member firms. The Exchange notes that this threshold level has been widely adopted by options exchanges in the context of aggregated trading volume of affiliated firms for volume based fee/rebate programs.[15] The written authorization and exclusive control requirement helps ensure that the Risk Protection Monitor does not apply to Members in a group or orders without adequate permission in the manner that is designed to prevent fraudulent and manipulative acts and practices, and to foster cooperation and coordination with persons engaged in facilitating transaction in securities.

The Risk Protection Monitor for groups will operate in the same manner as described in paragraphs (a) and (b) of Proposed Rule 519A, except that: (i) The counting program will count the number of orders entered and the number of contracts traded resulting

[11] *See* Proposed Rule 519A, Interpretations and Policies .01.

[12] *See* Proposed Rule 519A, Interpretations and Policies .01(a).

[13] *See* Proposed Rule 519A, Interpretations and Policies .01(b).

[14] *See id.*

[15] *See e.g.,* MIAX Options Fee Schedule, Sections 1)a)i), 1)a)iii); CBOE Fees Schedule, p. 3 (Volume Incentive Program), p. 13 (Liquidity Provider Sliding Scale), p. 13 [sic] (Clearing Trading Permit Holder Fee Cap); NASDAQ Options Market, Chapter XV, Section 2(1).

from an order entered by all MPIDs in the group collectively; (ii) the System will trigger the Risk Protection Monitor when the group collectively exceeds either the Allowable Order Rate or Allowable Contract Execution Rate for the group; (iii) once engaged, the Risk Protection Monitor will then either automatically prevent the System from receiving any new orders in all series in all classes from each MPID in the group, and, if designated by the group owner's instructions, cancel all existing Day orders in all series in all classes from the group, or send a notification without any further preventative or cancellation action by the System; and (iv) only the designated group owner may request through the Help Desk to enable the acceptance of new orders for all the Members of the group.[16]

The following examples show how the proposed Risk Protection Monitor would operate for groups.

Example 4.

BD1, BD2, BD3 elect to group with each other, with BD1 as the group owner. BD1, BD2, BD3 designate the following settings:

1. Allowable Order Rate = 500 orders/per 2 second. Reject new orders.

2. Allowable Contract Execution Rate = 1000 contracts/per 2 seconds. Reject new orders and cancel day orders.

Time	Event	Count total
@100 milliseconds	BD1 enters 10 orders	10 orders
@110 milliseconds	50 contracts execute	50 contracts
@200 milliseconds	BD2 enters 10 orders	20 orders
@225 milliseconds	355 contracts execute for BD1	405 contracts
@250 milliseconds	45 contracts execute for BD2	450 contracts
@350 milliseconds	150 contracts execute for BD1	600 contracts
@500 milliseconds	BD3 enters 10 orders	30 orders
@1000 milliseconds	BD1 enters 200 orders	230 orders
@1500 milliseconds	BD2 enters 200 orders	430 orders
@1700 milliseconds	BD3 enters 50 orders	480 orders
@2000 milliseconds	BD3 enters 50 orders	530 orders

- 530 orders over 2 seconds exceeds the Allowable Order Rate for the group—triggers the RPM
- Once engaged, the System will reject new orders from BD1, BD2, BD3 until BD1 contacts the Help Desk to request re-enabling the acceptance of new orders from BD1, BD2, BD3.
- Orders on the book, may continue to trade.

@2200 milliseconds	300 contracts execute for BD3	850 contracts.
@2500 milliseconds	500 contracts execute for BD2	800 contracts.
@3000 milliseconds	300 contracts execute for BD1	1100 contracts.

- 1100 contract executions over 2 seconds exceeds the Allowable Contract Execution Rate for the group—triggers RPM
- Once engaged, the System will then reject new orders and cancel day orders from BD1, BD2, BD3 until BD1 contacts the Help Desk to request re-enabling the acceptance of new orders for BD1, BD2, BD3.

Example 5.

BD1 elects to group with their clearing firm CC1, with CC1 as the group owner. BD1, CC1 designate the following settings:

1. Allowable Order Rate = 500 orders/per 2 second. Reject new orders.

2. Allowable Contract Execution Rate = 1000 contracts/per 2 seconds. Reject new orders and cancel day orders.

Time	Event	Count total
@100 milliseconds	BD1 enters 10 orders	10 orders.
@110 milliseconds	50 contracts execute	50 contracts.
@200 milliseconds	BD1 enters 10 orders	20 orders.
@225 milliseconds	355 contracts execute	405 contracts.
@250 milliseconds	45 contracts execute	450 contracts.
@350 milliseconds	150 contracts execute	600 contracts.
@500 milliseconds	BD1 enters 10 orders	30 orders.
@1000 milliseconds	BD1 enters 200 orders	230 orders.
@1500 milliseconds	BD1 enters 200 orders	430 orders.
@1700 milliseconds	BD1 enters 50 orders	480 orders.
@2200 milliseconds	BD1 enters 10 orders	480 orders.
@2200 milliseconds	300 contracts execute	850 contracts.
@2500 milliseconds	500 contracts execute	800 contracts.
@3050 milliseconds	BD1 enters 150 orders	410 orders.
@3060 milliseconds	300 contracts execute	1100 contracts.

- 1100 contract executions over 2 seconds exceeds the Allowable Contract Execution Rate—triggers RPM
- Once engaged, the System will then reject new orders and cancel day orders from BD1 until CC1 contacts the Help Desk to request re-enabling the acceptance of new orders from BD1.

[16] *See* Proposed Rule 519A, Interpretations and Policies .01(c).

The Exchange believes that the ability for affiliated Members to collectively monitor and manage their risk from excessive order or execution rates that may be caused by a system error or market event, will provide a valuable risk management tool for such Members that have shared order exposure and execution risk across affiliated entities. The Exchange believes that allowing Members to group with their clearing firm will help both Members and clearing firms monitor and manage order exposure and execution risk that may be caused from a system or other error or market event in a manner that removes impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest.

The Exchange proposes Interpretation and Policy .02 to provide that PRIME Orders, PRIME Solicitation Orders [17] and GTC Orders do not participate in the Risk Protection Monitor. However, the System does include such PRIME Orders, PRIME Solicitation Orders and GTC Orders in the counting program for purposes of this Rule. PRIME Orders, PRIME Solicitation Orders and Customer-to-Customer Orders will each be counted as two orders for the purpose of calculating the Allowable Order Rate. Once engaged, the Risk Protection Monitor will not cancel any existing PRIME Orders, PRIME Solicitation Orders, AOC orders, OPG orders, or GTC orders. PRIME Orders, PRIME Solicitation Orders and GTC Orders will remain in the System available for trading when the Risk Protection Monitor is engaged.[18] The Exchange believes the proposed treatment of PRIME Orders, PRIME Solicitation Orders, AOC orders, OPG orders, and GTC Orders is an equitable approach to handling the unique characteristics of these order types within the Risk Protection Monitor mechanism. Separately, the Exchange believes the proposed treatment of paired orders in the form of PRIME Orders and PRIME Solicitation Orders processed pursuant to Rule 515A versus standard Agency Orders processed pursuant to Rule 515, is an equitable approach to handling the unique characteristics of PRIME Orders and PRIME Solicitation Orders within the Risk Protection Monitor mechanism. The Exchange notes that PRIME Orders submitted pursuant to Rule 515A by operation of the ''stop'' have been guaranteed an execution at the time of acceptance into the System; therefore, the Exchange does not believe that such orders should be cancelled when the Risk Protection Monitor is engaged, since the execution effectively already happened. In contrast, standard Agency Orders that a Member is representing as a principal are processed according to Rule 515 in the same manner as other incoming orders and are not been guaranteed an execution at the time of acceptance in the System, thus the Exchange believes that standard Agency Orders should be treated the same as other orders and be subject to the protections of the Risk Protection Monitor.

The Exchange proposes Interpretation and Policy .03 to provide that Members may elect to receive warning notifications indicating that a specific percentage of an Allowable Order Rate or an Allowable Contract Execution Rate has been met.[19]

The Exchange proposes Interpretation and Policy .04 to provide that at the request of a Member or in order to maintain a fair and orderly market the Help Desk may pause and restart the specified time period used by the counting program or clear and reset any calculated Allowable Order Rate or Allowable Contract Execution Rate.[20]

The Exchange also proposes to amend Rule 612 to codify existing functionality regarding the Aggregate Risk Manager to provide additional transparency in the Rule to Members regarding the current functionality. Currently, the Rule provides that after the System engages the Aggregate Risk Manager, that the Aggregate Risk Manager will automatically remove the Market Maker's quotations from the Exchange's disseminated quotation in all series of that particular option class until the Market Maker submits a new revised quotation. However, submitting a new revised quotation alone is not currently enough in this situation. The Market Maker must also send a notification to the System of the intent to reengage quoting. The Exchange proposes to amend the Rule to codify this additional requirement, of sending a notification to the System of the intent to reengage quoting, in order to eliminate potential confusion on behalf of Market Makers. In addition, the Exchange proposes to adopt a new Interpretation and Policy .01 to Rule 612 to codify existing functionality regarding the Aggregate Risk Manager to provide additional transparency in the Rule to Members regarding the current functionality. The Exchange proposes to specify that eQuotes do not participate in the Aggregate Risk Manager. An eQuote is a quote with a specific time in force that does not automatically cancel and replace a previous Standard quote or eQuote. An eQuote can be cancelled by the Market Maker at any time, or can be replaced by another eQuote that contains specific instructions to cancel an existing eQuote.[21] The System does not include contracts traded through the use of an eQuote in the counting program for purposes of this Rule. eQuotes will remain in the System available for trading when the Aggregate Risk Manager is engaged.[22] The proposed changes to the Aggregate Risk Manager are designed to protect investors and the public interest by codifying the protections that apply to quotation orders that help Market Makers avoid quotation activity that exceeds their established risk thresholds on the Exchange. In addition, the Exchange believes that the proposed amendment removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by helping to eliminate potential confusion on behalf of Market Makers by clearly stating the System's functionality with regard to quotations that trigger the Aggregate Risk Manager protections.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [23] in general, and furthers the objectives of Section 6(b)(5) of the Act [24] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that Members will benefit from the proposed new Risk Protection Monitor. Members are vulnerable to the risk from system or other error or a market event, that may

[17] The terms ''PRIME Order'' and ''PRIME Solicitation Order'' refer to a two-sided paired order that consists of both an Agency Order and a Contra-side Order that is submitted to the Exchange pursuant to Rule 515A.

[18] *See* Proposed Rule 519A, Interpretations and Policies .02.

[19] *See* Proposed Rule 519A, Interpretations and Policies .03.

[20] *See* Proposed Rule 519A, Interpretations and Policies .04.

[21] *See* Rule 517(a)(2).

[22] *See* Proposed Rule 612, Interpretations and Policies .01.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

cause them to send a large number of orders or receive multiple, automatic executions before they can adjust their order exposure in the market. Without adequate risk management tools, such as the Risk Protection Monitor, Members could reduce the amount of order flow and liquidity that they provide to the market. Such actions may undermine the quality of the markets available to customers and other market participants. Accordingly, the proposed Risk Protection Monitor is designed to encourage Members to submit additional order flow and liquidity to the Exchange, thereby removing impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, protecting investors and the public interest. In addition, providing Members with more tools for managing risk will facilitate transactions in securities because, as noted above, the Members will have more confidence that protections are in place that reduce the risks from potential system errors and market events. As a result, the new functionality has the potential to promote just and equitable principles of trade.

The written authorization and exclusive control requirement helps ensure that the Risk Protection Monitor does not apply to Members in a group or orders without adequate permission in the manner that is designed to prevent fraudulent and manipulative acts and practices, and to foster cooperation and coordination with persons engaged in facilitating transaction in securities. The Exchange believes the proposed treatment of PRIME Orders, PRIME Solicitation Orders, AOC orders, OPG orders, and GTC Orders is an equitable approach to handling the unique characteristics of these order types within the Risk Protection Monitor mechanism. Further, the Exchange believes the proposed treatment of paired orders in the form of PRIME Orders and PRIME Solicitation Orders processed pursuant to Rule 515A versus standard Agency Orders processed pursuant to Rule 515, is an equitable approach to handling the unique characteristics of Agency Orders within the Risk Protection Monitor mechanism.

The proposed changes to the Aggregate Risk Manager are designed to protect investors and the public interest by codifying the protections that apply to quotations that help Market Makers avoid executions from quotation activity that exceeds their established risk thresholds on the Exchange. In addition, the Exchange believes that the proposed amendment removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by helping to eliminate potential confusion on behalf of Market Makers by clearly stating the System's functionality with regard to quotations that trigger the Aggregate Risk Manager protections.

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. Rather, the Exchange believes that the new Risk Protection Monitor help promote fair and order markets. The Exchange believes the proposed changes will not impose any burden on intra-market competition because the use of the Risk Protection Monitor is voluntary and is available to all Members. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. As to inter-market competition, the Exchange believes that the proposed risk protections should promote competition for such functionality that is designed to protect market participants from system errors or market events that may cause them to send a large number of orders or receive multiple, automatic executions before they can adjust their order exposure in the market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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, as modified by Amendment No. 1, 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–MIAX–2015–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2015–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2015–03, and should be submitted on or before February 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01510 Filed 1–27–15; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74114; File No. SR–BOX–2015–03]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Implement an Equity Rights Program

January 22, 2015.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 9, 2015, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to implement an equity rights program, to be effective January 12, 2015. There are no proposed changes to any rule text.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to implement an equity rights program (the ''Program'') in which BOX Options Participants registered with the Exchange for purposes of participating in options trading on the BOX market, a facility of the Exchange (''BOX''), as an order flow provider or market maker (''Participants'') may elect to participate.[5]

The Exchange is submitting two proposed rule changes with the Commission in connection with implementation of the Program. First, the Exchange is submitting this proposed rule change under Section 19(b)(3)(A)(ii) of the Securities Exchange Act of 1934 (the ''Act'') [6] and Rule 19b–4(f)(2) thereunder,[7] for immediate effectiveness, inasmuch as it establishes or changes a due, fee, or other charge imposed by the Exchange. Second, the Exchange will be submitting a separate proposed rule change under Section 19(b)(1) of the Act [8] and Rule 19b–4 thereunder,[9] subject to Commission approval, to make changes to its company governance documents, including to accommodate aspects of the Program that involve or affect the Subscription Agreement and proposed Members Agreement and the Amended and Restated Limited Liability Company Agreement (''Restated LLC Agreement'') of BOX Holdings Group LLC (''Holdings''), an affiliate of the Exchange. As discussed in greater detail below, the aspects of the Program that require changes to the company governance documents, including the acquisition of equity ownership in Holdings and any right related to such ownership, are contingent upon Commission approval of the company governance proposed rule change.

Participants that elect to participate in the Program will have the right to acquire equity in, and receive distributions from, Holdings, an affiliate of the Exchange, in exchange for the achievement of certain order flow volume commitment thresholds on the Exchange over a period of five (5) years and a nominal initial cash payment. The purpose of the Program is to promote the long-term interests of the Exchange by providing incentives designed to encourage Participants and Holdings owners to contribute to the growth and success of BOX by being active liquidity providers and takers to provide enhanced levels of trading volume to BOX, through an opportunity to increase their proprietary interests in BOX's enterprise value.

Upon initiation of the Program by Holdings, Participants that elect to participate in the Program, meet the eligibility criteria and make the initial cash payment (''Subscribers'') will be issued Volume Performance Rights (''VPRs'') in tranches of twenty (20) VPRs (each, a ''Tranche''). There will be a minimum subscription of two Tranches. A maximum of thirty (30) Tranches could be issued in connection with the Program.[10]

Each VPR will include 8.5 unvested new Class C Membership Units of Holdings (''Class C Units'') [11] and an average daily transaction volume commitment (''VPR Volume Commitment'') with respect to Qualifying Contract Equivalents equal to 0.0055% of the Industry ADV [12] for a total of five (5) years (twenty (20) consecutive measurement quarters).[13] The VPR Volume Commitment threshold will change based on the movement of the Industry ADV.

There are four categories of Contract Equivalents, which are based on the Participant account types set forth in the Exchange's Fee Schedule:

[5] The Program was made available to all options traders. However, any interested party must first become a Participant (in addition to meeting the Program's eligibility criteria and making the initial cash payment) in order to participate in the Program.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 15 U.S.C. 78s(b)(1).

[9] 17 CFR 240.19b–4.

[10] A maximum of 600 VPRs may be issued in connection with the Program (30 Tranches × 20 VPRs per Tranche). If the Program is oversubscribed, Tranches will be allocated on a pro-rata basis, rounded to the nearest whole Tranche, subject to the minimum of two Tranches.

[11] 8.5 Class C Units will equal approximately 0.05% of the fully diluted equity of Holdings, assuming all 600 VPRs are subscribed. The total equity ownership of Holdings held by any one Subscriber will be limited to 20%.

[12] The Industry ADV for a period is calculated by multiplying (i) two (2) times (ii) the quotient of (A) the aggregate number of cleared U.S. options transactions executed on a U.S. national exchange or facility thereof in U.S. listed securities on trading days during the period, as reported by the Options Clearing Corporation (''OCC''), divided by (B) the number of trading days during the period. A ''trading day'' is generally any day on which the BOX market is open for business, subject to certain qualifications to be defined in the Members Agreement. Certain industry transactions are excluded from the calculation of Industry ADV as described below.

[13] The first measurement quarter is expected to begin measuring order flow on January 12, 2015, and end on March 31, 2015, and thus the first measurement period will be slightly shorter than a standard measurement quarter.

• Public Customer: 0.71 executed orders equates to one (1) Contract Equivalent.

• Market Maker: 1.10 executed orders equates to one (1) Contract Equivalent.

• Broker/Dealer: 1.35 executed orders equates to one (1) Contract Equivalent.

• Professional Customer: [14] 1.35 executed orders equates to one (1) Contract Equivalent.

The escalation of the weight assigned to each category is generally consistent with the fees charged to each account type in the Exchange's Fee Schedule. Qualifying Contract Equivalents are Contract Equivalents, other than Excluded Member Contracts (described below), executed by a Class C Member (or its affiliates) on the Exchange either for its own account or for a customer, including orders routed to the Exchange by such Class C Member (or its affiliates).

All holders of Holdings' outstanding equity, including Subscribers holding Class C Units (''Class C Members''), are eligible to receive an annual distribution, distributed on a pro-rata basis, equal to 95% of Holdings' consolidated net income, plus depreciation and less capital expenditures, subject to availability.[15] Any such distribution amounts will be calculated after taking into account all financial and regulatory needs of the Exchange, as determined by the Exchange.[16] Distributions are payable on Class C Units associated with both vested and unvested VPRs. Distributions to Subscribers will be based on the Subscriber's achievement of its Annual Volume Commitment [17] for that year. If a Subscriber achieves at least 100% of its Annual Volume Commitment for all of the VPRs it holds for the distribution year, the Subscriber will receive its full distribution on its Class C Units. If a Subscriber achieves less than 100%, but at least 70%, of its Annual Volume Commitment, its distribution on its Class C Units will be prorated. If a Subscriber achieves less than 70% of its Annual Volume Commitment, it will receive no distribution on its Class C Units. Any unpaid distributions resulting from failure of Subscribers to achieve their Annual Volume Commitments during the measurement year will first be redistributed pro-rata to Subscribers that achieved volume in excess of their Annual Volume Commitment for the measurement year, with a maximum redistributed distribution amount equal to the Subscriber's regular distribution multiplied by the percent by which its transaction volume exceeded its Annual Volume Commitment for that measurement year. Distributions available for redistribution that are not redistributed to Subscribers will be redistributed pro-rata to holders of Holdings' other classes of equity securities: Class A Membership Units and Class B Membership Units (collectively with the Class C Units, ''Units'').

One VPR per Tranche will be eligible to vest each quarter of the five (5) year Program period, subject to the Subscriber meeting its Quarterly Volume Commitment [18] for all VPRs it holds for that quarter. In addition, Subscribers may earn additional VPRs or lose VPRs upon exceeding or failing to meet their VPR Volume Commitments during the Program period, as detailed below.

If a Subscriber fails to meet its Tranche Volume Commitment (calculated as VPR Volume Commitment × 20 for a full Tranche) for a measurement quarter, a VPR eligible to vest for that Tranche in that quarter will not vest.[19] However, for any measurement quarter in which a Subscriber achieves less than 100%, but at least 70%, of its Tranche Volume Commitment, the Subscriber may ''make up'' the shortfall for vesting purposes by achieving order flow during the next two consecutive measurement quarters at least equal to its requisite Quarterly Volume Commitment for each quarter plus the shortfall amount for that Tranche.[20] If the shortfall is so ''made up,'' one VPR per Tranche will vest at the end of the measurement quarter in which the shortfall is made up, in addition to any other VPRs that would otherwise vest. If a Subscriber fails to ''make up'' the shortfall within the two immediately subsequent measurement quarters, or if a Subscriber fails to meet at least 70% of its Tranche Volume Commitment, the VPR eligible to vest for that Tranche will fail to vest and become available to be reallocated to interested Subscribers to the extent such interested Subscribers achieved order flow volume above their Quarterly Volume Commitment for that measurement quarter. If a Subscriber exceeds 100% of its Quarterly Volume Commitment in any measurement quarter, the Subscriber will be eligible to earn reallocated VPRs from the pool of VPRs available for reallocation. The number of VPRs received in such reallocation will depend upon the Subscriber's achieved volume in excess of its Quarterly Volume Commitment and the extent to which other Subscribers miss or exceed their own Quarterly Volume Commitments.

In addition to the reallocation of individual VPRs described above, if a Subscriber fails to meet its Tranche Volume Commitment for one or more Tranches in at least two (which need not be consecutive) measurement quarters, including after any applicable ''make up'' period as described above, all of the Subscriber's VPRs in such Tranche(s), whether vested or unvested, will become available to be reallocated to interested Subscribers to the extent such interested Subscribers achieved, on average from the beginning of the Program through the most recent measurement quarter, order flow volume above their applicable Quarterly Volume Commitment. If a Subscriber, on average from the beginning of the Program through the most recent

[14] A ''Professional'' Customer is defined in Exchange Rule 100(a)(50) to mean ''any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).''

[15] Distributions on Class C Units will not be paid until the Commission approves the related rule change filed by the Exchange concerning revisions to its company governance documents. Distributions payable on Class C Units that accrue before Commission approval of the related company governance rule filing will be held in a segregated account until Commission approval is obtained. If the Commission does not approve the related company governance rule filing by July 1, 2016, a Subscriber may terminate its Subscription Agreement with Holdings and any and all distributions with respect to that Subscriber held in the segregated account will be released back to Holdings and distributed to existing Members in accordance with the terms of the Article 8 of the LLC Agreement.

[16] Article 8 of the LLC Agreement generally describes, and the Restated LLC Agreement generally will describe, how the distribution amounts will be calculated.

[17] ''Annual Volume Commitment'' is calculated, with respect to any measurement year for any Class C Member, by multiplying (i) the number of VPRs held by such Class C Member as of the first day of the measurement year by (ii) the VPR Volume Commitment for such measurement year. The first measurement year's Annual Volume Commitment will be reduced as part of a phase-in period as described below.

[18] ''Quarterly Volume Commitment'' is calculated with respect to any measurement quarter for any Class C Member, by multiplying (i) the number of VPRs held by such Class C Member as of the first day of the measurement quarter by (ii) the VPR Volume Commitment for such measurement quarter.

[19] Notwithstanding, the Program is currently designed to allow for an initial phase-in period during the first two measurement quarters of the Program, during which each Subscriber's Quarterly Volume Commitment will be reduced to 40% for the first measurement quarter and 70% for the second measurement quarter. All subsequent measurement quarters will require a 100% Quarterly Volume Commitment. As such, for the first measurement year, each Subscriber's Annual Volume Commitment will be 77.5% of the Annual Volume Commitment calculation.

[20] For the sake of clarity, a portion of the shortfall can be made up in either or both measurement quarters in the ''make-up'' period.

measurement quarter, exceeds 100% of its Quarterly Volume Commitment, the Subscriber will be eligible to earn reallocated VPRs from the pool of such Tranches available for reallocation. The number of VPRs received in such reallocation will depend upon the Subscriber's achieved volume, on average from the beginning of the Program through the most recent measurement quarter, in excess of its applicable Quarterly Volume Commitment and the extent to which other Subscribers miss or exceed their own Quarterly Volume Commitments.

Notwithstanding the foregoing, once a Subscriber has achieved forty (40) vested VPRs, and subsequently when each additional level of twenty (20) VPRs vest, those VPRs will become protected from reallocation.

Any reallocated VPR will come with the same Class C Units ownership rights and VPR Volume Commitment obligations. If the number of VPRs available for reallocation is insufficient to reallocate fully to all eligible Subscribers, the available VPRs will be relocated on a pro-rata basis based on each eligible Subscriber's percentage of the aggregate excess volume achieved by all eligible Subscribers. If the number of VPRs available for reallocation exceeds the interest or availability of eligible Subscribers, Holdings may cancel any such excess VPRs not reallocated.

As noted above, only Qualifying Contract Equivalents will be included in the calculation of a Subscriber's VPR Volume Commitment. The following Excluded Member Contracts are not Qualifying Contract Equivalents, and thus will not count towards a Subscriber's VPR Volume Commitment: (1) Excluded Industry Transactions, *i.e.,* executed and cleared transactions (i) in a proprietary product traded on a U.S. equity options exchange other than the Exchange (and not traded on the Exchange), (ii) that are Strategic Transactions,[21] or (iii) that are otherwise agreed to be Excluded Industry Transactions by Holdings and holders of at least a majority of the outstanding Class C Units (including both vested and unvested Class C Units) in writing; (2) transactions that the Class C Member has notified Holdings shall not be credited to such Member for purposes of calculating the Member's actual order volume; (3) transactions determined to have been in violation of any applicable law, statute, regulation, rule, official directive or guideline (whether or not having the force of law) of any governmental authority with legal jurisdiction or of any self-regulatory organization with supervisory authority; and (4) transactions with respect to which it is unlawful for the Class C Member to receive compensation.

Any disputes with respect to Quarterly Volume Commitment calculations may be appealed to the Holdings board of directors. If such dispute is not resolved within sixty (60) calendar days following the end of any applicable measurement quarter, Subscribers may request the dispute be resolved by an independent accounting firm appointed by a majority of the Subscribers requesting the audit and reasonably acceptable to Holdings.

As noted above, the Exchange will be submitting a separate proposed rule change, subject to Commission approval, to make changes to its company governance documents to accommodate certain aspects of the Program that involve or affect the rights and limitations associated with Class C Unit ownership. For example, the total equity ownership of all classes of Units held by any one Subscriber will be limited to 20%.[22] Also, the Restated LLC Agreement will provide that Subscribers will have the right to vote the Class C Units associated with vested VPRs on matters submitted for a vote of all holders of Units, and the Class C Units will vote with all other classes of Units as a single class. Subscribers will also have the right to designate one individual to a new Advisory Committee organized by Holdings, whose purpose will be to advise and make recommendations to Holdings with respect to the Exchange's competitiveness in the marketplace.[23] In addition, Subscribers with Class C Units associated with vested VPRs that represent greater than 4% of all outstanding Units will have the right to appoint one (1) director to the Holdings board of directors.[24] As noted, these and other rights associated with Class C Unit ownership are contingent upon Commission approval of the company governance rule filing.

The Program will also foster key changes to the governance of Holdings, assuming Commission approval of the separate company governance proposed rule change. The Program will foster the removal of MX US 2, Inc.[25] from being a direct majority owner of Holdings. Assuming full participation in the Program, the ownership of Holdings by current Unitholders, including MX US 2, Inc., will be diluted such that no single Unitholder will have a majority ownership of Holdings. Also, upon vesting of VPRs associated with Class C Units equal to at least 10% of the total outstanding Units, the non-compete obligations applicable to MX US 2, Inc. in the Restated LLC Agreement will expire and be of no further effect, automatically and without further action.[26] In addition, upon vesting of VPRs associated with Class C Units equal to at least 25% of the total outstanding Units, the Major Action veto for the benefit of MX US 2, Inc. and IB Exchange Corp. in the Restated LLC Agreement will expire and be of no further effect, automatically and without further action.[27] Finally, the Restated LLC Agreement will include a requirement that, subject to the other provisions of the Restated LLC

[21] "Strategic Transactions" will be defined in the Members Agreement and will include any transaction in a product that, with respect to any day on which BOX is open for business, is one of the top twenty (20) highest equity or ETF volume products reported by the OCC for such trading day and for which a majority of the volume of cleared transactions in such product reported by OCC consists of executed and cleared transactions involving: (i) Reveals and conversions; (ii) dividend spreads; (iii) deep-in-the-money call and put spreads; (iv) short stock interest spreads; (v) merger spreads; (vi) box spreads; or (vii) jelly rolls. This definition will be subject to change by subsequent amendment of the Members Agreement. Strategic Transactions will be excluded from the VPR Volume Commitment calculation to the extent it is possible to identify such transactions.

[22] Any purported transfer of Class C Units or ownership of Class C Units in violation of this 20% ownership limit by a Subscriber will be subject to limitations set forth in the Restated LLC Agreement, including the non-recognition of voting rights of Class C Units in excess of the 20% ownership limit.

[23] The Members Agreement will provide that only Class C Members will be able to designate members to the Advisory Committee.

[24] The Restated LLC Agreement will provide that existing Holdings Members will continue to have the right to designate a director to the Holdings board of directors. Each Class A or Class B Member will have the right to appoint one (1) director to the Holdings board of directors if it owns in excess of 2.5% of all outstanding Units. In addition, any Member that owns greater than 14% and 28% of all outstanding Units will have the right to appoint two (2) and three (3) directors, respectively. No Member will be allowed to designate more than three (3) directors to the Holdings board of directors.

[25] MX US 2, Inc., which is indirectly owned by TMX Group, Inc., a Canadian entity, currently owns approximately 54% of Holdings.

[26] Article 16, Section 16.1 of the LLC Agreement generally provides, and the Restated LLC Agreement generally will provide, that, so long as MX US 2, Inc. and its affiliates own 4% or more of Holdings, it shall not invest in more than 5% or participate in the creation and/or operation of a competing business.

[27] Section 4.4 of the LLC Agreement generally provides, and the Restated LLC Agreement generally will provide, that certain Major Actions (as defined therein) shall not be effective unless approved by the Holdings board of directors, including all of the directors designated by each of MX US 2, Inc. and IB Exchange Corp. Further, the Restated LLC Agreement will provide that Sections 4.4 and 14.12 of the BOX Market LLC Agreement will also be amended, at the same time as the Holdings Major Actions provision expires, to provide that the corresponding provisions in the BOX Market LLC Agreement relating to Major Actions (as defined therein) will have no further effect.

Agreement, including the Major Action veto discussed above, holders of at least 67% of all outstanding Units must vote to approve certain major company actions by Holdings.[28] As noted, these and other governance changes are contingent upon Commission approval of the company governance rule filing.

Any Participant may elect to subscribe to the Program subject to its satisfaction of eligibility requirements and making the initial cash payment. All applicant Participants will be subject to the same eligibility and designation criteria and all Subscribers will participate in the Program on the same terms, conditions and restrictions. To be designated as a Subscriber, an applicant must: (i) Represent and warrant that no grounds exist for the suspension or termination of the Subscriber's voting privileges or membership under the Limited Liability Company Agreement of Holdings, as may be amended from time to time (''LLC Agreement''), or the Restated LLC Agreement; (ii) qualify as an ''accredited investor'' as such term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933 (the ''Securities Act''); and (iii) have executed all required documentation for Program participation. In addition, the applicant must make a nominal cash payment of $10 per Class C Unit (which equates to $85 per VPR) by January 12, 2015, and subscribe to a minimum of two Tranches of 20 VPRs, for a total minimum initial cash payment of $3,400.[29] Once a Participant becomes a Subscriber, Holdings may cancel any VPR held by the Subscriber if the Subscriber's membership in Holdings is terminated as provided in the LLC Agreement or Restated LLC Agreement.

Neither VPRs nor Class C Units are expected to be registered for resale by Holdings and may not be transferred without complying with, or qualifying for an exemption from, the registration requirements of the Securities Act. Any transfer of Class C Units by an existing Class C Member will be subject to a primary right of first refusal for the benefit of Holdings and a secondary right of first refusal for the benefit of other Class C Members. Notwithstanding the foregoing, a Class C Member may transfer all of its rights and obligations related to the VPRs and Class C Units it holds to any affiliate without the consent of Holdings so long as, among other things, the affiliate is admitted as a member of Holdings as provided in the Restated LLC Agreement and becomes a party to, and bound by the terms and conditions of, the Members Agreement. Upon completion of all 20 measurement quarters (plus any applicable ''make up'' period), assuming Commission approval of the related company governance rule filing discussed above, all outstanding Class C Units associated with vested VPRs will be automatically converted into Class A Membership Units, and all outstanding Class C Units associated with unvested VPRs will be automatically cancelled.

As discussed above, the purpose of the Program is to encourage Participants to direct greater trade volume to the Exchange to enhance trading volume in BOX. Toward that end, the Exchange has reached out to known options traders—both Participants and non-Participants—to gauge interest in the Program, including whether the Program would induce non-Participants to become Participants and, once Participants, direct trading volume to BOX. Increased volume will provide for greater liquidity and enhanced price discovery, which benefits all market participants. Other exchanges currently engage in the practice of incentivizing increased order flow in order to attract liquidity providers through equity sharing arrangements.[30] The Program similarly intends to attract order flow, which will increase liquidity, thereby providing greater trading opportunities and tighter spreads for other market participants and causing a corresponding increase in order flow from these other market participants. The Program will similarly reward the liquidity providers that provide this additional volume with a potential proprietary interest in BOX.

As discussed above, the acquisition of Class C Units, and any right related to such ownership, in connection with the Program is contingent upon Commission approval of the company governance proposed rule change by July 1, 2016, after which a Subscriber may terminate its participation in the Program. This contingency will be a known risk to Subscribers: The Subscription Agreement, which all Subscribers must sign by January 12, 2015, will disclose that the purchase of Class C Units is contingent upon, among other things, Commission approval of the Program. In addition, the Membership Agreement, which all Subscribers must sign by January 12, 2015, will disclose that BOX will begin measuring order flow volume for the Program on January 12, 2015. Accordingly, Subscribers will be aware that they may send order flow to BOX in connection with the Program in advance of Commission approval, and that there is a risk that the Program is not approved by the Commission and that they never receive the Class C Units or the rights associated therewith.

In addition, the Exchange has taken steps to minimize the risk that the Program does not become fully operational and the related costs imposed on Subscribers if such risk is realized. For example, all internal approvals and consents required to operate the Program, including approval by the Holdings board of directors of the Subscription Agreement, Membership Agreement and amendments to the Restated LLC Agreement, will be obtained in advance of commencement of the Program. Besides Commission approval, there will be no other governmental or regulatory approval required to operate the Program. Also, regardless of if and when Commission approval is obtained, Subscribers will continue to be required to pay fees in accordance with the same published Exchange Fee Schedule to which all Participants are subject. In addition, Subscribers are not guaranteed distributions; any distribution to holders of Holdings equity (including Class C Members) is contingent upon, among other things, the profitability of Holdings, and nothing in the Subscription Agreement or Members Agreement guarantees the payment of any distributions to Subscribers.

[28] The Restated LLC Agreement will set forth the terms and conditions of this ''supermajority'' provision.

[29] Because, as noted above, the acquisition of equity ownership in Holdings, and any right related to such ownership, in connection with a Subscriber's participation in the Program is contingent upon Commission approval of the related company governance rule change, the initial cash payment will be held in escrow until the Commission approves the related company governance rule change. As disclosed to the Subscribers and provided in the Subscription Agreement, if the Commission does not approve the related company governance rule change by July 1, 2016, any Subscriber will be authorized to terminate its Subscription Agreement with the Holdings, upon which Holdings will promptly refund the terminating Subscriber's initial cash payment.

[30] *See, e.g.,* Securities Exchange Act Release No. 62358 (June 22, 2010), 75 FR 37861 (June 30, 2010) (SR–NSX–2010–006) (Notice of Filing and Immediate Effectiveness of National Stock Exchange, Inc. equity rights program); Securities Exchange Act Release No. 64742 (June 24, 2011), 76 FR 38436 (June 30, 2011) (SR–NYSEAmex–2011–018) (Order Approving NYSE Amex LLC (now NYSE MKT LLC) options facility, including a volume-based equity plan); Securities Exchange Act Release No. 69200 (March 21, 2013), 78 FR 18657 (March 27, 2013) (SR–CBOE–2013–031) (Notice of Filing and Immediate Effectiveness of CBOE Stock Exchange, LLC equity rights program); and Securities Exchange Act Release No. 70498 (September 25, 2013), 78 FR 60348 (October 1, 2013) (SR–MIAX–2013–043) (Notice of Filing and Immediate Effectiveness of Miami International Securities Exchange, LLC equity rights program).

Finally, the Subscription Agreement will set forth the right of each Subscriber to terminate the Subscription Agreement if the Commission does not approve the proposed company governance rule change by July 1, 2016 or if the Subscriber's participation in the Program is legally prohibited before issuance of the Class C Units.[31] Accordingly, the only potential ''cost'' to Subscribers if Commission approval is not obtained by July 1, 2016, would be that they would have sent order flow to BOX with the hope of receiving an equity interest and related rights, which they knew were not guaranteed.

The VPR Volume Commitment threshold was set based upon business determinations, including increasing diversity of Holdings' ownership and an analysis of current volume levels. The specific Contract Equivalent categories were defined and weighted in accordance with the Exchange's Fee Schedule, such that those categories that earn higher fees are weighted more heavily. The VPR Volume Commitment threshold and Contract Equivalent categories are intended to incentivize firms to increase the number of orders that are sent to BOX. Increasing the number of orders that are sent to BOX will in turn provide tighter and more liquid markets, and therefore attract more business as well.

BOX intends to begin measuring order flow volume for the Program on January 12, 2015. The Exchange notified Participants of the Program by Regulatory Circular published on October 1, 2014. The Exchange will also post a copy of this rule filing on its Web site. Any Participant that is interested in participating in the Program may contact BOX for more information and legal documentation and will be required to enter into a nondisclosure agreement regarding this additional Program information.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[32] Specifically, the Exchange believes that its proposed rule change is consistent with Section 6(b)(5) of the Act[33] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the requirement in Section 6(b)(5) of the Act[34] that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[35] which requires that exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

In particular, the proposed rule change is equitable and not unfairly discriminatory because all Participants may elect to participate (or elect to not participate) in the Program and earn vested VPRs on the same terms and conditions, assuming they satisfy the same eligibility criteria as described above. The eligibility criteria are objective; thus, all Participants have the same opportunity to satisfy them. Also, Holdings is offering VPRs, including Class C Units, to any Participant that requests designation to participate in the Program and otherwise satisfies the eligibility criteria to ensure that all Participants will have the opportunity to subscribe for VPRs and the associated Class C Units and thus participate in the Program if they so choose. In addition, VPRs will vest based on achievement of a predetermined VPR Volume Commitment threshold during each measurement period that will apply evenly to all Subscribers. Further, each Subscriber will have the right to terminate its Subscription Agreement if the Commission does not approve the proposed company governance rule change by July 1, 2016 or if the Subscriber's participation in the Program is legally prohibited before issuance of the Class C Units.[36]

The Exchange believes that the methodology used to calculate the VPR Volume Commitment threshold is fair, reasonable and not unfairly discriminatory because it is based on objective criteria that are designed to omit from the calculation functionality that is not available on the Exchange and types of transactions that are subject to little or no transaction fees. Specifically, as noted above, the VPR Volume Commitment calculation only includes Qualifying Contract Equivalents, which excludes the following Excluded Member Contracts:

- Excluded Industry Transactions, *i.e.,* executed and cleared transactions:
  - In a proprietary product traded on a U.S. equity options exchange other than the Exchange (and not traded on the Exchange);
  - that are Strategic Transactions;[37] or
  - that are otherwise agreed to be Excluded Industry Transactions by Holdings and holders of at least a majority of the outstanding Class C Units (including both vested and unvested Class C Units) in writing;
- Transactions that the Class C Member has notified Holdings shall not be credited to such Member for purposes of calculating the Member's actual order volume.
- Transactions determined to have been in violation of any applicable law, statute, regulation, rule, official directive or guideline (whether or not having the force of law) of any governmental authority with legal jurisdiction or of any self-regulatory organization with supervisory authority.
- Transactions with respect to which it is unlawful for the Class C Member to receive compensation.

The Exchange believes excluding Strategic Transactions and transactions in proprietary products traded on a U.S. options exchange other than the Exchange is reasonable and not unfairly discriminatory because, at this time, these transactions generally are not executed on the Exchange, and thus do not contribute to the purpose behind the Program of incentivizing Participants to send order flow to BOX. The Exchange further believes it is reasonable and not unfairly discriminatory to exclude transactions determined to have been executed in violation of applicable law[38] and transactions for which it is unlawful for the Subscriber to receive compensation, because the Exchange does not want to incent or reward the execution of unlawful transactions. The Program is designed to reward Subscribers for bringing orders to be executed on the Exchange; the distribution reward is primarily based on the profitability of Holdings, which is directly related to the fees earned by the Exchange. The foregoing

[31] In addition, as noted above, the Subscription Agreement will provide that, upon such termination, Holdings will promptly return the terminating Subscriber's initial cash payment.

[32] 15 U.S.C. 78f(b).

[33] 15 U.S.C. 78f(b)(5).

[34] *Id.*

[35] 15 U.S.C. 78f(b)(4).

[36] In addition, as noted above, the Subscription Agreement will provide that, upon such termination, Holdings will promptly return the terminating Subscriber's initial cash payment.

[37] *See supra* note 21 for a description of the types of ''Strategic Transactions.''

[38] The Exchange believes that including transactions executed in violation of applicable law, particularly, would not be consistent with the purposes of the Act.

transactions, in which no transaction fees are earned by the Exchange, do not contribute to the profitability of Holdings. Finally, the Exchange believes it is reasonable and not unfairly discriminatory to exclude transactions that the Subscriber has notified Holdings should not be credited to such Subscriber for purposes of calculating such Subscriber's actual order volume, and transactions otherwise agreed to be excluded by Holdings and holders of at least a majority of the outstanding Class C Units, because these exclusions permit flexibility in the Program to allow Subscribers to account for business arrangements with affiliates and third parties, including execution arrangements through other Subscribers in the Program, allow Subscribers to voice possible concerns and opinions, and allow Subscribers to modify the order types that can contribute to meeting the VPR Volume Commitment, either individually by and for the Subscriber itself, or by majority vote [39] for all Subscribers.

Further, the Exchange believes the definition of, and weight assigned to, each Contract Equivalent category is fair, reasonable and not unfairly discriminatory because each category is defined and weighted in accordance with the Exchange's Fee Schedule, so that those categories that earn higher fees are weighted more heavily.[40] Although the different Contract Equivalent categories are weighted differently, the weighting is equitable, and strikes an appropriate balance based on the quantity of orders executed and the type of account. The Public Customer category is assigned the lowest weight (0.71) because these orders are charged the lowest fees by the Exchange, and the Exchange believes low customer transaction fees are reasonable, appropriate and consistent with the Act because it promotes the best interests of investors to have lower transaction costs for Public Customers and attract Public Customer order flow to BOX. The Market Maker category is assigned more weight (1.10) because these orders generate higher fees designed to be comparable to the fees that such accounts would be charged at competing venues. The Professional Customer and Broker/Dealer Firm categories are assigned the most weight (1.35) because these orders generate the highest fees for the Exchange and, again, are designed to be comparable to fees charged by competing options exchanges. By definition, a Professional Customer places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s),[41] and such level of trading activity generates higher operational costs for the Exchange. Broker/Dealer Firms are engaged in the business of executing orders, and thus similarly generate high operational costs for the Exchange. Broker/Dealer Firms are charged higher fees than Market Makers because Broker/Dealer Firms do not have the obligations (such as maintaining active two-sided markets) that Market Makers have. Professional Customer and Broker/Dealer Firm orders are given equal weight, consistent with the Exchange's Fee Schedule, which charges these two account types equal fees. The Exchange believes it is equitable to assign different weights to each account type based on the fee generated by that account type, given that the Program distributions are based on revenues earned by the Exchange.

The Exchange believes the Program is equitable and reasonable because an increase in volume and liquidity will benefit all market participants by providing more trading opportunities and tighter spreads, even to those market participants that do not participate in the Program. Additionally, the Exchange believes the proposed rule change is consistent with the Act because, as described above, the Program is designed to bring greater volume and liquidity to the Exchange, which will benefit all market participants by providing tighter quoting and better prices, all of which perfects the mechanism for a free and open market and national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will improve competition by providing market participants with an incentive to consider and utilize another market, BOX, when determining where to execute options contracts and post liquidity.

The Exchange believes that the proposed change will increase both intermarket and intramarket competition by incenting Subscribers to direct their orders to the Exchange, which will enhance the quality of quoting and increase the volume of contracts traded there. Notwithstanding, Subscribers will be free to send orders to other markets, even if they have not met their VPR Volume Commitment for that measurement period; thus the proposed change should not impose a burden on competition among exchanges. To the extent that there is an additional competitive burden on non-Subscribers, the Exchange believes that this is appropriate because the Program should incent Participants to direct additional order flow to the Exchange and thus provide additional liquidity, which enhances the quality of BOX and increases the volume of options traded on BOX. To the extent that this purpose is achieved, all of the Exchange's Participants, even non-Subscribers, should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange.

Given the robust competition for volume among options markets, many of which offer the same products, implementing a program to attract order flow like the one being proposed in this filing is consistent with the above-mentioned goals of the Act. This is especially true for the smaller options markets, such as BOX, which is competing for volume with much larger exchanges that dominate the options trading industry. BOX has a modest percentage of the average daily trading volume in options, so it is unlikely that the Program could cause any competitive harm to the options market or to market participants. Rather, the Program is an attempt by a small options market to attract order volume away from larger competitors by adopting an innovative pricing strategy, as evidenced by the VPR Volume Commitment threshold of the Program representing a fraction of 1% of the total national average daily volume of options contracts reported to OCC. The Exchange notes that, if the Program resulted in the expected increase in the average daily trading volume in options

[39] Because Class C Unit ownership will be subject to a 20% cap, no one Subscriber will be able to, by vote, require a transaction to be excluded for all Subscribers.

[40] It is not uncommon for exchanges to treat certain market participants in a disparate manner, particularly in the Fee Schedule. For example, the Fee Schedules of the Chicago Board Options Exchange, Incorporated (''CBOE'') and the International Securities Exchange (''ISE''), among other exchanges, charge different fees based on the customer type, including Customer, Market Maker, Broker/Dealer and Professional. *See* CBOE Fees Schedule (Sept. 2, 2014), *available at http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf* and ISE Schedule of Fees (last updated Aug. 1, 2014), *available at http://www.ise.com/fees.*

[41] *See* Exchange Rule 100(a)(50), which defines the term ''Professional.''

executing on BOX, such increase will represent a large percentage increase for BOX but it will represent a minimal reduction in volume of its larger competitors in the industry. The Exchange believes that the Program will help further competition, because market participants will have yet another additional option in determining where to execute orders and post liquidity if they factor the benefits of the Program and BOX equity participation into the determination.

Finally, the Program will increase the diversity of ownership of Holdings such that no one entity will have a majority ownership of Holdings. Upon the issuance of Class C Units to Subscribers, the ownership of Holdings will be distributed among more holders. If there is full participation in the Program, then the ownership of Holdings by current Unitholders will be diluted and no single Unitholder will have a majority ownership of Holdings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act and Rule 19b-4(f)(2) thereunder the proposed rule change is filed for immediate effectiveness inasmuch as it establishes or changes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2015–03 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–BOX–2015–03. 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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2015–03 and should be submitted on or before February 18, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Brent J. Fields,

Secretary.

[FR Doc. 2015–01508 Filed 1–27–15; 8:45 am]

BILLING CODE 8011–01–P

[42] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to waive the Nonmanufacturer Rule for Scientific Vacuum Pumps.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a class waiver of the Nonmanufacturer Rule for Scientific Vacuum Pumps. On October 1, 2014, SBA received a request that a class waiver be granted for scientific vacuum pumps under the North American Industry Classification System (NAICS) code 333911 (Pump and Pumping Equipment Manufacturing), Product Service Code (PSC) 4310 (Compressors and Vacuum Pumps). According to the request, no small business manufacturers supply this class of products to the Federal government. Thus, SBA is seeking information on whether there are small business scientific vacuum pump manufacturers. If granted, the waiver would allow otherwise qualified small businesses to supply the products of any manufacturer on a Federal contract set aside for small businesses, Service-Disabled Veteran-Owned (SDVO) small businesses, Women-Owned small businesses (WOSB), Economically Disadvantaged Women-Owned small businesses (EDWOSB), or Participants in the SBA's 8(a) Business Development (BD) program.

DATES: Comments and source information must be submitted February 12, 2015.

ADDRESSES: You may submit comments and source information to Amy Garcia, Procurement Analyst, Small Business Administration, Office of Government Contracting, 409 3rd Street SW., Suite 8800, Washington, DC 20416; or by way of email to the Nonmanufacturer Rule Waiver program office at *NonMfgRuleWaiverReqsts@sba.gov*. Email communications should contain ''Class Waiver—Scientific Vacuum Pumps'' in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Garcia, Procurement Analyst, by telephone at (202) 205–6842; by FAX at (202) 481–1630; or by way of email to the Nonmanufacturer Rule Waiver program office at *NonMfgRuleWaiverReqsts@sba.gov*.

SUPPLEMENTARY INFORMATION: Section 8(a)(17) and 46 of the Small Business Act (Act), 15 U.S.C. 637(a)(17) and 657s, and SBA's implementing regulations require that recipients of Federal supply contracts set aside for small businesses, SDVO small businesses, WOSBs, EDWOSBs, or Participants in the SBA's 8(a) BD Program provide the product of a small business manufacturer or processor, if the recipient is other than

the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. 13 CFR 121.406(b), 125.15(c). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. 13 CFR 121.1202(c). The SBA defines ''class of products'' based on the Office of Management and Budget's NAICS.

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Scientific Vacuum Pumps, under NAICS code 333911 (Pump and Pumping Equipment Manufacturing), PSC 4310 (Compressors and Vacuum Pumps). The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for the product within 15 days after date of publication in the **Federal Register** and on FedBizOpps.gov. More information about the Nonmanufacturer Rule and Class Waivers may be found on SBA's Web site at *https://www.sba.gov/category/navigation-structure/contracting/contracting-officials/non-manufacturer-waivers*.

Dated: January 21, 2015.

Seán F. Crean,

Director, Office of Government Contracting.

[FR Doc. 2015–01622 Filed 1–27–15; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 9015]

60-Day Notice of Proposed Information Collection: Risk Analysis and Management (RAM)

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to March 30, 2015.

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

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2015–0004'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: FARRELLLM1@state.gov.*
- *Regular Mail:* Send written comments to: U.S. Department of State, Office of Risk Analysis and Management, 2201 C St. NW., Washington, DC 20520.
- *Fax:* 202–647–7082.
- *Hand Delivery or Courier:* U.S. Department of State, Office of Risk Analysis and Management, 2201 C St. NW., Washington, DC 20520.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Lisa M. Farrell, U.S. Department of State, Office of Risk Analysis and Management, 2201 C Street, NW., Washington, DC 20520; who may be reached on 202–647–6020 or at *FARRELLLM1@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Risk Analysis and Management.
- *OMB Control Number:* 1405–0204.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Administration, Office of Logistics Management (A/LM).
- *Form Number:* DS–4184.
- *Respondents:* Potential Contractors and Grantees.
- *Estimated Number of Respondents:* 800.
- *Estimated Number of Responses:* 800.
- *Average Time per Response:* 1 hour 15 minutes.
- *Total Estimated Burden Time:* 1000 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

The information collected from individuals and organizations is specifically used to conduct screening to ensure that State funded activities do not provide support to entities or individuals deemed to be a risk to national security.

Methodology:

The State Department has implemented a Risk Analysis and Management Program to vet potential contractors and grantees seeking funding from the Department of State to mitigate the risk that such funds might benefit entities or individuals who present a national security risk. To conduct this vetting program the Department collects information from contractors, sub-contractors, grantees and sub-grantees regarding their directors, officers and/or key employees through mail, fax or electronic submission. The information collected is compared to information gathered from commercial, public, and U.S. government databases to determine the risk that the applying organization, entity or individual might use Department funds or programs in a way that presents a threat to national security. This program will continue as a pilot program as directed by Congress in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2015 (Div. J, Pub. L. 113–235).

Dated: January 12, 2015.

Catherine I. Ebert-Gray,

Deputy Assistant Secretary, Bureau of Administration, Department of State.

[FR Doc. 2015–01590 Filed 1–27–15; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 9017]

Culturally Significant Objects Imported for Exhibition Determinations: ''Rembrandt: A Decade of Brilliance (1648–1658)''

AGENCY: Department of State.

ACTION: Correction.

SUMMARY: On November 28, 2014, notice was published on page 70913 of the **Federal Register** (volume 79, number 229) of determinations made by the Department of State pertaining to the exhibition ''Rembrandt: A Decade of Brilliance (1648–1658).'' The referenced notice is corrected here to include additional objects as part of the exhibition. Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the additional objects to be included in the exhibition ''Rembrandt: A Decade of Brilliance (1648–1658),'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The additional objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the University of San Diego's University Galleries, from on or about March 21, 2015, until on or about May 22, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the additional exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: January 22, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–01591 Filed 1–27–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 9018]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Dead Sea Scrolls: Life and Faith in Ancient Times'' Formerly Titled ''The Dead Sea Scrolls: Life and Faith in Biblical Times''

ACTION: Notice, correction.

SUMMARY: On October 12, 2011, notice was published on page 63341 of the **Federal Register** (volume 76, number 197) of determinations made by the Department of State pertaining to the exhibition ''The Dead Sea Scrolls: Life and Faith in Biblical Times.'' The referenced notice was corrected on October 19, 2012, by a notice published on pages 64373–64374 of the **Federal Register** (volume 77, number 203) to change the exhibition name to ''The Dead Sea Scrolls: Life and Faith in Ancient Times'' and to include additional objects as part of the exhibition. The October 19, 2012, notice referenced above was corrected on March 15, 2013, by a notice published on page 16565 of the **Federal Register** (volume 78, number 51) to include an additional object as part of the exhibition. The March 15, 2013, notice referenced above was corrected on April 25, 2013, by a notice published on page 24462 of the **Federal Register** (volume 78, number 80) to include additional objects in the exhibition. The April 25, 2013, notice referenced above was corrected on October 18, 2013, by a notice published on page 62354 of the **Federal Register** (volume 78, number 202) to include additional objects in the exhibition. Today's notice is being issued to include additional objects in the exhibition. Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the additional objects to be included in the exhibition ''The Dead Sea Scrolls: Life and Faith in Ancient Times,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The additional objects are imported pursuant to loan agreements with the foreign owner or custodian. I also determine that the exhibition or display of the additional exhibit objects at the California Science Center, Los Angeles, CA, from on or about March 7, 2015, until on or about September 20, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the additional exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: January 21, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–01592 Filed 1–27–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 9016]

In the Matter of the Designation of Denis Cuspert, Also Known as Deso Dogg, also Known as Denis Mamadou Cuspert, Also Known as Abu Mamadou, Also Known as Abu Talha the German, Also Known as Abu Maleeq, Also Known as Abu Maliq, Also Known as Abu Malik, Also Known as Abu Maleeq al-Mujaheed, Also Known as Abu Talhah al Almani, as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Denis Cuspert, also known as Denis Mamadou Cuspert, also known as Abu Mamadou, also known as Abu Talha the German, also known as Abu Maleeq, also known as Abu Maliq, also known as Abu Malik, also known as Abu Maleeq al-Mujaheed, also known as

Abu Taha al Almani, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: January 9, 2015.

John F. Kerry,

Secretary of State.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2014–0009]

National Transit Database: Safety Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Final Guidance to the Safety & Security Module in the National Transit Database (NTD) Reporting Manual for Safety Information Collection.

SUMMARY: This notice conveys the Federal Transit Administration's (FTA) response to comments received regarding proposed revisions to the Safety & Security Module in the National Transit Database (NTD) Reporting Manual for Safety Information Collection.

DATES: *Effective Dates:* The revisions to the NTD Reporting Manual Safety & Security Module will become effective for the 2015 calendar year reporting cycle.

FOR FURTHER INFORMATION CONTACT: Keith R. Gates, National Transit Database Program Manager, (202) 366–1794, Office of Budget and Policy, Federal Transit Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., East Building, Washington, DC 20590 or email: *keith.gates@dot.gov*.

SUPPLEMENTARY INFORMATION

I. Overview

FTA is updating the Safety & Security Module in the National Transit Database Reporting Manual in order to better align NTD safety data collection with data that is collected in the State Safety Oversight (SSO) program Rail Transit Event Database.

On August 21, 2014, FTA issued a notice of request for comments for proposed revisions of the National Transit Database Safety Information Collection, in the **Federal Register** (79 FR 49557, *http://www.gpo.gov/fdsys/pkg/FR–2014–08–21/pdf/2014–19787.pdf*). The comment period closed on October 20, 2014. FTA received a total of 37 comments from 12 stakeholders, including 10 public transportation providers, one trade association, and one individual. This notice addresses comments received and explains the revisions FTA is making to the NTD Reporting Manual. An overview of the comments and the FTA responses are provided below.

II. Response to Comments

Commenters recommended that both FTA and the SSO agencies should use the same database and that reports sent to the SSO, FTA, and the Federal Railroad Administration (FRA) should be collected and maintained on one standard reporting form that meets the needs of all agencies then disseminated to other agencies as required from the assigned federal agency.

While FTA notes the revisions we propose are meant to be a step in that direction, the primary motive for the revisions will align the NTD reporting thresholds and definitions with those of the SSO Program database, allowing the NTD and the SSO Program to share reports and simplify reporting requirements. Additionally, FRA's regulatory responsibilities have historically differed from those of FTA. FTA also received comments that safety professionals cannot find statistics that are based on data provided to the NTD and the SSO Rail Transit Event Database. These commenters questioned FTA's need for collecting more data and asserted that FTA does not do anything visible with the data it collects. The NTD produces a monthly time series of safety data that is used extensively by the rail transit industry. The FTA has new safety authority pursuant to MAP–21, and as a result its Office of Transit Safety and Oversight (TSO) now has additional staff and resources that is developing a more active program going forward. In the future, we will use the data collected to produce regular products and reports for use by the safety community.

1. Reportable Event (clarification)

Incidents reported to the NTD and the SSO Rail Transit Event Database will be called ''events.'' FTA suggested this change because other uses of the term ''incident'' are defined as an occurrence that is less severe than an accident or imply a security event. ''Event'' in this case is intended to include planned and unplanned events that are required to be reported to the NTD. This change is necessary to provide better alignment with nomenclature used by other transportation modes, and to provide clarity during data analysis conducted to identify safety trends.

Comment. One commenter disagreed with the ''events'' classification and stated that there would continue to be room for confusion with FRA's definition of ''incident.''

FTA Response. FTA is primarily concerned with using terminology that is compatible with usage in the SSO Program. ''Event'' is the blanket term for accidents and other incidents that are not accidental (such as suicides). Since the NTD also collects information on security events, and such usage is compatible with the Department of Homeland Security (DHS) definition, FTA intends to proceed with this proposed revision.

2. Change in Location Criteria

The NTD currently includes events that are ''related to or affect revenue service.'' Consistent with data reported to the SSO Program, FTA proposed to revise these applicability criteria to ''an event occurring on transit right-of-way, in a transit revenue facility, in a transit maintenance facility, or involving a transit revenue vehicle, excluding occupational safety events occurring in administrative buildings.'' Application of these new criteria would mean that recipients will no longer report events at bus stops that are not on property owned or controlled by the agency, unless the event involves a transit vehicle, or boarding/alighting from a transit vehicle.

Comment. FTA received eight comments to the proposed revision. Commenters expressed concern that changing ''affecting revenue service standard'' to a ''location-based standard'' would include a number of occupational safety events that are normally reported to the Occupational Safety & Health Administration (OSHA). Many commenters noted that these events are already reported to OSHA, and that this proposed revision would require agencies to file multiple reports

on these incidents. Commenters also noted, correctly, that the new policy would include other occupational safety events on transit property.

FTA Response. FTA notes the proposed revision would specifically exclude ''occupational safety events occurring in administrative buildings.'' FTA further notes occupational safety events are reported by phoning the local OSHA office within 24 hours of the event, and only the most serious injuries are reported. In addition, telephone reporting on this time frame does not result in particularly reliable data, and therefore, OSHA-reported data does not meet FTA's reliability standards. Furthermore, OSHA data are not made readily available to FTA. For these reasons, we have adopted the proposed revision. In response to comments, FTA has updated the standard to exclude other types of real property in addition to administrative buildings. In particular, non-transit property owned by municipalities or authorities that also operate transit systems will be excluded.

3. Evacuations

FTA proposed to revise the definition of evacuation to include patron/passenger self-evacuations and evacuations for service or maintenance-related issues when passengers are evacuated to locations where they potentially could be exposed to hazardous situations, such as a rail right-of-way, or a highway shoulder lane. These events will require a major event report and are consistent with data reported to the SSO Program.

Comment. FTA received four comments to the proposed revision. Three commenters were opposed to the extension of the evacuation reporting to all revenue vehicles, making convincing arguments that bus evacuations were not sufficiently hazardous to justify a major safety report. The remaining commenter stated that it is difficult to capture data on self-evacuations.

FTA Response. FTA concurs with these comments and only will require reporting of evacuations on rail vehicles and of passenger facilities. The revisions will expand evacuation reporting criteria for rail vehicles from evacuations due to life-threatening situations, to any evacuation to a potentially hazardous location. Additionally, FTA understands it may be difficult to capture data on self-evacuations, especially where evacuations are not managed by transit personnel, but will still require that the agency do its best to submit an accurate report.

4. Derailments

FTA proposed to expand the mandatory reporting of derailments to include yard derailments. Yard derailments will be reportable regardless of injuries, fatalities, or property damage.

Comment. FTA received five comments on this proposal. Commenters suggested that derailments of service equipment in maintenance yards should not be reportable.

FTA Response. The FTA understands that derailments of service equipment are rare, however, the agency would like to know when these derailments occur in an effort to improve the safety of transit agency operations and transit agency employees. Therefore, FTA is implementing the revision as proposed and derailments of service equipment in maintenance yards will be reported.

5. Collisions at Grade Crossings

FTA proposed to make all collisions at grade crossings reportable to the NTD in order to improve event reporting consistency. Transit agencies are already required to report and investigate these events under the existing SSO Program.

Comment. FTA received three comments to the proposed revision. Commenters requested additional clarification of what constitutes a grade crossing and what ''all collisions'' mean.

FTA Response. FTA defines ''all'' to mean any vehicular collision, even if the vehicles are not operated by a transit agency. It includes collisions involving pedestrians and bicyclists. ''Grade Crossing'' is defined as any place where a rail guideway used for transit operations is crossed at grade by a road or path. This reporting requirement will ensure that the NTD has reports on all incidents reported to the SSO. We realize that the elimination of damage and injury thresholds will result in some additional reports beyond what will be reported to the SSO Program, however, collection of minor event data will inform FTA safety specialists of potential elevated safety risk levels.

6. Collision With an Individual on a Rail Right-of-Way

FTA proposed to change the NTD thresholds to capture all rail collisions with individuals, regardless of injuries or fatalities, as collected in the SSO Program. Collisions with individuals that do not result in an injury would be reportable to the NTD.

Comment. FTA received two comments to the proposed revision. Commenters stated that there needs to be a minimum train speed to eliminate unnecessary reporting events where someone walks/falls into the side of a train and also suggested that changes be addressed in FTA's upcoming safety rulemakings.

FTA Response. FTA will modify the requirement so that only events involving moving trains are reportable.

7. Rail to Rail Collisions

FTA proposed to require an NTD event report for every event involving a collision between rail vehicles. This would extend the existing SSO threshold to the NTD to support improvements in data quality and reporting. Transit agencies are already required to report and investigate these events under the existing SSO Program. This category is not intended to capture normal connection of vehicles.

Comment. FTA received one comment to the proposed revision. The commenter noted that FTA currently collects the proposed information through the SSO Program and FTA should take into consideration that agencies are double reporting.

FTA Response. This requirement will ensure that the NTD has reports for all incidents reported to the SSO Program. To reduce over reporting, FTA will clearly define what ''bump coupling'' means as part of the guidance for reporting this data.

8. Addition of ''Tow-Away''

FTA proposed to add a ''tow-away'' checkbox to the Reportable Incident Report form (S&S–40) to make vehicle event reporting compatible with the accident reporting threshold used by the Federal Motor Carrier Safety Administration.

Comment. FTA received two comments to the proposed revision. Commenters questioned if the reporting requirement would only apply to tow-aways resulting from accidents that caused disabling damage to the motor vehicle and if it would cover driver-requested tows even though the event does not meet the FTA criteria of ''disabling damage.''

FTA Response. FTA will provide guidance in the reporting manual to clarify that this requirement will only apply to vehicles that are not safe to operate.

9. Revision to Non-Rail ''Other Motor Vehicle'' and ''Collision Event'' Screens

FTA proposed to add selections for ''other motor vehicle type'' to improve the ability of FTA and transit agencies to conduct trend analysis of non-rail vehicle collisions. New selections will include: Collision with an automobile, moped, scooter, motorcycle, charter bus,

or school bus as a collision with a Motor Vehicle; collision with another agency's transit vehicle as a collision with a Motor Vehicle; and collision with another of your transit agency's vehicles as a collision with a transit vehicle.

FTA Response. FTA did not receive any comments to this proposed revision and the revision will be adopted as proposed.

10. Revision to Non-Rail ''Type of Fire'' Categories on Fire Event Detail Screens

FTA proposed to add selections for ''type of fire'' to the non-rail fire event detail screens to provide better national-level information for vehicle fire prevention and mitigation.

Comment. FTA received two comments to the proposed revision. Commenters indicated that ''type of fire'' was often difficult to ascertain and could only be identified after a lengthy investigation.

FTA Response. The NTD allows for event reports to be edited months after being reported, thus FTA does not consider this problematic for reporters and will adopt the proposed revision as stated.

11. Collect New Data on Geographic Location of Events

FTA proposed to add fields for latitude and longitude of events. This change is necessary for FTA to participate in the U.S. DOT's Open Data initiative that will provide for the creation and maintenance of high-quality, nationwide transportation data in the public domain.

Comments. FTA received nine comments to the proposed revision. Commenters expressed concern that they are not equipped to provide the proposed information.

FTA Response. FTA will make this new requirement optional for the first year to allow time for reporters to develop procedures for determining the latitude and longitude for incidents. FTA also will provide functionality in the online forms for converting street addresses to latitude and longitude automatically.

Although there is a potential increase in the reporting burden for some data elements affected by these revisions, there also are some potential reductions in the reporting burden. FTA will monitor these and generate a revised reporting burden estimate for our upcoming Paperwork Reduction Act application. This application will be completed in 2015. At this time the reporting burden is expected to be neutral and to remain within the currently approved Paperwork Reduction Act collection.

Therese W. McMillan,

Acting Administrator, Federal Transit Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2014–0008]

State of Good Repair Grants Program: Final Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of final circular.

SUMMARY: FTA has placed guidance in the docket and on its Web site, in the form of a circular, to assist recipients of financial aid under the 49 U.S.C. 5337 State of Good Repair (''SGR'') Grants Program. The circular provides instructions and guidance on program administration and the grant application process.

DATES: The effective date of the circular is February 27, 2015.

FOR FURTHER INFORMATION CONTACT: For program questions, contact Eric Hu, FTA Office of Program Management, 1200 New Jersey Ave. SE., Room E44–419, (202) 366–0870, *Eric.Hu@dot.gov.* For legal questions, contact Christopher Hall, FTA Office of Chief Counsel, same address, Room E54–413, (202) 366–5218, *Christopher.Hall@dot.gov.*

SUPPLEMENTARY INFORMATION:

Availability of Final Circular

This notice provides a summary of the circular and responses to comments received on the proposed version of the circular. The circular itself is not included in this notice. Instead, an electronic version of the circular can be found on FTA's Web site at *www.fta.dot.gov,* or in the docket at *www.regulations.gov.* Paper copies of the circular can be obtained by contacting FTA's Administrative Services Help Desk at (202) 366–4865.

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I. Overview

The Moving Ahead for Progress in the 21st Century Act (''MAP–21''), Public Law 112–141, 126 Stat. 405 (2012), made significant changes to the Federal transit laws that are applicable across all of FTA's financial assistance programs. These changes further several important goals of the U.S. Department of Transportation. Most notably, MAP–21 grants FTA new authority to oversee and regulate the safety of public transportation systems in the United States and authorizes a new Public Transportation Safety Program at 49 U.S.C. 5329. MAP–21 also establishes a new National Transit Asset Management system at 49 U.S.C. 5326, including a new requirement for transit asset management plans, performance measures and annual target setting based on a definition of ''state of good repair,'' and additional technical assistance from FTA.

MAP–21 also establishes the new SGR Grants Program at 49 U.S.C. 5337. In contrast to the repealed Fixed Guideway Modernization Program, the purpose of the SGR Grants Program is the maintenance, replacement, and rehabilitation of capital assets, along with the development and implementation of transit asset management plans.

These three new sections—the transit asset management provisions at section 5326, the Public Transportation Safety Program at section 5329, and the SGR Grants Program at section 5337—enhance the process by which a transit provider evaluates the SGR needs of capital assets. Section 5337 provides financial assistance for repairs, replacement or rehabilitation, as informed by conditions of capital assets and safety risk priorities. A transit provider's safety and asset assessment informs its asset management process, which informs budgeting and project selection. On October 3, 2013, FTA published an advance notice of proposed rulemaking (''ANPRM''), 78 FR 61251, to request public comments on a wide range of topics related to the new Public Transportation Safety Program and the transit asset management provisions. FTA is currently reviewing the public input received in response to the ANPRM.

On March 3, 2014, FTA published a notice in the **Federal Register** (79 FR 11865) announcing the availability of a proposed version of this circular and requesting public comment. FTA received 12 individual responses that contained more than 60 comments. Commenters included eight transit providers, two metropolitan planning organizations (''MPO''), one advocacy association, and one architectural and engineering public contractor. This circular incorporates FTA's responses to the comments.

II. Summary Discussion of Comments Received in Response to the Proposed Circular

Definitions

In the notice of availability for the proposed circular, FTA specifically sought public comment on several new or clarified definitions that would appear in the circular, including ''bus rapid transit,'' ''commuter rail,'' and ''high intensity motorbus.'' The largest number of comments FTA received related to definitions in the proposed circular.

Three commenters responded to FTA's proposed elaboration of the definition of bus rapid transit (''BRT''). One commenter suggested that FTA should require shorter headways than FTA proposed, specifically that a bus rapid transit system should run maximum 15-minute headways for at least 14 hours on weekdays and for at least 10 hours on weekends. The same commenter proposed that, in addition to active signal priority and queue-jump lanes, BRTs be permitted to make use of any other ''physical or signal improvements that reduce delay for buses at intersections.'' Another commenter suggested that FTA eliminate the requirement for maximum headways altogether because it may lead to service levels that exceed demand. A third commenter suggested that FTA's proposed definition of BRT was unnecessary, or that, in any case, the definition change should be proposed somewhere other than the circular because the definition change will have effects beyond the SGR Grants Program.

The requirement for maximum headways is necessary to give effect to the statutory definition of BRT at 49 U.S.C. 5302(2), and FTA cannot eliminate the requirement. BRT is statutorily defined as a system that ''includes features that emulate the services provided by rail fixed guideway'' and that has ''short headway bidirectional services for a substantial part of weekdays and weekend days.'' The definition of BRT in the final circular clarifies these statutory requirements and adopts the proposed definition's requirements for maximum headways. The final circular preserves the proposed circular's flexibility for grantees to choose between 15-minute maximum headways throughout weekday service, or 10-minute maximum headways during weekday peak service hours and 20-minute maximum headways during off-peak weekday service. This option is designed to give project sponsors flexibility in designing BRT service. The final circular also requires 30-minute maximum headways on weekend service, instead of the 15-minute maximum headways suggested by the commenter, because 30-minute weekend headways will be more appropriate for the variety of providers that may seek FTA financial assistance to create BRT services. The maximum headways described in the final circular are, of course, maximums, and nothing in the final circular prevents a BRT operator from providing service with shorter headways.

The final circular does not incorporate the suggestion to allow BRTs to use other ''physical or signal improvements that reduce delay for buses at intersections'' as an alternative to active signal priority and queue-jump lanes. The statutory definition of BRT requires BRTs to include ''traffic signal priority for public transportation vehicles,'' 49 U.S.C. 5302(2)(B)(ii), and the suggested language would have avoided this requirement. FTA intends to apply a similar definition of BRT to its Capital Investment Grant (CIG) Program to be consistent between programs and because the BRT definition in 49 U.S.C. 5302(2) closely matches that for the CIG program in 49 U.S.C. 5309(a). The only difference would be that the fixed-guideway element would not be required for Small Starts BRT projects that qualify as ''corridor-based'' projects, for which no dedicated right-of-way is required. Projects that qualify as corridor-based Small Starts BRT projects would not be eligible for Section 5337 funding given that they do not meet the fixed-guideway element of the BRT definition in this circular.

One commenter suggested that the proposed definition of ''rehabilitation'' be amended to describe in detail how rehabilitation affects a vehicle's useful life. Another commenter suggested that the definitions of both ''rehabilitation'' and ''rebuild'' be amended to refer to assets other than vehicles. The final circular does not incorporate these suggestions because rebuilding and rehabilitation and their effects on the useful lives of vehicles and other capital assets are already discussed elsewhere in the final circular and in FTA's circular 5010.1D (Grant Management Requirements).

One commenter requested clarification as to whether a State's governor must designate a regional transportation planning organization (''RTPO'') or regional transportation planning authority (''RTPA'') before the RTPO or RTPA can be the designated recipient of SGR Grant funds apportioned to a large urbanized area. Under the statutory definition of ''designated recipient,'' a regional authority need not be designated by the Governor of a State to become a designated recipient ''if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.'' 49 U.S.C. 5302(4)(B).

FTA's project management oversight requirements apply to projects with costs in excess of $100 million or other projects that FTA determines to be ''major capital projects.'' One commenter asked FTA to provide a definition of ''major capital project'' in the circular, and another commenter suggested that SGR Grants Program projects be exempted from the $100-million trigger for project management oversight. FTA's project management oversight program is required by statute, 49 U.S.C. 5327, and is effected by regulation at 49 CFR part 633. The kinds of projects subject to project management oversight, including major capital projects designated as such by FTA's discretion, are already discussed in the regulation. The regulatory requirement for project management oversight of projects that involve ''the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of $100 million,'' is based upon the size and complexity of such projects, and not the grant program through which Federal funding is awarded.

As part of MAP–21's requirements for a national transit asset management system, FTA will, in a separate rulemaking, define the term ''state of good repair.'' *See* 49 U.S.C. 5326(b)(1). Multiple comments suggested that, until FTA has finalized such a definition, it is premature to say that SGR Grants are available for projects that maintain systems in a state of good repair. FTA disagrees. Foremost, SGR Grants are available statutorily for certain eligible activities to ''maintain public transportation systems in a state of good repair.'' 49 U.S.C. 5337(b)(1). Also, it is possible to determine the eligibility of SGR Grants activities described in the statute and final circular—*e.g.,* projects for rehabilitation, rebuilding, or replacement—independently of a definition of state of good repair. FTA expects that a final definition of state of good repair will enhance and clarify the SGR Grants Program.

High-Occupancy Toll Lanes

Under the SGR Grants Program, an urbanized area's high-intensity motorbus apportionment is calculated based on vehicle revenue miles and directional route miles. FTA's current policy excludes high-occupancy toll

(''HOT'') lane miles from this calculation, except for certain ''grandfathered'' lanes that were recently converted from high-occupancy vehicle (''HOV'') lanes to HOT lanes. In the notice of availability that accompanied the proposed circular, FTA proposed to exclude all HOT lanes from SGR Grants Program eligibility, including the grandfathered systems.

Several commenters responded to FTA's proposed policy regarding the eligibility of HOT lanes as a form of high intensity motorbus. Some commenters asked FTA to clarify language in the proposed circular distinguishing between HOT lanes and other kinds of lanes. Some other commenters suggested that FTA should discard the proposed policy and consider HOT lanes to be an eligible form of high intensity motorbus.

The proposed circular included the following statement: ''The State of Good Repair Grants Program provides capital assistance for replacement and rehabilitation projects for . . . high intensity motorbus (buses operating in high-occupancy vehicle (HOV) lanes) or toll lanes with free access to HOVs) to maintain public transportation systems in a state of good repair. Projects in high-occupancy toll lanes are not eligible for State of Good Repair funding.'' Several commenters asked FTA to distinguish between ''toll lanes with free access to HOVs'' and HOT lanes. The final circular clarifies the eligibility of HOT lanes by removing the words ''or toll lanes with free access to HOVs.''

Some commenters suggested that FTA should amend its current policy and begin recognizing HOT lanes as eligible forms of high intensity motorbus transit. This would be inconsistent with the definition of high intensity motorbus, which is limited to transit that is provided ''on a facility with access for other high-occupancy vehicles.'' 49 U.S.C. 5337(d)(1). If this definition were broadened to include HOT lanes, which provide access to fee-paying single-occupancy vehicles as well as high-occupancy vehicles, the definition could fairly include any lane that is used by both single-occupancy and high-occupancy vehicles.

Previously, FTA excluded HOT lanes from the SGR Grants Program except for certain ''grandfathered'' HOT lanes that had been recently converted from HOV to HOT lanes. The final circular ends this grandfathering provision. In considering the effect of this policy decision on recipients of SGR formula funding, FTA determined that as few as three urbanized areas may be negatively affected by the policy expressed in the final circular, and that other urbanized areas will benefit from the additional SGR funding available in the high intensity motorbus tier.

Eligible Activities

Some commenters requested clarification regarding FTA's statement that SGR funds are not available to modernize assets. These commenters observed that when an asset is replaced, it is normal to replace the asset with its modern equivalent. The SGR Grants Program stands in contrast to the repealed Fixed Guideway Modernization program. The purpose of the SGR Grants Program is to maintain transit systems in a state of good repair, not to alter or modernize them. However, modernization that occurs as part of bringing assets into a state of good repair may be permissible. For example, rebuilding and rehabilitation projects, which are eligible activities under the SGR Grants Program, include the replacement of older features with new ones and the incorporation of current design standards.

The proposed circular stated that ''[r]ebuilding work must be procured competitively from private sector sources, unless there are mitigating circumstances. In-house rebuilding must not interfere with normal maintenance activities.'' One commenter asked FTA to clarify whether the proposed requirement for rebuilding services to be procured competitively precluded or otherwise affected performing in-house rebuilding. FTA has provided clarity by deleting these sentences from the final circular and referring the reader to FTA's discussion of rebuilding in circular 5010.1, which does not exclude in-house rebuilding efforts.

Some commenters objected to the proposed circular's requirement that equipment, vehicles, or facilities to be replaced must have reached or exceeded their minimum useful lives to be eligible for SGR funds. The commenters observed that age alone should not be determinative of whether an asset requires replacement, especially with regard to technical assets that may be obsolete before the end of their useful lives. FTA agrees that asset age is not the sole determinant of whether an asset must be replaced, and useful life is not determinative of whether an asset is eligible for repair, rebuilding, or rehabilitation using SGR funds. Furthermore, a recipient may replace an asset using funds from other sources. However, FTA expects that an asset will have at least served its original useful life before it is replaced entirely using SGR funds, and the final circular retains this policy.

Some commenters suggested that FTA concurrence should not be required to create pre-award authority for projects that are covered by categorical exclusions (''CE'') under the National Environmental Policy Act (''NEPA''), and that the circular expand the examples of SGR Grants projects that fall with CEs to include certain construction projects as well as vehicle and equipment purchases. One commenter also suggested that the circular restate and clarify the eligibility of property acquisitions prior to the completion of the NEPA review process. The same commenter also suggested that a Letter of No Prejudice should not be required for projects using SGR funds awarded through multiple grants that span authorizations. The final circular clarifies the kinds of projects that may qualify for a CE to include ''construction of transit facilities primarily within the transportation right-of-way,'' or, for a documented CE, ''real property acquisition and construction of transit facilities with features located outside of the transportation right-of-way'' when such projects are only ''slightly greater in scope than those qualifying as a CE.'' A project that makes use of SGR funds without pre-award authority (*e.g.,* through a fiscal year appropriation notice) requires a Letter of No Prejudice to incur costs for future reimbursement.

Miscellaneous Program Questions

Only miles of fixed guideway and high intensity motorbus transit that have been in revenue service for at least seven years are considered when calculating apportionments of SGR funding. One commenter asked FTA to clarify whether vehicle revenue miles must have been operated at attributable service levels continuously during the seven years. Yes, FTA's intention is that the attributable revenue miles will have been operated continuously during the preceding seven-year period. Another commenter asked how the seven-year requirement affects new systems' reporting to the National Transit Database (''NTD''). The seven-year requirement applies only to the SGR Grants Program and does not affect how bus transit is reported to the NTD.

One commenter asked FTA to clarify whether a supplemental agreement executed among FTA, a direct recipient, and a designated recipient, can be executed electronically in the electronic award management system. All applications for FTA grant funds must be submitted electronically through FTA's electronic award management system. Any supplemental agreement

should be attached electronically to the grant application.

One commenter asked FTA to clarify that designated recipients of SGR funding have discretion to distribute the funding among eligible recipients, and are not required to adhere to the formulas used by FTA to apportion SGR funds. The role of the designated recipient and the apportionment and allocation processes are already discussed in detail in chapters III and IV of the circular.

One commenter requested the FTA make SGR Grant funds available for the year of obligation, plus an additional five years, instead of the current year of obligation plus three years. FTA's policy in this area is consistent with other periods of availability that have been set by statute. For example, FTA's Bus and Bus Facilities Formula Grants also have a period of availability for the year of obligation plus three years. 49 U.S.C. 5339(g).

Some commenters had questions regarding the eligibility of transit projects for Congestion Mitigation and Air Quality (''CMAQ'') funding. The CMAQ program is administered by the Federal Highway Administration and is obligated separately from FTA assistance. Certain transit projects may be eligible to receive CMAQ funding, in which case, the CMAQ funds obligated to the transit project are administered by FTA.

One commenter suggested that grant applicants be permitted to obtain FTA's concurrence on vehicle and equipment useful life assumptions at any time, and not just through the grant application process. For vehicles and equipment that do not already have established useful lives, a grant applicant can consult with FTA regarding useful life at any time prior to making a grant application. However, specific useful life is established in the grant application.

One commenter requested clarification regarding grant budget revisions, particularly whether (a) adjustments to a grant's scope must be coordinated with the applicable STIP and (b) when FTA's approval is required to make a budget revision to a grant. The circular states that budget revisions must be consistent with the activities contained in an approved STIP. If changes to a grant's scope would make it inconsistent with its associated STIP, a STIP amendment will be required. FTA's approval is required when the Federal share of a grant exceeds $100,000 and the change in the cumulative amount of funds allocated to each scope from the originally approved scope exceeds 20 percent. The 20-percent threshold refers to ''each scope,'' not, as suggested by the commenter, to the sum of all budget revisions to all scopes under the grant.

One commenter requested clarification of when a grant recipient would be required to use the form entitled Sample Opinion of Counsel, which is included in the circular at Appendix C. Use of the form is required when a designated recipient agrees to permit another recipient to receive and dispense FTA financial assistance.

One commenter suggested that the circular should clarify that direct recipients are able to apply directly to FTA for an SGR grant. The final circular retains the definition of direct recipient as ''[a]n eligible entity authorized by a Designated Recipient or State to receive State of Good Repair Grants Program funds directly from FTA,'' and no change is required.

Planning and Transit Asset Management (TAM)

Eventually, projects funded by the SGR Grants Program must be included in a recipient's transit asset management (''TAM'') plan. One commenter asked FTA to clarify whether TAM requirements, specifically the requirements to create TAM plans and to set TAM targets apply only to direct recipients of SGR Grant funds or also to designated recipients of SGR Grant funds. The same commenter also asked if TAM plans must include all of a recipient's assets, or only assets acquired with Federal assistance. Statutorily, all ''recipients and subrecipients'' of assistance from FTA must develop TAM plans, and all ''recipients'' must establish TAM targets. 49 U.S.C. 5326(b)(2) and (c)(2). TAM plans must include ''capital asset inventories''. 49 U.S.C. 5326(a)(2). FTA expects to determine the specifics of these requirements through a separate rulemaking implementing the TAM requirements of 49 U.S.C. 5326.

Two commenters objected to the proposed circular's statement that, upon completion of FTA's TAM rulemaking, projects receiving SGR funds must be included in a recipient's TAM plan. The commenters suggested that this statement presupposed that, after the TAM rulemaking process, FTA would require TAM plans to be project-specific, rather than broadly categorical. The requirement for SGR Grants Program projects to be included in TAM plans is contained in statute at 49 U.S.C. 5337(b)(2) and is not an FTA proposal.

One commenter discussed the proposed circular's reference to the metropolitan and statewide-and-nonmetropolitan planning processes. Particularly, the commenter was concerned with the proposed circular's statement that a transportation improvement program (''TIP'') or statewide transportation improvement program (''STIP'') must contain a description of the anticipated effect of the TIP or STIP towards achieving performance targets that have been incorporated into the planning process by metropolitan planning organizations (''MPO'') or States. The commenter asked FTA to clarify that FTA will not require transit providers to quantify the performance impacts of individual projects contained in TIPs or STIPs. FTA's final circular retains the discussion of MPO and State planning because it is important to provide context for the SGR Grants Program within MAP–21's broader emphasis on performance-based transportation planning. The proposed circular's statement that TIPs and STIPs must discuss the effect of the TIP or STIP on achieving MPO or State performance targets closely paraphrases statutory requirements at 49 U.S.C. 5303(j)(2)(D) and 5304(g)(4), and for this reason has been left unchanged in the final circular. It is important to note that the TIP and STIP requirements apply to MPOs and States, not to transit providers, and this circular does not create new planning requirements for MPOs or States. FTA expects to establish TAM target setting for transit providers through a separate rulemaking, and the commenter is encouraged to provide comments in response to that expected proposed rule.

Other

FTA received several comments that were beyond the scope of the circular. Some of these comments referred to matters that will be the subject of future rulemakings or other circulars (*e.g.,* TAM, safety regulations, a definition of ''state of good repair''). Others discussed subjects that are of such general applicability to FTA's programs that they are fully discussed in other guidance (*e.g.,* application of Buy America requirements, how to use TEAM/TRAMS). FTA encourages commenters with questions about these matters to contact FTA directly.

III. Chapter-by-Chapter Summary

A. Chapter I: Introduction and Background

Chapter I of the proposed circular is an introductory chapter that contains general information about FTA, a distinction between the new SGR Grants Program and previous programs that existed under previous authorization

statutes, and a set of definitions applicable throughout the proposed circular. The final circular confirms the proposed definitions of bus rapid transit and commuter rail. For the reasons discussed above, the final circular limits the definition of high intensity motorbus to service that is provided on HOV lanes and excludes HOT lanes from the definition.

B. Chapter II: Program Overview

Chapter II provides general information about the SGR Grants program.

1. Statutory Authority

This section states the statutory authorization of the SGR Grants Program, which is codified at 49 U.S.C. 5337.

2. Program Goals

This section describes the program goals for the SGR Grants Program: the maintenance, repair or replacement of capital assets to bring fixed-guideway and high-intensity motorbus systems into a state of good repair. The SGR Grants Program is part of MAP–21's emphasis on improved safety, asset management, and restoring aging transit infrastructure.

3. FTA Role in Program Administration

This section describes the respective roles of FTA's headquarters and regional offices in program administration. The headquarters office is generally responsible for policy guidance and national program reviews, while the regional offices are generally responsible for day-to-day program administration, obligating funds, providing technical assistance, and reviewing recipients' compliance with Federal requirements.

4. Designated Recipient Role in Program Administration

This section explains that SGR Grants are apportioned to designated recipients. The term designated recipient is defined at 49 U.S.C. 5302(4), and designated recipients for purposes of the SGR Grants Program are the same as for the Urbanized Area Formula Grants Program.

5. Direct Recipient and Sub-Recipient Eligibility

This section describes how to establish a direct recipient and the process for allocating funds to direct recipients and for sub-awarding funds to subrecipients. A direct recipient is a public entity that may apply for some or all of an urbanized area's funding if certain requirements are met.

6. FTA Oversight

This section describes the oversight conducted by FTA to ensure a recipient's compliance with grant program conditions. FTA performs comprehensive triennial reviews and may perform reviews focused specifically on a recipient's technical capability, procurement practices, civil rights compliance, safety and security, or other subject areas. Also, FTA may apply the Project Management Oversight Requirements to SGR grants for the rehabilitation of fixed guideway systems having total project costs in excess of $100 million.

7. Relationship to Other Programs

This section discusses other FTA grant programs that have been repealed but for which funds may still be available, and programs created or amended by MAP–21. Funds previously authorized for programs that were repealed by MAP–21 remain available for their authorized purposes until the statutory period of availability expires or until the funds are fully expended, rescinded by the Congress, or reallocated.

C. Chapter III: General Program Information

This chapter discusses in more detail the apportionments for the SGR Grants Program.

1. Apportionment of Program Funds

This section states that FTA will apportion SGR Grants Program funds to designated recipients in urbanized areas with high intensity fixed guideway and high intensity motorbus systems. The section describes the statutory formula used to apportion funds under the SGR Grants Program. Of the funds appropriated to the SGR Grants Program by Congress, 97.15 percent is apportioned among urbanized areas with fixed guideway systems that have been in operation for at least 7 years, and 2.85 percent is apportioned among urbanized areas with high-intensity motorbus systems that have been in operation for at least 7 years.

An urbanized area's fixed guideway apportionment is determined by two calculations. Half of the apportionment is based on what the urbanized area would have received under the pre-MAP–21 fixed guideway modernization program, but using calculations contained in the current version of 49 U.S.C. 5336(b)(1). The other half of the apportionment is calculated based on fixed guideway service attributable to the urbanized area, weighted 60–40 between vehicle revenue miles and directional route miles. Only segments of fixed guideway systems that have been in operation for at least 7 years prior to the start of a fiscal year are included in the calculation for any given fiscal year.

An urbanized area's high-intensity motorbus apportionment is calculated based on vehicle revenue miles and directional route miles. As with the fixed guideway calculation, the motorbus calculation is weighted 60–40 between vehicle revenue miles and directional route miles. Only segments of motorbus systems in operation for seven years prior to the start of a fiscal year are included in the calculation for any given fiscal year. The final circular clarifies that HOT lanes are not considered a form of high intensity motorbus and therefore are not included in the calculation of formula apportionments. As such, the FY 2016 SGR formula apportionments will reflect this final guidance.

2. Availability of Funds

SGR Grants Program funds are available for obligation during the fiscal year of appropriation plus three additional years. This period of availability is unchanged from the proposed circular.

3. Eligible Recipients

State and local government authorities in urbanized areas with qualifying fixed guideway or motorbus systems are eligible recipients.

4. Eligible Projects

This section describes projects eligible for SGR Grants Program funds. The SGR Grants Program is available for the maintenance, rehabilitation, or replacement of existing capital assets. SGR grants are not available for projects that expand system capacity or service or modernize assets. However, FTA will permit expansion of capacity within replacement projects to meet current or projected short-term service needs (*e.g.,* replacing a maintenance facility with a larger facility, or replacing a bus with a larger bus). Replacement and rehabilitation includes (1) replacement of older features with new ones; (2) incorporation of current design standards; and (3) additional features required by Federal requirements. For any expansion elements included in a replacement project, a grant recipient will need to address how the project meets current or short-term service levels. FTA will review the reasonableness of such expansion elements when reviewing the grant. This section also notes the eligibility of incorporating resilience features into SGR projects.

Funds apportioned under high intensity fixed guideway shall be available exclusively for fixed guideway projects. High intensity motorbus funds can be used interchangeably on any eligible high intensity motorbus or high intensity fixed guideway project. High intensity motorbus funds must be used for capital expenses of public transportation systems that provide regular, continuing shared-ride surface transportation service to the general public. The final circular clarifies the eligibility of certain projects for high intensity motorbus funding.

5. Federal Share of Project Costs

This section describes the requirement for local funding of projects assisted under the SGR Grants Program. The Federal share of a project generally shall not exceed 80 percent of the net project cost. This section also discusses exceptions to the 80-percent limitation.

6. Capital Cost of Contracting

This section describes the eligibility of recipients who contract with a third party for the provision of transit services and therefore do not have direct capital costs. In such situations, FTA can apply a concept called the ''capital cost of contracting.''

7. Local Share of Project Costs

This section describes qualifying sources of the local share of a project.

8. Additional Sources of Local Share

This section describes qualifying sources of the local share of a project that have special requirements associated with their use.

9. Alternative Financing

This section describes alternative or innovative sources of project financing and the U.S. Department of Transportation's Transportation Infrastructure Finance and Innovation Act (TIFIA) loans. Recipients are encouraged to investigate and pursue innovative financing methods for transit projects.

10. Deferred Local Share

This section describes a possible arrangement whereby a project sponsor may defer contributing the local share of project costs until the Federal share has been fully drawn down.

D. Chapter IV: Planning and Program Development

Chapter IV describes planning requirements that apply to most recipients of FTA funding and are common to most of FTA's programs. The chapter contains a new section, Transit Asset Management (TAM), that describes the new national asset management system and the requirements for planning, target-setting, and reporting placed on recipients of FTA funding that will be effective upon completion of rulemaking. Asset management and the management of safety risks should inform recipients' selection of SGR Grants Program projects. Other sections in chapter IV are: (2) Metropolitan and Statewide Planning Requirements; (3) Metropolitan Planning Areas; (4) Transportation Management Areas; (5) Performance-Based Planning; (6) Roles of Designated Recipient and Metropolitan Planning Organization in Allocating Program Funds; (7) Subarea Allocation; (8) Availability of FHWA ''Flexible Funds'' for Transit Projects; (9) Requirements Related to Vehicles and Equipment; (10) Requirements Related to Facilities; (11) Environmental Considerations; (12) Major Capital Projects; (13) Authority to Undertake Projects in Advance; and (14) Public Transportation Safety Requirements.

In response to comments received in response to the proposed circular, the final circular makes edits to three sections within Chapter IV. Section (7), Subarea Allocation, has been edited to clarify that although the MPO is not required to participate in the suballocation of program funds, FTA recommends that the designated recipient and MPO work together cooperatively in determining the suballocation of funds. Section (9), Requirements Related to Vehicles and Equipment, has been edited to improve clarity. Instead of containing a new discussion of FTA's rebuilding and overhaul policies, the section now refers the reader to FTA's primary discussion of the topic in circular 5010.1. Section (11), Environmental Considerations, has been edited to provide a more accurate description of the application of CEs under NEPA to SGR Grants Program projects, including construction-related projects. Section (13), Authority to Undertake Projects in Advance, has been rewritten for consistency with recent changes to FTA's list of CEs at 23 CFR 771.118.

E. Chapter V: Program Management and Administrative Requirements

Chapter V describes management and administrative requirements that apply to FTA grants and are common to FTA's various programs. Sections included in chapter V are: (1) FTA Electronic Award Management System; (2) System for Award Management Requirements; (3) Data Universal Numbering System (DUNS) Registration Requirements; (4) DUNS Requirement for Subrecipients; (5) Electronic Clearing House Operation (ECHO) Requirements; (6) Federal Funding Accountability and Transparency Act (FFATA) Requirements; and (7) National Transit Database (NTD) Reporting.

F. Chapter VI: Other Provisions

Chapter VI describes some of the requirements and conditions that apply to FTA grants and are common to FTA's programs. Sections included in chapter VI are: (1) Introduction; (2) Charter Bus Services; (3) Civil Rights; (4) Clean Air Act (CAA); (5) Commercial Driver's License (CDL); (6) Debarment and Suspension; (7) Drug and Alcohol Testing; (8) Drug-Free Workplace; (9) Employee Political Activity; (10) Energy Conservation; (11) Environmental Reviews; (12) Intergovernmental Review; (13) Labor Protections; (14) Presidential Coin Act; (15) Private Sector Participation; (16) Use of Competitive Procurements; (17) Real Property Acquisition and Relocation Assistance; (18) Restrictions on Lobbying; (19) Safety and Security; (20) School Bus Transportation; (21) Seismic Design and Construction Standards; (22) Sensitive Security Information; and (22) State Safety Oversight.

G. Appendices

The final circular contains five appendices. Appendix A contains instructions for recipients preparing a grant application. Appendix B contains instructions for how to prepare a project budget. Appendix C contains example documents to assist recipients in applying for and managing an SGR grant. Appendix D contains FTA regional and metropolitan contact information. Appendix E contains a list of references for the circular.

Therese McMillan,

Acting Administrator.

[FR Doc. 2015–01530 Filed 1–27–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015 0008]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel KANOA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation,

as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before February 27, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0008. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel KANOA is:

Intended Commercial Use of Vessel: ''Sailing instruction and Charters''

Geographic Region: ''Hawaii''

The complete application is given in DOT docket MARAD–2015–0008 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: January 20, 2015.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2015–01544 Filed 1–27–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015 0007]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SWEET AILEEN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before February 27, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0007. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SWEET AILEEN is:

Intended Commercial Use of Vessel: ''This is a two cabin vessel with galley and 1 & ½ bath. It will take passengers on a 48 hour tour including sport fishing within Kachemak Bay, Alaska''

Geographic Region: ''Alaska (excluding waters in Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound. This vessel has a slip at the Port of Homer, Alaska and will stay in the area of Kachemak Bay and Cook Inlet (an area considered Southwest Alaska). The vessel will not be able to enter waters in Southeastern Alaska due to the geographic location of Kenai peninsula. Kenai peninsula is the western border of ''North of a line from Gore Point to Cape Suckling (including the North Gulf Coast and Prince William Sound)'', and these mountains have no water passageway between Cook Inlet and Southeastern Alaska.''

The complete application is given in DOT docket MARAD–2015–0007 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the

comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476).

By Order of the Maritime Administrator.
Dated: January 20, 2015.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2015–01545 Filed 1–27–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015 2015–0009]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ANNI BEA TRUE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before February 27, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0009. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ANNIE BEA TRUE is:

Intended Commercial Use of Vessel: ''Charter''

Geographic Region: ''Washington State, Oregon, California, Florida, Georgia, Virginia, North Carolina, South Carolina, Maryland, and Hawaii''

The complete application is given in DOT docket MARAD–2015–0009 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

By Order of the Maritime Administrator.
Dated: January 20, 2015.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2015–01547 Filed 1–27–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2015 0010]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel REEL DEAL; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before February 27, 2015.

ADDRESSES: Comments should refer to docket number MARAD–2015–0010. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel REEL DEAL is:

Intended Commercial Use of Vessel: ''Limited Charter of passengers for luxury day, overnight, and extended fishing trips''

Geographic Region: ''Washington State, Oregon, California, and Alaska (excluding waters in Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling [including the North Gulf Coast and Prince William Sound]).''

The complete application is given in DOT docket MARAD–2015–0010 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part

388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476).

By Order of the Maritime Administrator.

Dated: January 20, 2015.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2015–01542 Filed 1–27–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0006]

New Car Assessment Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Request for comments.

SUMMARY: This document requests public comment on the National Highway Traffic Safety Administration's (NHTSA) plan to update its New Car Assessment Program (NCAP). If this plan is implemented, NHTSA would recommend to consumers various vehicle models that are equipped with automatic emergency braking (AEB) systems, which can enhance the driver's ability to avoid or mitigate rear-end crashes. For many years, NCAP has provided comparative information on the safety of new vehicles to assist consumers with vehicle purchasing decisions. NCAP was upgraded beginning with model year 2011 vehicles to include recommended crash avoidance technologies in its program. Including this information in NCAP allows consumers to compare not only the level of crash protection afforded by certain vehicles they are considering to purchase, but also the types of advanced crash avoidance technologies that are recommended by the agency to help them avoid crashes.

DATES: You should submit your comments early enough to ensure that Docket Management receives them no later than March 30, 2015.

ADDRESSES: Comments should refer to the docket number above and be submitted by one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays.
- *Instructions:* For detailed instructions on submitting comments, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.
- *Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78). For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT:

For technical issues: Dr. Abigail Morgan, Office of Crash Avoidance Standards, Telephone: 202–366–1810, Facsimile: 202–366–5930, NVS–122.

For NCAP issues: Mr. Clarke Harper, Office of Crash Avoidance Standards, Telephone: 202–366–1810, Facsimile: 202–366–5930, NVS–120.

For legal issues: Mr. David Jasinski and Ms. Analiese Marchesseault, Office of the Chief Counsel, Telephone: 202–366–2992, Facsimile: 202–366–3820, NCC–112.

The mailing address for these officials is as follows: National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration's (NHTSA) New Car Assessment Program (NCAP) provides comparative safety rating information on new vehicles to assist consumers with their vehicle purchasing decisions. NCAP was upgraded beginning with model year 2011 vehicles to include, among other changes, recommended advanced crash avoidance technologies when these technologies meet NCAP's performance criteria. Technologies that were part of the 2011 upgrade were electronic stability control (ESC), forward collision warning (FCW), and lane departure warning (LDW). Subsequently, in 2014, NHTSA replaced ESC, which is now mandatory for all new light vehicles, with another technology, rearview video systems (RVS).[1]

FCW detects vehicles ahead and cautions a driver of an impending collision, so the driver can brake or steer to avoid or mitigate the collision. LDW monitors lane markings on the road and cautions a driver of unintentional lane drift. RVS assists the driver in seeing whether there are any obstructions, particularly a person or people, in the area immediately behind the vehicle. The RVS is generally installed in the rear of the vehicle and connected to a video screen.

This document requests comments on the agency's plan to further upgrade NCAP to include recommendations to consumers of vehicle models that are equipped with automatic emergency braking (AEB) systems, specifically crash imminent braking (CIB) and dynamic brake support (DBS), which can use information from an FCW system's sensors to enhance the driver's ability to avoid or mitigate rear-end crashes. CIB systems provide automatic braking when forward-looking sensors indicate that a crash is imminent and the driver is not braking. DBS systems provide supplemental braking when sensors determine that driver-applied braking is insufficient to avoid an imminent crash.

This plan would add CIB and DBS to the three crash avoidance technologies that the agency currently recommends on the agency's Web site,

[1] On April 7, 2014, NHTSA published a final rule (79 FR 19177) requiring rearview video systems. The rule provides a phase-in period that begins on May 1, 2016 and ends on May 1, 2018 when all new light vehicles will be required to be equipped with RVS. As was done with electronic stability control, RVS will no longer be an NCAP recommended technology once RVS is required on all new light vehicles.

www.safercar.gov. By including CIB and DBS systems into NCAP, consumers would receive important information regarding the safety risks associated with rear-end crashes and the vehicle models that offer effective countermeasures, which can assist the driver in avoiding or mitigating these crashes. In addition, the agency believes that if it recognizes AEB systems that meet NCAP's performance measures, and thereby encourages consumers to purchase vehicles that are equipped with these systems, manufacturers would have an incentive to offer these systems on additional vehicles they produce.

Crash Imminent Braking and Dynamic Brake Support as Recommended Advanced Technology Features

In addition to issuing star ratings based on the crashworthiness and rollover resistance of vehicle models, the agency also provides additional information to consumers by recommending certain advanced crash avoidance technologies on the agency's Web site, *www.safercar.gov.* For each vehicle make/model, the Web site currently shows (in addition to a list of some of the vehicle's safety features) the model's 5-star crashworthiness and rollover resistance ratings and whether the vehicle model is equipped with any of the three advanced crash avoidance safety technologies that the agency currently recommends to consumers. NHTSA began recommending advanced crash avoidance technologies to consumers starting with the model year 2011.[2] The agency recommends vehicle technologies to consumers as part of NCAP if the technology: (1) Addresses a major crash problem, (2) is supported by information that supports its potential or actual safety benefit, and (3) is able to be tested by repeatable performance tests and procedures to ensure a certain level of performance.

For more than three years, NHTSA has been carefully reviewing and evaluating CIB and DBS systems. The agency has also conducted test track research to better understand the performance capabilities of these systems. This work is documented in two reports, ''Forward-Looking Advanced Braking Technologies Research Report'' (June 2012) [3] and ''Automatic Emergency Braking System Research Report'' (August 2014).[4]

CIB and DBS systems are two crash avoidance systems designed to mitigate or avoid rear-end crashes. The agency's research found that CIB and DBS systems are commercially available on a number of different production vehicles and these systems can be tested successfully to defined performance measures. NHTSA has developed performance measures to ensure that CIB and DBS systems address the rear-end crash safety problem in real-world situations by providing automatic or supplemental vehicle braking that will help drivers mitigate or avoid rear-end crashes. The agency found that systems meeting these performance measures have the potential to help reduce the number of rear-end crashes as well as deaths and injuries that result from these crashes. Therefore, the agency believes that it is appropriate to include CIB and DBS systems in NCAP as recommended crash avoidance technologies on *www.safercar.gov.*

In addition to the agency's research on CIB and DBS systems, these AEB technologies were among the topics included in an April 5, 2013, Request for comments notice on a variety of potential areas for improvement of NCAP.[5] Most commenters supported including CIB and DBS in NCAP. Some commenters stated generally that available research supports the agency's conclusion that these technologies are effective at reducing rear-end crashes with some of those commenters citing specific research they had conducted that they deemed relevant.[6]

Rear-end crashes constitute a significant vehicle safety problem. In a detailed analysis of 2006–2008 crash data,[7] NHTSA determined that approximately 1,700,000 rear-end crashes involving passenger vehicles occur each year.[8] These crashes result in approximately 1,000 deaths and 700,000 injuries annually. The size of the safety problem has remained consistent since then. In 2012, the most recent year for which data are available, there were a total of 1,663,000 rear-end crashes. These rear-end crashes in 2012 resulted in 1,172 deaths and 706,000 injuries, which represents 3 percent of all fatalities and 30 percent of all injuries from motor vehicle crashes in 2012.[9] [10]

As part of its rear-end crash analysis, the agency concluded that AEB systems would have had a favorable impact on a little more than one-half of rear-end crashes.[11] The remaining crashes, which involved circumstances such as high speed crashes resulting in a fatality in the lead vehicle or one vehicle suddenly cutting in front of another vehicle, were not crashes that current AEB systems would be able to prevent or mitigate. The agency has estimated CIB and DBS system effectiveness based on its research findings from track testing of these systems.

In July 2012, the agency issued a Request for comments notice seeking feedback on its CIB and DBS research.[12] Ford Motor Company indicated that the Lead Vehicle Stopped (LVS) scenario actually consists of two scenarios, one in which the lead vehicle is actually stopped or stationary, and one in which the lead vehicle is decelerating and comes to a stop before the crash occurs but could have been previously seen moving by the AEB system sensors. Additional analysis of LVS crashes found that these crashes are evenly split between lead vehicle stopped and lead vehicle decelerating to a stop (LVD–S) crashes, each representing about 32 percent of the rear-end crash population.

The agency is issuing this document to request comments on its plan to update NCAP. The agency believes that, through NCAP, it can help not only to educate consumers on the role AEB technologies play in addressing rear-end crashes, but also to utilize market incentives to encourage wider incorporation of these important safety technologies.

The advanced crash avoidance technologies that are currently recommended by NHTSA through NCAP (as ''Recommended Advanced Technology Features'') are shown on *www.safercar.gov.* Our plan is to add CIB and DBS systems as recommended advanced technology features on our Web site.

[2] *See* 73 FR 40016.

[3] See *http://www.Regulations.gov,* NHTSA 2012–0057–0001.

[4] See *http://www.Regulations.gov,* NHTSA 2012–0057–0037.

[5] See 78 FR 20597.

[6] See *http://www.Regulations.gov,* NHTSA 2012–0180. For discussions of specific research see comments of Robert Bosch LLC, NHTSA–2012–0180–0028, and the Insurance Institute for Highway Safety (IIHS), NHTSA–2012–0180–0026.

[7] These estimates were derived from NHTSA's 2006–2008 Fatality Analysis Reporting System (FARS) data and non-fatal cases in NHTSA's 2006–2008 National Automotive Sampling System General Estimates System (NASS/GES) data.

[8] The 1,700,000 total cited in the two NHTSA reports reflects only crashes in which the front of a passenger vehicle impacts the rear of another vehicle.

[9] See NHTSA's Traffic Safety Facts 2012, Page 70.

[10] The approximately 1,000 deaths per year in 2006–2008 were limited to two-vehicle crashes, as fatal crash data at the time did not contain detailed information on crashes involving three or more vehicles. This information was added starting with the 2010 data year, and the 1,172 deaths in 2012 occurred in crashes involving any number of vehicles.

[11] See ''Forward-Looking Advanced Braking Technologies Research Report'' (June 2012). (*http://www.Regulations.gov,* NHTSA 2012–0057–0001), page 12.

[12] See 77 FR 39561.

Planned Criteria for Recognizing a Vehicle Make/Model as Having a Recommended CIB or DBS System

For the agency to determine which CIB and DBS systems it will recommend to consumers, NHTSA needs a means for evaluating CIB and DBS systems. The agency has developed test procedures for both CIB and DBS systems as part of its research effort.[13] Although these procedures have been designed to provide a reasonable assessment of overall system performance, the agency may modify the number of test scenarios and the number of test trials per test scenario to accommodate the practical needs of NCAP. The following sections provide a brief summary of the CIB and DBS planned test procedures. The information presented here is intended to indicate the level of vehicle performance the test procedures would set in order for CIB and DBS systems to receive NCAP recommendation.

The planned test procedures represent the four primary scenarios present in the rear-end crash target population. They also include a fifth scenario to assess whether an AEB system activates in a specific non-crash-imminent scenario (subsequently referred to as a ''false positive'' scenario). The five test scenarios are:

1. Lead vehicle stopped (LVS)
2. Lead vehicle moving (LVM) at a constant speed slower than the SV
3. Lead vehicle decelerating (LVD)
4. Lead vehicle decelerating to a stop (LVD–S)
5. False positive test (steel trench plate, STP)

Tables 1 and 2 present the test speeds and performance measures developed for each of NHTSA's AEB test scenarios for CIB and DBS. As shown in the second column of these tables, the test speeds for the vehicle being tested (hereinafter, the subject vehicle (SV)) and for the lead vehicle (hereinafter, principal other vehicle (POV)) are the same for the respective CIB and DBS scenarios. However, in most cases, the DBS performance measures specify a greater SV speed reduction than the corresponding CIB test (the exception being the LVM test performed with a SV speed of 25 mph). This is because the speed reductions present during DBS evaluations are the result of the foundation brake application plus the supplementary effect of DBS, and the foundation brake applications used during DBS evaluations are typically commanded earlier than the automatic brake applications during CIB tests.

TABLE 1—CIB TEST SCENARIOS AND SYSTEM PERFORMANCE TEST MEASURES

Scenarios	Speeds of vehicles	Satisfactory performance
LVS	SV 25 mph (40.2 km/h) POV 0 mph (0 km/h)	Speed reduction of ≥9.8 mph (15.8 km/h) for at least 7 of 8 valid test trials.
LVM	SV 25 mph (40.2 km/h) POV 10 mph (16.1 km/h)	No SV-to-POV impact for at least 7 of 8 valid test trials.
LVM	SV 45 mph (72.4 km/h) POV 20 mph (32.2 km/h)	Speed reduction of ≥9.8 mph (15.8 km/h) for at least 7 of 8 valid test trials.
LVD	SV 35 mph (56.3 km/h) POV 35 mph (56.3 km/h)	Speed reduction of ≥10.5 mph (16.9 km/h) for at least 7 of 8 valid test trials.
LVD–S	SV 25 mph (40.2 km/h) POV 25 mph (40.2 km/h)	Speed reduction of ≥9.8 mph (15.8 km/h) for at least 7 of 8 valid test trials.
False positive	25 mph (40.2 km/h)	Peak SV deceleration ≤0.25g.
False positive	45 mph (72.4 km/h)	Peak SV deceleration ≤0.25g.

TABLE 2—DBS TEST SCENARIOS AND SYSTEM PERFORMANCE MEASURES

Scenarios	Speeds of vehicles	Satisfactory performance
LVS	SV 25 mph (40.2 km/h) POV 0 mph (0 km/h)	No SV-to-POV impact for at least 7 of 8 valid test trials.
LVM	SV 25 mph (40.2 km/h) POV 10 mph (16.1 km/h)	No SV-to-POV impact for at least 7 of 8 valid test trials.
LVM	SV 45 mph (72.4 km/h) POV 20 mph (32.2 km/h)	No SV-to-POV impact for at least 7 of 8 valid test trials.
LVD	SV 35 mph (56.3 km/h) POV 35 mph (56.3 km/h)	No SV-to-POV impact for at least 7 of 8 valid test trials.
LVD–S	SV 25 mph (40.2 km/h) POV 25 mph (40.2 km/h)	No SV-to-POV impact for at least 7 of 8 valid test trials.
False positive	25 mph (40.2 km/h)	Peak SV deceleration ≤125% of the average peak SV deceleration realized during a series of baseline brake stops.
False positive	45 mph (72.4 km/h)	Peak SV deceleration ≤125% of the average peak SV deceleration realized during a series of baseline brake stops.

As currently written, each test procedure involves a total of 56 test runs (eight valid test trials for each of the seven test scenarios). The test procedures also include time to condition the SV brakes, including a full FMVSS No. 135 brake burnish prior to testing and a brake warming regiment to ensure the initial brake temperature is within a range before each test trial.

Additionally, because the DBS evaluations specify that the SV brakes be applied, the DBS procedures include a series of eight brake characterization tests. The purpose of these brake characterization tests is to determine the position and force input magnitudes to be used by the brake controller robot during test conduct. This process determines the amount of braking to apply during DBS testing that is

[13] Copies of the test procedures that were used by NHTSA to conduct light vehicle AEB system evaluations in 2014 may be found at *http://www.Regulations.gov,* NHTSA–2012–0057–0038.

sufficiently high to activate the DBS system being tested, yet low enough that the SV's conventional brake assist system [14] is not activated. NHTSA plans to use a programmable brake controller to apply all brake applications defined in the DBS test procedure.

Also with respect to the DBS test procedure, the agency found that in some vehicles, the brake pedal moves toward the floor during DBS activation without the driver applying additional force to the pedal. In this situation, the force at the brake pedal will decrease if the brake controller maintains a constant pedal position (rather than following it as it moves to the floor). Even though the brake pedal position does not change, the DBS system may misinterpret this force reduction as the driver releasing the brakes, incorrectly assuming that strong supplemental DBS braking is no longer needed. To address this, NHTSA has supplemented the displacement (*i.e.,* position) feedback-based brake applications in the DBS test procedure with an optional brake application technique featuring ''hybrid feedback'' control, which includes a combination of displacement and force control.

Hybrid feedback helped certain vehicles reach their DBS-enhanced braking potential by preventing the applied brake force from falling to zero. However, the limited data collected indicate use of hybrid-based braking will not benefit most vehicles. With a few exceptions, vehicles achieved better DBS performance with displacement feedback brake applications as opposed to hybrid feedback brake applications. The agency will work with manufacturers to understand their preference of the optional hybrid feedback or displacement-based feedback during NHTSA's evaluation of their vehicles.

For the purpose of conducting AEB testing, the agency designed and manufactured a strikeable surrogate vehicle (SSV).[15] The physical appearance of the SSV resembles the rear section of a 2011 Ford Fiesta hatchback. The SSV is constructed primarily from carbon fiber, which enables the SSV to withstand repeated impacts with negligible change in its shape over time and without causing harm to test drivers or damage to vehicles being evaluated. If it is struck and damaged, the SSV can be reconstructed to its original specifications. Our testing shows that the SSV generates CIB and DBS system activation just as an actual vehicle would. The agency plans to use the SSV to evaluate the performance of vehicles.

Public Participation

On what topics is the agency requesting comments?

This document requests comments on the agency's plan to recommend CIB and DBS systems in the NCAP program. Based on comments received in response to the April 5, 2013, Request for comments notice on a variety of potential areas for improvement of NCAP (78 FR 20597), including CIB and DBS, the agency believes that motor vehicle manufacturers, suppliers, and consumer advocacy groups generally agree that consumers would benefit from being provided with information about CIB and DBS systems and their potential to help drivers avoid rear-end crashes. However, the agency will consider whether there are compelling arguments against including CIB and DBS system evaluations in NCAP.

The agency is also interested in any suggestions or observations regarding the practical aspects of incorporating CIB and DBS system evaluations into NCAP as recommended technologies. In particular, the agency would be interested in any comments or suggestions regarding the following:

- *Test procedures:* What is the general response to the planned test procedures? How will the combination of test scenarios and test speeds described provide an accurate representation of real-world CIB and DBS system performance, and how can they be improved? Can any of the scenarios be removed from the test procedures while still ensuring a certain level of system performance? If so, what are they and why? Similarly, why and how should the number of test trials per scenario be reduced? What, if any, specific improvements to the test procedures are still necessary?
- *The Strikeable Surrogate Vehicle (SSV):* Are there specific elements that would cause NHTSA's SSV to be inappropriate for use in the agency's CIB and DBS performance evaluations? If so, what are they, and how are they a problem? Will the SSV meet the needs for CIB and DBS evaluation for the foreseeable future? If not, why not? What alternatives could be considered and why?
- *DBS Test Brake Application Strategy:* We seek comment on whether the two brake application methods defined in the DBS test procedure, those based on displacement or hybrid control, provide NHTSA with enough flexibility to accurately assess the performance of all DBS systems. What specific refinements, if any, are needed to either application method?
- *CIB and DBS Research:* We seek comment on whether there is any recent research concerning CIB and DBS systems that is not reflected in the agency's research to date. If so, please provide a reference to that research.

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are filed correctly in the docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (*49 CFR 553.21*). NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit one copy (two copies if submitting by mail or hand delivery) of your comments, including the attachments, to the docket following the instructions given above under **ADDRESSES**. Please note, if you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using an Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Office of the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you may submit a copy (two copies if submitting by mail or hand delivery), from which you have deleted the claimed confidential business information, to the docket by one of the methods given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the

[14] Conventional brake assist system is a technology that initiates supplemental braking based on brake pedal application rate without the use of any forward-sensing information.

[15] For details of the NHTSA designed SSV, see *http://www.Regulations.gov,* NHTSA–2012–0057–0032, NHTSA's Stirkeable Surrogate Vehicle (SSV) Design Overview, and NHTSA–2012–0057–0034, Radar Measurements of NHTSA's Surrogate Vehicle (SSV).

information specified in NHTSA's confidential business information regulation (49 CFR part 512).

Will the agency consider late comments?

NHTSA will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, the agency will also consider comments received after that date.

How can I read the comments submitted by other people?

You may read the comments received at the address given above under **ADDRESSES**. The hours of the docket are indicated above in the same location. You may also see the comments on the Internet, identified by the docket number at the heading of this notice, at *http://www.regulations.gov.*

Please note that, even after the comment closing date, NHTSA may continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, the agency recommends that you periodically check the docket for new material.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (*65 FR 19477*-78) or you may visit *http://www.dot.gov/privacy.html.*

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.8.

Daniel C. Smith,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. 2015–01461 Filed 1–27–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35897]

R. J. Corman Railroad Company/Carolina Lines, LLC—Acquisition and Operation Exemption—The Baltimore and Annapolis Railroad Company d/b/a Carolina Southern Railroad Company

R. J. Corman Railroad Company/Carolina Lines, LLC (RJC-Carolina), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from The Baltimore and Annapolis Railroad Company d/b/a Carolina Southern Railroad Company (CALA) and operate two interconnected rail lines totaling approximately 74.9 miles in North Carolina and South Carolina (the Line). The Line extends from: (1) Milepost AL 326.0, at Mullins, S.C., to milepost AC 290.0, at Whiteville, N.C.; and (2) milepost ACH 297.2, at Chadbourn, N.C., to milepost ACH 336.1, at Conway, S.C. RJC-Carolina will also acquire one mile of incidental, local trackage rights from CALA, extending between milepost AC 290.0 and milepost AC 289.0, at or near Whiteville.

This transaction is related to a concurrently filed verified notice of exemption in *R. J. Corman Railroad Group—Continuance in Control Exemption—R. J. Corman Railroad/Carolina Lines,* Docket No. FD 35898, in which R. J. Corman Railroad Group, LLC, and R. J. Corman Railroad Company, LLC, seek Board approval under 49 CFR 1180.2(d)(2) to continue in control of RJC-Carolina upon RJC-Carolina's becoming a Class III rail carrier.

RJC-Carolina certifies that its projected revenues upon consummation of the proposed transaction will not result in the creation of a Class I or Class II rail carrier and states that its projected annual revenues will not exceed $5 million.

RJC-Carolina states that it intends to consummate the proposed transaction on or after February 11, 2015, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than February 4, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35897, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: January 23, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2015–01553 Filed 1–27–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice and Request for Comments

AGENCY: Surface Transportation Board, DOT.

ACTION: 60-day notice and request for comments: Application to Open a Billing Account.

SUMMARY: As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to request from the Office of Management and Budget (OMB) an extension of approval without revision of a currently approved information collection: Application to Open a Billing Account. The information collection is described in detail below. Comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) 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, when appropriate; and (4) whether this collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: Application to Open a Billing Account.

OMB Control Number: 2140–0006.

STB Form Number: STB Form 1032.

Type of Review: Extension of a currently approved collection.

Respondents: Rail carriers, shippers, and others doing business before the STB.

Number of Respondents: 5.

Estimated Time per Response: Less than .08 hours, based on actual survey of respondents.

Frequency: One time per respondent.

Total Burden Hours (annually including all respondents): Less than 0.4 hours.

Total ''Non-hour Burden'' Cost: No ''non-hour cost'' burdens associated

with this collection have been identified.

Needs and Uses: The Board is, by statute, responsible for the economic regulation of freight rail carriers and certain other carriers operating in interstate commerce. This form is used by persons doing business before the Board who wish to open an account with the Board to facilitate their payment of filing fees; fees for the search, review, copying, and certification of records; and fees for other services rendered by the Board. An account holder is billed on a monthly basis for payment of accumulated fees. Data provided is also used for debt collection activities. The application form requests information as required by OMB and U.S. Department of Treasury regulations for the collection of fees. This information is not duplicated by any other agency. In accordance with the Privacy Act, 5 U.S.C. 552a, all taxpayer identification and social security numbers are secured and used only for credit management and debt collection activities.

Retention Period: The STB retains this information until respondent asks to close account and outstanding debts, if any, are paid in full.

DATES: Written comments are due on March 30, 2015.

ADDRESSES: Direct all comments to Marilyn Levitt, Surface Transportation Board, Suite 1260, 395 E Street SW., Washington, DC 20423–0001, or to *levittm@stb.dot.gov.* When submitting comments, please refer to ''Paperwork Reduction Act Comments, Application to Open an Account for Billing Purposes, OMB Number 2140–0006.''

For Further Information or To Obtain a Copy of the STB Form, Contact: Marcin Skomial, (202) 245–0346. [Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.]

SUPPLEMENTARY INFORMATION: Under the PRA, a Federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 3506(c)(2)(A) of the PRA, Federal agencies are required, prior to submitting a collection to OMB for approval, to provide a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: January 23, 2015.

Raina S. White,

Clearance Clerk.

[FR Doc. 2015–01569 Filed 1–27–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35898]

R. J. Corman Railroad Group, LLC, and R. J. Corman Railroad Company, LLC—Continuance in Control Exemption—R. J. Corman Railroad Company/Carolina Lines, LLC

R. J. Corman Railroad Group, LLC (RJC-Group) and R. J. Corman Railroad Company, LLC (RJCRC) (collectively, Applicants) have filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of R. J. Corman Railroad Company/Carolina Lines, LLC (RJC-Carolina), a noncarrier, upon RJC-Carolina's becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in *R. J. Corman Railroad/Carolina Lines—Acquisition & Operation Exemption—Baltimore & Annapolis Railroad,* Docket No. FD 35897, in which RJC-Carolina seeks Board approval under 49 CFR 1150.31 to acquire and operate two interconnected rail lines totaling approximately 74.9 miles in North Carolina and South Carolina (the Line). RJC-Carolina also seeks to acquire one mile of incidental, local trackage rights at or near Whiteville, N.C.

Applicants state that they intend to consummate the proposed transaction on or about February 11, 2015, the effective date of the exemption (30 days after the verified notice was filed).

Applicants represent that: (1) RJC-Carolina will not connect with any other railroad directly or indirectly controlled by Applicants; (2) the transaction is not part of a series of anticipated transactions that would result in such a connections; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than February 4, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35898, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 23, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2015–01552 Filed 1–27–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Bureau Of Transportation Statistics

[Docket ID Number DOT–OST–2014–0031]

Agency Information Collection: Activity Under OMB Review: Report of Financial and Operating Statistics for Large Certificated Air Carriers

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for an extension of a currently approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following

collection of information was published on November 19, 2014 (79 FR 68953). The Bureau of Economic Analysis at the Department of Commerce submitted comments in support of the continuation of the data collection.

DATES: Written comments should be submitted by February 27, 2015.

FOR FURTHER INFORMATION CONTACT: Jeff Gorham, Office of Airline Information, RTS–42, Room E34–414, OST–R, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–4406, Fax Number (202) 366–3383 or EMAIL *jeff.gorham@dot.gov.*

Comments: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: OST Desk Officer.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0013

Title: Report of Financial and Operating Statistics for Large Certificated Air Carriers.

Form No.: BTS Form 41.

Type Of Review: Extension of a currently approved collection.

Respondents: Large certificated air carriers.

Number of Respondents: 63.

Estimated Time per Response: 4 hours per schedule, an average carrier may submit 90 schedules in one year.

Total Annual Burden: 22,680 hours.

Needs and Uses: Program uses for Form 41 data are as follows:

Mail Rates

The Department of Transportation sets and updates mainline Alaska mail rates based on carrier aircraft operating expense, traffic and operational data. Form 41 cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' ability to continue providing service.

Submission of U.S. Carrier Data to ICAO

As a party to the Convention on International Civil Aviation, the United States is obligated to provide the International Civil Aviation Organization with financial and statistical data on operations of U.S. air carriers. Over 99 percent of the data filed with ICAO is extracted from the carriers' Form 41 reports.

Carrier Fitness

Fitness determinations are made for both new entrants and established U.S. carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR part 204) and an associated projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 41 for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

Form 41 reports, particularly balance sheet reports and cash flow statements, play a major role in the identification of vulnerable carriers. Data comparisons are made between current and past periods in order to assess the current financial position of the carrier. Financial trend lines are extended into the future to analyze the continued viability of the carrier. DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier is operating, DOT is required to monitor its continuing fitness.

Senior DOT officials must be kept fully informed as to all current and developing economic issues affecting the airline industry. In preparing financial conditions reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers may use the same information.

Pending Rulemaking

On July 15, 2011, the Department published a Notice of Proposed Rulemaking (NPRM) proposing to collect certain Form 41 revenue information on airline-imposed fees in a more detailed manner (see 76 FR 41726). Many air carriers have adopted *a la carte* pricing with separate fees for certain optional services that use to be included in the ticket price. Carriers currently report excess baggage fees, reservation cancellation fees and miscellaneous operating revenues. The proposed rule would require carriers to report, (1) itinerary related fees, (2) seating assignment fees, (3) baggage fees broken down between first and second checked bags, carry-on bags and other bags, (4) unaccompanied minor/passenger assistance fees, and (5) other fees. The Department wants to make airline pricing more transparent to consumers and airline analysts.

Administrative Issues

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note) requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on January 22, 2015.

William Chadwick Jr.,

Director of the Office of Airline Information, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology.

[FR Doc. 2015–01533 Filed 1–27–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Proposed Collections; Comment Requests

AGENCY: Departmental Offices, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on the revision of an information collection that is proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning Treasury International Capital Form D, Report of Holdings of, and Transactions in, Financial Derivatives Contracts with Foreign Residents.

DATES: Written comments should be received on or before March 30, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 5422, 1500 Pennsylvania Avenue NW., Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (*comments2TIC@treasury.gov*), FAX

(202–622–2009) or telephone (202–622–1276).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed forms and instructions are available on the Treasury's TIC Forms Web page, *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms.aspx*. Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital Form D, Report of Holdings of, and Transactions in, Financial Derivatives Contracts with Foreign Residents.

OMB Control Number: 1505–0199.

Abstract: Form D is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S. C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR part 128) for the purpose of providing timely information on international capital movements other than direct investment by U.S. persons. Form D is a quarterly report used to cover holdings and transactions in derivatives contracts undertaken between foreign resident counterparties and major U.S.-resident participants in derivatives markets. This information is necessary for compiling the U.S. balance of payments accounts and international investment position, and for formulating U.S. international financial and monetary policies.

Current Actions: No changes are proposed at this time.

Type of Review: Extension of a currently approved data collection.

Affected Public: Business or other for profit organizations.

Form: D (1505–0199).

Estimated Number of Respondents: 35.

Estimated Average Time per Respondent: Thirty (30) hours per respondent per filing.

Estimated Total Annual Burden Hours: 4,200 hours, based on 4 reporting periods per year.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether Form D is necessary for the proper performance of the functions of the Office, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide information.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Systems.

[FR Doc. 2015–01593 Filed 1–27–15; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

Privacy Act of 1974, as Amended

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

ACTION: Notice of system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, is publishing its inventory of Privacy Act system of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974, as amended, 5 U.S.C. 552a and Office of Management and Budget Circular No. A–130, the Alcohol and Tobacco Tax and Trade Bureau (TTB) has completed a review of its Privacy Act systems of records notice to identify any changes that would more accurately describe these records. This document updates the status of TTB's Records Control Schedules with the National Archives and Records Administration, and makes other minor editorial changes.

TTB's Privacy Act system of records notice was last published in its entirety on December 1, 2011 at 76 FR 74847–74848.

In accordance with 5 U.S.C. 552a(r), Treasury provided a report of this existing system of records to the Office of Management and Budget and Congress.

Systems Covered by This Notice

This notice covers the system of records entitled ''Treasury/TTB .001–Regulatory Enforcement Record System,'' which is the only system of records adopted by TTB as of October 1, 2014. The system of records notice is published in its entirety below.

Dated: January 12, 2015.

Helen Goff Foster,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

TREASURY/TTB .001

SYSTEM NAME:

Regulatory Enforcement Record System.

SYSTEM LOCATION:

Alcohol and Tobacco Tax and Trade Bureau (TTB), 1310 G Street NW., Box 12, Washington, DC 20005. Components of this system of records are also geographically dispersed throughout TTB's field offices. A list of TTB's field offices is available on the TTB Web site at *http://www.ttb.gov.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who file tax returns or submit return information to TTB regarding special occupational tax and excise taxes on alcohol, tobacco, and firearms and ammunition; and

(2) Individuals who have been issued permits, have filed applications with TTB, or have registered with TTB. They include: (a) Alcohol and tobacco permittees; and (b) Claimants for refund, abatement, credit, allowance, or drawback of excise or special occupational taxes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records containing investigative material compiled for TTB's responsibilities under the Internal Revenue Code of 1986 and the Federal Alcohol Administration Act, which may consist of the following:

(1) Abstracts of offers in compromise;

(2) Administrative law judge decisions;

(3) Assessment records including notices of proposed assessments, notices of shortages or losses, copies of notices from the Internal Revenue Service to assess taxes, and recommendations for assessments;

(4) Claim records including claims, letters of claim rejection, sample reports, supporting data, and vouchers and schedules of payment;

(5) Correspondence concerning records in this system and related matters;

(6) Financial statements;

(7) Audit and investigation reports;

(8) Demands for payment of excise tax liabilities;

(9) Letters of warning;

(10) Lists of permittees and licensees;

(11) Lists of officers, directors, and principal stockholders;

(12) Mailing lists;

(13) Notices of delinquent reports;

(14) Offers in compromise;

(15) Operational records, such as operating and inventory reports, and transaction records and reports;

(16) Orders of revocation, suspension, or annulment of permits or licenses;

(17) Chief Counsel opinions and memoranda;

(18) Reports of violations;

(19) Permits and permit histories;

(20) Qualifying records including access authorizations, advertisement records, applications, business histories, criminal records, educational histories, employment histories, financial data, formula approvals, licenses, notices, permits, personal references, registrations, sample reports, special permissions and authorizations, and statements of process;

(21) Show cause orders; and

(22) Tax records relating to periodic payment and prepayment of taxes, tax returns, and notices of tax discrepancy or adjustment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 5001, 5006(a), 5008, 5041, 5042(a)(2) and (3), 5044, 5051, 5055, 5056, 5061, 5062, 5064, 5101, 5132, 5172, 5179(a), 5181, 5271(b)(1), 5275, 5301(a) and (b), 5312, 5356, 5401, 5417, 5502, 5511(3), 5705, 5712, 6001, 6011(a), 6201, 6423, 7011, and 7122; 27 U.S.C. 204 and 207; and the Homeland Security Act of 2002.

PURPOSE(S):

The purpose of this system is to determine suitability, eligibility, or qualifications of individuals who are engaged or propose to engage in activities regulated by TTB; achieve compliance with laws under TTB's jurisdiction; assure full collection of revenue due from regulated industries; eliminate commercial bribery, consumer deception, and other improper trade practices in the distilled spirits, malt beverage, and wine industries; and interact with Federal, State, and local governmental agencies in the resolution of problems relating to revenue protection and other areas of joint jurisdictional concern.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

Routine uses of records within this system pursuant to which a record may be disclosed are to:

(1) Third parties when such disclosure is required by statute or Executive Order;

(2) Third parties to the extent necessary to collect or verify information pertinent to TTB's decision to grant, deny, or revoke a license or permit; to initiate or complete an investigation of violations or alleged violations of laws and regulations administered by TTB;

(3) Appropriate federal, state, local, or foreign agencies for the purpose of enforcing administrative, civil, or criminal laws; hiring or retention of an employee; issuance of a security clearance, license, contract, 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;

(4) A court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of or in preparation for civil discovery, litigation, or settlement negotiations, in response to a subpoena where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

(5) International Criminal Police Organization and similar national and international intelligence gathering organizations for the purpose of identifying international and national criminals involved in consumer fraud, revenue evasion, crimes, or persons involved in terrorist activities;

(6) Foreign governments in accordance with formal or informal international agreements;

(7) Appropriate federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of criminal law or regulation;

(8) A congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

(9) The news media to provide information in accordance with guidelines contained in 28 CFR 50.2 that relate to an agency's functions relating to civil and criminal proceedings;

(10) Third parties for a purpose consistent with any permissible disclosure of returns or return information under the Internal Revenue Code of 1986, as amended;

(11) Appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department 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 Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(12) A contractor for the purpose of processing administrative records and/or compiling, organizing, analyzing, programming, or otherwise refining records subject to the same limitations applicable to Department of the Treasury officers and employees under the Privacy Act;

(13) The Department of Justice when seeking legal advice or when (a) the Department of the Treasury or (b) the disclosing agency, or (c) any employee of the disclosing agency in his or her official capacity, or (d) any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (e) the United States, where the disclosing agency determines that litigation is likely to affect the disclosing agency, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation; and

(14) Representatives of the National Archives and Records Administration who are conducting records management inspections under authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Records are stored in file folders in filing cabinets and in electronic media.

RETRIEVABILITY:

Records are retrievable by name, by permit or license number, by document locator number, or by employer identification number.

SAFEGUARDS:

Direct access is restricted to personnel in the Department of the Treasury in the performance of their duties. Non-electronic records are stored in file cabinets in rooms locked during non-duty hours. Records stored in electronic media are password protected and encrypted while at rest in the system and when transmitted. Disclosures are made to routine users on a ''need to know'' basis and upon verification of the substance and propriety of the request.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with records disposition schedule DAA–0564–2013–0003, approved by the National Archives and Records Administration for TTB.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Revenue Center, Alcohol and Tobacco Tax and Trade Bureau, 550 Main Street, Suite 8002, Cincinnati, OH 45202.

NOTIFICATION PROCEDURE:

This system of records has been determined to be exempt from compliance with the notification provisions of 5 U.S.C. 552a(e)(4)(G).

RECORD ACCESS PROCEDURES:

This system of records has been determined to be exempt from compliance with the access provisions of 5 U.S.C. 552a(e)(4)(H).

CONTESTING RECORD PROCEDURES:

This system of records has been determined to be exempt from compliance with the provisions of 5 U.S.C. 552a(e)(4)(H) allowing an individual to contest the contents of records.

RECORD SOURCE CATEGORIES:

This system of records has been determined to be exempt from compliance with the provisions of 5 U.S.C. 552a(e)(4)(I) requiring the record source categories be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been designated as exempt from the following provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2): 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f). See 31 CFR 1.36.

[FR Doc. 2015–01515 Filed 1–27–15; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4506

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4506, Request for Copy of Tax Return.

DATES: Written comments should be received on or before March 30, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Kerry Dennis, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Kerry.Dennis@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Request for Copy of Tax Return.

OMB Number: 1545–0429.

Form Number: Form 4506.

Abstract: Internal Revenue Code section 7513 allows taxpayers to request a copy of a tax return or related documents. Form 4506 is used for this purpose. The information provided will be used for research to locate the tax form and to ensure that the requestor is the taxpayer or someone authorized by the taxpayer to obtain the documents requested.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms, and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 325,000.

Estimated Time per Respondent: 48 min.

Estimated Total Annual Burden Hours: 260,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 22, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–01477 Filed 1–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8693

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8693, Low-Income Housing Credit Disposition Bond.

DATES: Written comments should be received on or before March 30, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Sara.L.Covington@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Low-Income Housing Credit Disposition Bond.

OMB Number: 1545–1029.

Form Number: 8693.

Abstract: Section 42(j)(6) of the Internal Revenue Code states that when a taxpayer disposes of a building (or an interest therein) on which the low-income housing credit has been claimed, the taxpayer may post a bond in lieu of paying the recapture tax if the building continues to be operated as a qualified low-income building for the remainder of the compliance period. For 8693 is used to post a bond under Code section 42(j)(6) to avoid recapture of the low-income housing credit.

Current Actions: There are no changes being made to Form 8693 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and individuals.

Estimated Number of Respondents: 667.

Estimated Time per Respondent: 5 hrs, 23 min.

Estimated Total Annual Burden Hours: 3,589.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 21, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–01482 Filed 1–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5305–SEP.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5305–SEP, Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

DATES: Written comments should be received on or before March 30, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, Internal Revenue Service, room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

OMB Number: 1545–0499.

Form Number: 5305–SEP.

Abstract: Form 5305–SEP is used by an employer to make an agreement provide benefits to all employees under a Simplified Employee Pension (SEP) described in Internal Revenue Code section 408(k). This form is not to be filed with the IRS but is to be retained in the employer's records as proof of establishing a SEP and justifying a deduction for contributions to the SEP.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 4 hr. 57 min.

Estimated Total Annual Burden Hours: 495,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 8, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–01460 Filed 1–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8846

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8846, Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips.

DATES: Written comments should be received on or before March 30, 2015 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, or at Internal Revenue Service, Room 6517, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips.

OMB Number: 1545–1414.

Form Number: 8846.

Abstract: Employers in food or beverage establishments where tipping is customary can claim an income tax credit for the amount of social security and Medicare taxes paid (employer's share) on tips employees reported, other than on tips used to meet the minimum wage requirement. Form 8846 is used by employers to claim the credit and by the IRS to verify that the credit is computed correctly.

Current Actions: Line 4, the 2014 Social Security maximum earnings amount has changed from $113,700 to $117,000. Notice 2013–72.

Line 6, ''Part lll'' is added to the reference of Form 3800.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 37,200.

Estimated Time Per Respondent: 4 hr., 26 min.

Estimated Total Annual Burden Hours: 143,592.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 20, 2015.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2015–01483 Filed 1–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, February 12, 2015.

FOR FURTHER INFORMATION CONTACT: Theresa Singleton at 1–888–912–1227 or 202–317–3329.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be held Thursday, February 12, 2015, at 12 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Theresa Singleton. For more information please contact: Theresa Singleton at 1–888–912–1227 or 202–317–3329, TAP Office, 1111 Constitution Avenue NW., Room 1509-National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include a discussion on various letters, and other issues related to written communications from the IRS.

Dated: January 21, 2015.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2015–01466 Filed 1–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, February 11, 2015.

FOR FURTHER INFORMATION CONTACT: Lisa Billups at 1–888–912–1227 or (214) 413–6523.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Wednesday, February 11, 2015, at 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Lisa Billups. For more information

please contact: Lisa Billups at 1–888–912–1227 or 214–413–6523, or write TAP Office 1114 Commerce Street, Dallas, TX 75242–1021, or post comments to the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Taxpayer Communications and public input is welcome.

Dated: January 21, 2015.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2015–01463 Filed 1–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, February 11, 2015.

FOR FURTHER INFORMATION CONTACT: Robin Owsley at 1–888–912–1227 or (317) 685–7627.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be held Wednesday, February 11, 2015, at 3:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Robin Owsley. For more information please contact: Robin Owsley at 1–888–912–1227 or (317) 685–7627or write: TAP Office, 575 N. Pennsylvania, Indianapolis, IN 46204 or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to the Taxpayer Assistance Centers and public input is welcomed.

Dated: January 21, 2015.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2015–01480 Filed 1–27–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Notice of Stakeholder Meeting

AGENCY: United States Mint, Treasury.

ACTION: Notice of Stakeholder Meeting.

SUMMARY: Pursuant to the Coin Modernization, Oversight, and Continuity Act of 2010 (Pub. L. 111–302), the United States Mint announces its second stakeholder meeting. This meeting continues the dialogue concerning the Bureau's ongoing Research and Development of alternative metal compositions for circulating coinage. This opportunity is for interested members of businesses, industries, and agencies.

Date: Wednesday, March 18, 2015

Time: 10:30 a.m. to 4:30 p.m. (EDT)

Location: United States Mint; 801 Ninth Street NW., Washington, DC, 2nd floor

Subject: The purpose of this meeting is to invite individual members of stakeholder organizations to share their perspectives on how the United States Mint would validate the acceptance of alternative metal compositions presented in the most recent report to Congress prior to circulation. The alternative metal compositions include those with a similar electromagnetic signature (EMS) and weight characteristics that fall within the acceptable tolerance range of the United States Mint's current circulating coins as well as alternative metals with different EMS and weight characteristics than current circulating coins. This input will support the Secretary of the Treasury in understanding the balance of interests and impacts to the public, private industry stakeholders, and the Government. Conducting a second stakeholder meeting is one component of the United States Mint's continued outreach program to ensure to the greatest extent practicable, that any new coins work without interruption in existing coin acceptance equipment without modification and additional costs to industry stakeholders.

Information: Attendees are invited to the following link for a copy of the United States Mint's bi-annual report to Congress, December 2014. *http://www.usmint.gov/about_the_mint/?action=biennialreport*

The report includes a production costs analysis, coin industry stakeholder feedback, the alternative metals study phase II technical report, and estimated costs of current and alternative metals.

SUPPLEMENTARY INFORMATION: Under the Coin Modernization, Oversight, and Continuity Act of 2010, in conducting research and development on circulating coins, the Secretary of the Treasury is required to consider:

(A) Factors relevant to the potential impact of any revisions to the composition of the material used in coin production on the current coinage material suppliers;

(B) Factors relevant to the ease of use and ability to co-circulate new coinage materials, including the effect on vending machines and commercial coin processing equipment and making certain, to the greatest extent practicable, that any new coins work without interruption in existing coin acceptance equipment without modification; and

(C) Such other factors that the Secretary of the Treasury, in consultation with merchants who would be affected by any change in the composition of circulating coins, vending machine, and other coin acceptor manufacturers; vending machine owners and operators; transit officials; municipal parking officials; depository institutions; coin and currency handlers; armored-car operators; car wash operators; and American-owned manufacturers of commercial coin processing equipment, considers to be appropriate and in the public interest.

Special Accommodations: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other related accommodations should be directed to the Office of Coin Studies (see **FOR FURTHER INFORMATION CONTACT**) as soon as possible but no later than March 4, 2015.

This is not a public meeting. Attendance is by invitation only. Persons interested in attending the meeting should use the contact information provided in this notice no later than Monday, March 16, 2015, to request an invitation and obtain additional meeting information. Seating will be available on a first-come, first-served basis.

Input will be gathered orally at the stakeholder meeting. A transcription service provider will document the oral comments.

FOR FURTHER INFORMATION CONTACT: Leslie Schwager, Office of Coin Studies at *OfficeofCoinStudies@*

usmint.treas.gov, or by calling 202–354–7291

Authority: 31 U.S.C. 5112(p)(3)(A); Public Law 111–302, section 2(a)(2)

Dated: January 20, 2015.

Richard A. Peterson,

Deputy Director for Manufacturing and Quality, United States Mint.

[FR Doc. 2015–01531 Filed 1–27–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing Changes for 2015 United States Mint Products

AGENCY: United States Mint, Department of the Treasury

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing changes for 2015 products, as follows:

Product	2015 Retail price
American Eagle One Ounce Silver Proof Coin	$48.95
American Eagle One Ounce Silver Uncirculated Coin	39.95
Congratulations Set	50.95
United States Mint Proof Set®	32.95
United States Mint Uncirculated Set®	28.95
America the Beautiful Quarters Circulating Coin Set™	7.95
Annual Uncirculated Dollar Coin Set	46.95
America the Beautiful Five-Ounce Silver Uncirculated Coin™ (5 issues)	149.95

FOR FURTHER INFORMATION CONTACT: Mary Lhotsky, Acting Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW, Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112, 5132 & 9701.

Dated: January 20, 2015.

Richard A. Peterson,

Deputy Director for Manufacturing and Quality, United States Mint.

[FR Doc. 2015–01529 Filed 1–27–15; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0799]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: National Cemetery Administration, VA.

ACTION: Notice.

SUMMARY: The National Cemetery Administration (NCA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each new collection and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to implement statutory authority for NCA to provide reimbursement for the purchase of caskets and urns for the interment of the remains of Veterans without next of kin (NOK) and sufficient resource available for burial.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 30, 2015.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Mechelle Powell, National Cemetery Administration (43D3), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *mechelle.powell@va.gov.* Please refer to ''OMB Control No. 2900–0799'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mechelle Powell at (202) 684–5365 or FAX (202) 501–2240.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S. C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, NCA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of NCA's functions, including whether the information will have practical utility; (2) the accuracy of NCA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Casket/Urn Reimbursement, VA Form 40–10088.

OMB Control Number: 2900–0799.

Type of Review: New Collection.

Abstract: The Department of Veterans Affairs, National Cemetery Administration proposes to establish VA regulations to implement new statutory authority for NCA to provide reimbursement for the purchase of caskets and urns for the interment of the remains of Veterans without next of kin and sufficient resources available for burial.

Affected Public: Federal Government and Community Social Services.

Estimated Annual Burden: 168.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 670.

Dated: January 23, 2015.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2015–01581 Filed 1–27–15; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Energy

10 CFR Part 431

Energy Conservation Program: Energy Conservation Standards for Automatic Commercial Ice Makers; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket Number EERE–2010–BT–STD–0037]

RIN 1904–AC39

Energy Conservation Program: Energy Conservation Standards for Automatic Commercial Ice Makers

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

ACTION: Final rule.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including automatic commercial icemakers (ACIM). EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this final rule, DOE is adopting more-stringent energy conservation standards for some classes of automatic commercial ice makers as well as establishing energy conservation standards for other classes of automatic commercial ice makers. It has determined that the amended energy conservation standards for these products would result in significant conservation of energy, and are technologically feasible and economically justified.

DATES: The effective date of this rule is March 30, 2015. Compliance with the amended standards established for automatic commercial ice makers in this final rule is required on January 28, 2018.

ADDRESSES: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2010-BT-STD-0037.*

The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket.

For further information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT:

John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1692. Email: *commercial_ice_makers@EE.Doe.Gov.*

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, Mailstop GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–1777. Email: *Sarah.Butler@hq.doe.gov.*

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I. Discussion of the Final Rule and Its Benefits

Title III, Part C [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6311–6317, as codified), established the Energy Conservation Program for Certain Industrial Equipment, a program covering certain industrial equipment,[2] which includes the focus of this final rule: Automatic commercial ice makers (ACIM).

Pursuant to EPCA, any new or amended energy conservation standard that DOE prescribes for certain products, such as automatic commercial ice makers, shall be designed to achieve the maximum improvement in energy efficiency that DOE determines is both technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B) and 6313(d)(4))

In accordance with these and other statutory criteria discussed in this final rule, DOE is amending energy conservation standards for automatic commercial ice makers,[3] and new standards for covered equipment not yet subject to energy conservation standards. The amended standards, which consist of maximum allowable energy use per 100 lb of ice production, are shown in Table I.1 and Table I.2. Standards shown on Table I.1 for batch type ice makers represent the amendments to existing standards set for cube type ice makers at 42 U.S.C. 6313(d)(1), and new standards for cube type ice makers with expanded harvest capacities up to 4,000 pounds of ice per 24 hour period (lb ice/24 hours) and an explicit coverage of other types of batch machines, such as tube type ice makers. Table I.2 provides new standards for continuous type ice-making machines, which were not previously currently covered by DOE's existing standards. The amended standards include, for applicable equipment classes, maximum condenser water usage values in gallons per 100 lb of ice production. These new and amended standards apply to all equipment manufactured in, or imported into, the United States, on or after January 28, 2018. (42 U.S.C. 6313(d)(2)(B)(i) and (3)(C)(i))

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR BATCH TYPE AUTOMATIC COMMERCIAL ICEMAKERS

[Compliance required starting January 28, 2018]

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kilowatt-hours (kWh)/100 lb ice *	Maximum condenser water use gal/100 lb ice **
Ice-Making Head	Water	<300	6.88—0.0055H	200—0.022H.
		≥300 and <850	5.80—0.00191H	200—0.022H.
		≥850 and <1,500	4.42—0.00028H	200—0.022H.
		≥1,500 and <2,500	4.0	200—0.022H.
		≥2,500 and <4,000	4.0	145.
Ice-Making Head	Air	<300	10—0.01233H	NA.
		≥300 and <800	7.05—0.0025H	NA.
		≥800 and <1,500	5.55—0.00063H	NA.
		≥1500 and <4,000	4.61	NA.

[1] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

[2] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

[3] EPCA as amended by EPACT 2005 established maximum energy use and maximum condenser water use standards for cube type automatic commercial ice makers with harvest capacities between 50 and 2,500 lb ice/24 hours. In this rulemaking, DOE is amending the legislated energy use standards for these automatic commercial ice maker types. DOE is not, however, amending the existing condenser water use standards for equipment with existing condenser water standards.

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR BATCH TYPE AUTOMATIC COMMERCIAL ICEMAKERS—Continued

[Compliance required starting January 28, 2018]

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kilowatt-hours (kWh)/100 lb ice *	Maximum condenser water use gal/100 lb ice **
Remote Condensing (but not remote compressor)	Air	≥50 and <1,000	7.97—0.00342H	NA.
		≥1,000 and <4,000	4.55	NA.
Remote Condensing and Remote Compressor	Air	<942	7.97—0.00342H	NA.
		≥942 and <4,000	4.75	NA.
Self-Contained	Water	<200	9.5—0.019H	191—0.0315H.
		≥200 and <2,500	5.7	191—0.0315H.
		≥2,500 and <4,000	5.7	112.
Self-Contained	Air	<110	14.79—0.0469H	NA.
		≥110 and <200	12.42—0.02533H	NA.
		≥200 and <4,000	7.35	NA.

* H = harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate. Source: 42 U.S.C. 6313(d).
** Water use is for the condenser only and does not include potable water used to make ice.

TABLE I.2—ENERGY CONSERVATION STANDARDS FOR CONTINUOUS TYPE AUTOMATIC COMMERCIAL ICE MAKERS

[Compliance required starting January 28, 2018]

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kWh/100 lb ice *	Maximum condenser water use gal/100 lb ice **
Ice-Making Head	Water	<801	6.48—0.00267H	180—0.0198H.
		≥801 and <2,500	4.34	180—0.0198H.
		≥2,500 and <4,000	4.34	130.5.
Ice-Making Head	Air	<310	9.19—0.00629H	NA.
		≥310 and <820	8.23—0.0032H	NA.
		≥820 and <4,000	5.61	NA.
Remote Condensing (but not remote compressor)	Air	<800	9.7—0.0058H	NA.
		≥800 and <4,000	5.06	NA.
Remote Condensing and Remote Compressor	Air	<800	9.9—0.0058H	NA.
		≥800 and <4,000	5.26	NA.
Self-Contained	Water	<900	7.6—0.00302H	153—0.0252H.
		≥900 and <2,500	4.88	153—0.0252H.
		≥2,500 and <4,000	4.88	90.
Self-Contained	Air	<200	14.22—0.03H	NA.
		≥200 and <700	9.47—0.00624H	NA.
		≥700 and <4,000	5.1	NA.

* H = harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate. Source: 42 U.S.C. 6313(d).
** Water use is for the condenser only and does not include potable water used to make ice.

A. Benefits and Costs to Customers

Table I.3 presents DOE's evaluation of the economic impacts of the standards set by this final rule on customers of automatic commercial ice makers, as measured by the average life-cycle cost (LCC) savings [4] and the median payback period (PBP).[5] The average LCC savings are positive for all equipment classes for which customers are impacted by the new and amended standards.

TABLE I.3—IMPACTS OF TODAY'S STANDARDS ON CUSTOMERS OF AUTOMATIC COMMERCIAL ICE MAKERS

Equipment class *	Average LCC savings 2013$	Median PBP years
IMH–W–Small–B	214	2.7
IMH–W–Med–B	308	2.1
IMH–W–Large–B **	NA	NA
IMH–W–Large–B–1	NA	NA
IMH–W–Large–B–2	NA	NA
IMH–A–Small–B	77	4.7
IMH–A–Large–B **	361	2.3
IMH–A–Large–B–1	407	1.5
IMH–A–Large–B–2	110	6.9
RCU–Large–B **	748	1.1

[4] Life-cycle cost of automatic commercial ice makers is the cost to customers of owning and operating the equipment over the entire life of the equipment. Life-cycle cost savings are the reductions in the life-cycle costs due to amended energy conservation standards when compared to the life-cycle costs of the equipment in the absence of amended energy conservation standards.

[5] Payback period refers to the amount of time (in years) it takes customers to recover the increased installed cost of equipment associated with new or amended standards through savings in operating costs. Further discussion can be found in chapter 8 of the final rule TSD.

TABLE I.3—IMPACTS OF TODAY'S STANDARDS ON CUSTOMERS OF AUTOMATIC COMMERCIAL ICE MAKERS—Continued

Equipment class *	Average LCC savings 2013$	Median PBP years
RCU–Large–B–1	743	0.9
RCU–Large–B–2	820	3.0
SCU–W–Large–B	550	1.8
SCU–A–Small–B	281	2.6
SCU–A–Large–B	439	2.1
IMH–A–Small–C	313	1.7
IMH–A–Large–C	626	0.7
RCU–Small–C	505	1.2
SCU–A–Small–C	290	1.5

* Abbreviations are: IMH is ice-making head; RCU is remote condensing unit; SCU is self-contained unit; W is water-cooled; A is air-cooled; Small refers to the lowest harvest category; Med refers to the Medium category (water-cooled IMH only); RCU with and without remote compressor were modeled as one group. For three large batch categories, a machine at the low end of the harvest range (B–1) and a machine at the higher end (B–2) were modeled. Values are shown only for equipment classes that have significant volume of shipments and, therefore, were directly analyzed. See chapter 5 of the final rule technical support document, ''Engineering Analysis,'' for a detailed discussion of equipment classes analyzed.

** LCC savings and PBP results for these classes are weighted averages of the typical units modeled for the large classes, using weights provided in TSD chapter 7.

B. Impact on Manufacturers [6]

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from 2015 through the end of the analysis period in 2047. Using a real discount rate of 9.2 percent, DOE estimates that the INPV for manufacturers of automatic commercial ice makers is $121.6 million in 2013$. Under the amended standards, DOE expects that manufacturers may lose up to 12.5 percent of their INPV, or approximately $15.1 million.

C. National Benefits and Costs

DOE's analyses indicate that the amended standards for automatic commercial ice makers would save a significant amount of energy. The lifetime energy savings for equipment purchased in the 30-year period that begins in the year of compliance with amended and new standards (2018–2047), [7] relative to the base case without amended standards, amount to 0.18 quadrillion British thermal units (quads) of cumulative energy. This represents a savings of 8 percent relative to the energy use of these products in the base case.

The cumulative national net present value (NPV) of total customer savings of the amended standards for automatic commercial ice makers in 2013$ ranges from $0.430 billion (at a 7-percent discount rate) to $0.942 billion (at a 3-percent discount rate [8]). This NPV expresses the estimated total value of future operating cost savings minus the estimated increased installed costs for equipment purchased in the period from 2018–2047, discounted back to the current year (2014).

In addition, the amended standards are expected to have significant environmental benefits. The energy savings described above are estimated to result in cumulative emission reductions of 10.9 million metric tons (MMt) [9] of carbon dioxide (CO_2), 16.2 thousand tons of nitrogen oxides (NO_X), 0.1 thousand tons of nitrous oxide (N_2O), 47.4 thousand tons of methane (CH_4), 0.03 tons of mercury (Hg),[10] and 9.3 thousand tons of sulfur dioxide (SO_2) based on energy savings from equipment purchased over the period from 2018–2047.[11] The cumulative reduction in CO_2 emissions through 2030 amounts to 4 MMt, which is equivalent to the emissions resulting from the annual electricity use of over half a million homes.

The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 (otherwise known as the social cost of carbon, or SCC) developed by a recent Federal interagency process.[12] The derivation of the SCC value is discussed in section IV.L. Using discount rates appropriate for each set of SCC values, DOE estimates the net present monetary value of the CO_2 emissions reduction is between $0.08 and $1.11 billion, expressed in 2013$ and discounted to 2014, with a value of $0.36 billion using the central SCC case represented by $40.5/t in 2015. DOE also estimates the net present monetary value of the NO_X emissions reduction, expressed in 2013$ and discounted to 2014, is between $2.1 and $22.0 million at a 7-percent discount rate, and between $4.2 and $43.4 million at a 3-percent discount rate.[13]

Table I.4 summarizes the national economic costs and benefits expected to result from these new and amended standards for automatic commercial ice makers.

[6] All dollar values presented are in 2013$ discounted back to the year 2014.

[7] The standards analysis period for national benefits covers the 30-year period, plus the life of equipment purchased during the period. 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.

[8] These discount rates are used in accordance with the Office of Management and Budget (OMB) guidance to Federal agencies on the development of regulatory analysis (OMB Circular A–4, September 17, 2003), and section E, ''Identifying and Measuring Benefits and Costs,'' therein. Further details are provided in section IV.J.

[9] A metric ton is equivalent to 1.1 U.S. short tons. Results for NO_X, Hg, and SO_2 are presented in short tons.

[10] DOE calculates emissions reductions relative to the *Annual Energy Outlook 2014* (*AEO2014*) Reference Case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of October 31, 2013.

[11] DOE also estimated CO_2 and CO_2 equivalent (CO_2eq) emissions that occur through 2030 (CO_2eq includes greenhouse gases such as CH_4 and N_2O). The estimated emissions reductions through 2030 are 3.9 million metric tons CO_2, 395 thousand tons CO_2eq for CH_4, and 12 thousand tons CO_2eq for N_2O.

[12] *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*

[13] DOE has decided to await further guidance regarding consistent valuation and reporting of Hg emissions before it monetizes Hg in its rulemakings.

TABLE I.4—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF AMENDED AUTOMATIC COMMERCIAL ICE MAKERS ENERGY CONSERVATION STANDARDS *

Category	Present value million 2013$	Discount rate (%)
Benefits		
Operating Cost Savings	654	7
	1,353	3
CO_2 at 5% dr, average	80	5
CO_2 at 3% dr, average	361	3
CO_2 at 2.5% dr, average	570	2.5
CO_2 at 3% dr, 95th perc	1,113	3
NO_X Reduction Monetized Value (at $2,684/Ton) **	12	7
	24	3
Total Benefits †	1,027	7
	1,738	3
Costs		
Incremental Installed Costs	224	7
	411	3
Net Benefits		
Including CO_2 and NO_X Reduction Monetized Value	803	7
	1,326	3

* The CO_2 values represent global monetized values of the SCC in 2013$ in year 2015 under several scenarios. The values of $12, $40.5, and $62.4 per metric ton (t) are the averages of SCC distributions calculated using 5-percent, 3-percent, and 2.5-percent discount rates, respectively. The value of $119.0/t represents the 95th percentile of the SCC distribution calculated using a 3-percent discount rate. The SCC time series used by DOE incorporate an escalation factor.

** The value represents the average of the low and high NO_X values used in DOE's analysis.

† Total Benefits for both the 3-percent and the 7-percent cases are derived using the series corresponding to SCC value of $40.5/t.

The benefits and costs of these new and amended standards, for automatic commercial ice makers sold in 2018–2047, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from the operation of equipment that meets the amended standards (consisting primarily of operating cost savings from using less energy and water, minus increases in equipment installed cost, which is another way of representing customer NPV); and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[14]

Although adding the values of operating savings to the values of emission reductions provides an important 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, whereas the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured over the lifetimes of automatic commercial ice makers shipped from 2018 to 2047. The SCC values, on the other hand, reflect the present value of some future climate-related impacts resulting from the emission of 1 ton of CO_2 in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the amended standards are shown in Table I.5. (All monetary values below are expressed in 2013$.) Table I.5 shows the primary, low net benefits, and high net benefits scenarios. The primary estimate is the estimate in which the operating cost savings were calculated using the *Annual Energy Outlook 2014* (*AEO2014)* Reference Case forecast of future electricity prices. The low net benefits estimate and the high net benefits estimate are based on the low and high electricity price scenarios from the *AEO2014* forecast, respectively.[15] Using a 7-percent discount rate for benefits and costs, the cost in the primary estimate of the standards amended in this rule is $22 million per year in increased equipment costs. (Note that DOE used a 3-percent discount rate along with the corresponding SCC series value of $40.5/ton in 2013$ to calculate the monetized value of CO_2 emissions reductions.) The annualized benefits are $65 million per year in reduced equipment operating costs, $20 million in CO_2 reductions, and $1.19 million in reduced NO_X emissions. In this case, the annualized net benefit amounts to $64 million. At a 3-percent discount rate for all benefits and costs, the cost in the primary estimate of the amended standards presented in this rule is $23 million per year in increased equipment costs. The benefits are $75 million per year in reduced operating costs, $20 million in CO_2 reductions, and $1.33 million in reduced NO_X emissions. In this case, the net benefit amounts to $74 million per year.

DOE also calculated the low net benefits and high net benefits estimates

[14] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2014, the year used for discounting the NPV of total consumer costs and savings, for the time-series of costs and benefits using discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table I.4. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2018 through 2047) that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

[15] The *AEO2014* scenarios used are the ''High Economics'' and ''Low Economics'' scenarios.

by calculating the operating cost savings and shipments at the *AEO2014* low economic growth case and high economic growth case scenarios, respectively. The low and high benefits for incremental installed costs were derived using the low and high price learning scenarios. The net benefits and costs for low and high net benefits estimates were calculated in the same manner as the primary estimate by using the corresponding values of operating cost savings and incremental installed costs.

TABLE I.5—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDARDS FOR AUTOMATIC COMMERCIAL ICE MAKERS *

	Discount rate (%)	Primary estimate* million 2013$	Low net benefits estimate* million 2013$	High net benefits estimate* million 2013$
Benefits				
Operating Cost Savings	7	65	62	68
	3	75	71	80
CO_2 at 5% dr, average**	5	6	6	6
CO_2 at 3% dr, average**	3	20	20	21
CO_2 at 2.5% dr, average**	2.5	29	28	30
CO_2 at 3% dr, 95th perc**	3	62	60	64
NO_X Reduction Monetized Value (at $2,684/Ton)**	7	1.19	1.16	1.22
	3	1.33	1.29	1.36
Total Benefits (Operating Cost Savings, CO_2 Reduction and NO_X Reduction)†	7	86	82	90
	3	97	92	102
Costs				
Total Incremental Installed Costs	7	22	23	21
	3	23	24	22
Net Benefits Less Costs				
Total Benefits Less Incremental Costs	7	64	60	69
	3	74	68	80

* The primary, low, and high estimates utilize forecasts of energy prices from the *AEO2014* Reference Case, Low Economic Growth Case, and High Economic Growth Case, respectively.

** These values represent global values (in 2013$) of the social cost of CO_2 emissions in 2015 under several scenarios. The values of $12, $40.5, and $62.4 per ton are the averages of SCC distributions calculated using 5-percent, 3-percent, and 2.5-percent discount rates, respectively. The value of $119.0 per ton represents the 95th percentile of the SCC distribution calculated using a 3-percent discount rate. See section IV.L for details. For NO_X, an average value ($2,684) of the low ($476) and high ($4,893) values was used.

† Total monetary benefits for both the 3-percent and 7-percent cases utilize the central estimate of social cost of NO_X and CO_2 emissions calculated at a 3-percent discount rate (averaged across three integrated assessment models), which is equal to $40.5/ton (in 2013$).

D. Conclusion

Based on the analyses culminating in this final rule, DOE found the benefits to the nation of the amended standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, and emission reductions) outweigh the burdens (loss of INPV and LCC increases for some users of this equipment). DOE has concluded that the standards in this final rule represent the maximum improvement in energy efficiency that is both technologically feasible and economically justified, and would result in significant conservation of energy. (42 U.S.C. 6295(o), 6313(d)(4))

II. Introduction

The following section briefly discusses the statutory authority underlying this final rule, as well as some of the relevant historical background related to the establishment of amended standards for automatic commercial ice makers.

A. Authority

Title III, Part C [16] of EPCA, Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, a program covering certain industrial equipment, which includes automatic commercial ice makers, the focus of this rule.[17]

EPCA prescribed energy conservation standards for automatic commercial ice makers that produce cube type ice with capacities between 50 and 2,500 lb ice/24 hours. (42 U.S.C. 6313(d)(1)) EPCA requires DOE to review these standards and determine, by January 1, 2015, whether amending the applicable standards is technically feasible and economically justified. (42 U.S.C. 6313(d)(3)(A)) If amended standards are technically feasible and economically justified, DOE must issue a final rule by the same date. (42 U.S.C. 6313(d)(3)(B)) Additionally, EPCA granted DOE the authority to conduct rulemakings to establish new standards for automatic commercial ice makers not covered by 42 U.S.C. 6313(d)(1)), and DOE is using that authority in this rulemaking. (42 U.S.C. 6313(d)(2)(A))

Pursuant to EPCA, DOE's energy conservation program for covered equipment generally consists of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. For automatic commercial ice makers, DOE is responsible for the entirety of this program. Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each type or class of covered equipment. (42 U.S.C. 6314) Manufacturers of covered equipment

[16] For editorial reasons, upon codification in the U.S. Code, Part C was re-designated Part A–1.

[17] All references to EPCA in this document refer to the statute as amended through the American Energy Manufacturing Technical Corrections Act (AEMTCA), Public Law 112–210 (Dec. 18, 2012).

must use the prescribed DOE test procedure as the basis for certifying to DOE that their equipment complies with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of that equipment. (42 U.S.C. 6315(b), 6295(s)) Similarly, DOE must use these test procedures to determine whether that equipment complies with standards adopted pursuant to EPCA. The DOE test procedure for automatic commercial ice makers currently appears at title 10 of the Code of Federal Regulations (CFR) part 431, subpart H.

DOE must follow specific statutory criteria for prescribing amended standards for covered equipment. As indicated above, any amended standard for covered equipment must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 6313(d)(4)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3) and 6313(d)(4)) DOE also may not prescribe a standard: (1) For certain equipment, including automatic commercial ice makers, if no test procedure has been established for the product; or (2) if DOE determines, by rule that such standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B) and 6313(d)(4)) In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i) and 6313(d)(4)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of the equipment subject to the standard;
2. The savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered equipment that are likely to result from the imposition of the standard;
3. The total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard;
4. Any lessening of the utility or the performance of the covered equipment likely to result from the imposition of the standard;
5. The impact of any lessening of competition, as determined in writing by the U.S. Attorney General (Attorney General), that is likely to result from the imposition of the standard;
6. The need for national energy and water conservation; and
7. Other factors the Secretary considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII) and 6313(d)(4))

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of covered equipment. (42 U.S.C. 6295(o)(1) and 6313(d)(4)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4) and 6313(d)(4))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. 42 U.S.C. 6295(o)(2)(B)(iii) and 6313(d)(4) Section III.E.2 presents additional discussion about the rebuttable presumption payback period.

Additionally, 42 U.S.C. 6295(q)(1) and 6316(a) specifies requirements when promulgating a standard for a type or class of covered equipment that has two or more subcategories that may justify different standard levels. DOE must specify a different standard level than that which applies generally to such type or class of equipment for any group of covered products that has the same function or intended use if DOE determines that products within such group (A) consume a different kind of energy from that consumed by other covered equipment within such type (or class); or (B) have a capacity or other performance-related feature that other equipment within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) and 6316(a)) In determining whether a performance-related feature justifies a different standard for a group of equipment, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2)) and 6316(a))

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c) and 6316(f)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations in accordance with the test procedures and other provisions set forth under 42 U.S.C. 6297(d) and 6316(f).

B. Background

1. Current Standards

In a final rule published on October 18, 2005, DOE adopted the energy conservation standards and water conservation standards prescribed by EPCA in 42 U.S.C. 6313(d)(1) for certain automatic commercial ice makers manufactured on or after January 1, 2010. 70 FR 60407, 60415–16. These standards consist of maximum energy use and maximum condenser water use to produce 100 pounds of ice for automatic commercial ice makers with harvest rates between 50 and 2,500 lb ice/24 hours. These standards appear at 10 CFR part 431, subpart H, Automatic Commercial Ice Makers. Table II.1 presents DOE's current energy conservation standards for automatic commercial ice makers.

TABLE II.1—AUTOMATIC COMMERCIAL ICE MAKERS STANDARDS PRESCRIBED BY EPCA—COMPLIANCE REQUIRED BEGINNING ON JANUARY 1, 2010

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kWh/100 lb ice	Maximum condenser water use * gal/100 lb ice
Ice-Making Head	Water	<500	7.8–0.0055H **	200–0.022H.**
		≥500 and <1,436	5.58–0.0011H	200–0.022H.

TABLE II.1—AUTOMATIC COMMERCIAL ICE MAKERS STANDARDS PRESCRIBED BY EPCA—COMPLIANCE REQUIRED BEGINNING ON JANUARY 1, 2010—Continued

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kWh/100 lb ice	Maximum condenser water use * gal/100 lb ice
		≥1,436	4.0	200–0.022H.
	Air	<450	10.26–0.0086H	Not Applicable.
		≥450	6.89–0.0011H	Not Applicable.
Remote Condensing (but not remote compressor)	Air	<1,000	8.85–0.0038H	Not Applicable.
		≥1,000	5.10	Not Applicable.
Remote Condensing and Remote Compressor	Air	<934	8.85–0.0038H	Not Applicable.
		≥934	5.30	Not Applicable.
Self-Contained	Water	<200	11.4–0.019H	191–0.0315H.
		≥200	7.60	191–0.0315H.
	Air	<175	18.0–0.0469H	Not Applicable.
		≥175	9.80	Not Applicable.

Source: 42 U.S.C. 6313(d).
* Water use is for the condenser only and does not include potable water used to make ice.
** H = harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate.

2. History of Standards Rulemaking for Automatic Commercial Ice Makers

As stated above, EPCA prescribes energy conservation standards and water conservation standards for certain cube type automatic commercial ice makers with harvest rates between 50 and 2,500 lb ice/24 hours: Self-contained ice makers and ice-making heads (IMHs) using air or water for cooling and ice makers with remote condensing with or without a remote compressor. Compliance with these standards was required as of January 1, 2010. (42 U.S.C. 6313(d)(1)) DOE adopted these standards and placed them under 10 CFR part 431, subpart H, Automatic Commercial Ice Makers.

In addition, EPCA requires DOE to conduct a rulemaking to determine whether to amend the standards established under 42 U.S.C. 6313(d)(1), and if DOE determines that amendment is warranted, DOE must also issue a final rule establishing such amended standards by January 1, 2015. (42 U.S.C. 6313(d)(3)(A))

Furthermore, EPCA granted DOE authority to set standards for additional types of automatic commercial ice makers that are not covered in 42 U.S.C. 6313(d)(1). (42 U.S.C. 6313(d)(2)(A)) Additional types of automatic commercial ice makers DOE identified as candidates for standards to be established in this rulemaking include flake and nugget, as well as batch type ice makers that are not included in the EPCA definition of cube type ice makers.

To satisfy its requirement to conduct a rulemaking, DOE initiated the current rulemaking on November 4, 2010 by publishing on its Web site its ''Rulemaking Framework for Automatic Commercial Ice Makers.'' The Framework document is available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0037-0024.*

DOE also published a notice in the **Federal Register** announcing the availability of the Framework document, as well as a public meeting to discuss the document. The notice also solicited comment on the matters raised in the document. 75 FR 70852 (Nov. 19, 2010). The Framework document described the procedural and analytical approaches that DOE anticipated using to evaluate amended standards for automatic commercial ice makers, and identified various issues to be resolved in the rulemaking.

DOE held the Framework public meeting on December 16, 2010, at which it: (1) Presented the contents of the Framework document; (2) described the analyses it planned to conduct during the rulemaking; (3) sought comments from interested parties on these subjects; and (4) in general, sought to inform interested parties about, and facilitate their involvement in, the rulemaking. Major issues discussed at the public meeting included: (1) The scope of coverage for the rulemaking; (2) equipment classes; (3) analytical approaches and methods used in the rulemaking; (4) impacts of standards and burden on manufacturers; (5) technology options; (6) distribution channels, shipments, and end users; (7) impacts of outside regulations; and (8) environmental issues. At the meeting and during the comment period on the Framework document, DOE received many comments that helped it identify and resolve issues pertaining to automatic commercial ice makers relevant to this rulemaking.

DOE then gathered additional information and performed preliminary analyses to help review standards for this equipment. This process culminated in DOE publishing a notice of another public meeting (the January 2012 notice) to discuss and receive comments regarding the tools and methods DOE used in performing its preliminary analysis, as well as the analyses results. 77 FR 3404 (Jan. 24, 2012) DOE also invited written comments on these subjects and announced the availability on its Web site of a preliminary analysis technical support document (preliminary analysis TSD). *Id.* The preliminary analysis TSD is available at: *www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0037-0026.* DOE sought comments concerning other relevant issues that could affect amended standards for automatic commercial ice makers. *Id.*

The preliminary analysis TSD provided an overview of DOE's review of the standards for automatic commercial ice makers, discussed the comments DOE received in response to the Framework document, and addressed issues including the scope of coverage of the rulemaking. The document also described the analytical framework that DOE used (and continues to use) in considering amended standards for automatic commercial ice makers, including a description of the methodology, the analytical tools, and the relationships between the various analyses that are part of this rulemaking. Additionally, the preliminary analysis TSD presented in detail each analysis that DOE had performed for this equipment up to that point, including descriptions of inputs, sources, methodologies, and results. These analyses were as follows: (1) A market and technology assessment, (2) a screening analysis, (3) an engineering analysis, (4) an energy and water use analysis, (5) a markups analysis, (6) a

life-cycle cost analysis, (7) a payback period analysis, (8) a shipments analysis, (9) a national impact analysis (NIA) and (10) a preliminary manufacturer impact analysis (MIA).

The public meeting announced in the January 2012 notice took place on February 16, 2012 (February 2012 preliminary analysis public meeting). At the February 2012 preliminary analysis public meeting, DOE presented the methodologies and results of the analyses set forth in the preliminary analysis TSD. Interested parties provided comments on the following issues: (1) Equipment classes; (2) technology options; (3) energy modeling and validation of engineering models; (4) cost modeling; (5) market information, including distribution channels and distribution markups; (6) efficiency levels; (7) life-cycle costs to customers, including installation, repair and maintenance costs, and water and wastewater prices; and (8) historical shipments.

On March 17, 2014, DOE published a notice of proposed rulemaking (NOPR) in the **Federal Register** (March 2014 NOPR). 79 FR 14846. In the March 2014 NOPR, DOE addressed, in detail, the comments received in earlier stages of rulemaking, and proposed amended energy conservation standards for automatic commercial ice makers. In conjunction with the March 2014 NOPR, DOE also published on its Web site the complete technical support document (TSD) for the proposed rule, which incorporated the analyses DOE conducted and technical documentation for each analysis. Also published on DOE's Web site were the engineering analysis spreadsheets, the LCC spreadsheet, and the national impact analysis standard spreadsheet. These materials are available at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/29.*

The standards which DOE proposed for automatic commercial ice makers at the NOPR stage of this rulemaking are shown in Table II.2 and Table II.3. They are provided solely for background informational purposes and differ from the amended standards set forth in this final rule.

TABLE II.2—PROPOSED ENERGY CONSERVATION STANDARDS FOR BATCH TYPE AUTOMATIC COMMERCIAL ICE MAKERS

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kilowatt-hours (kWh)/100 lb ice *	Maximum condenser water use gal/100 lb ice **
Ice-Making Head	Water	<500	5.84—0.0041H	200–0.022H.
		≥500 and <1,436	3.88—0.0002H	200–0.022H.
		≥1,436 and <2,500	3.6	200–0.022H.
		≥2,500 and <4,000	3.6	145.
Ice-Making Head	Air	<450	7.70—0.0065H	NA.
		≥450 and <875	5.17—0.0008H	NA.
		≥875 and <2,210	4.5	NA.
		≥2,210 and <2,500	6.89—0.0011H	NA.
		≥2,500 and <4,000	4.1	NA.
Remote Condensing (but not remote compressor)	Air	<1,000	7.52—0.0032H	NA.
	Air	≥1,000 and <4,000	4.3	NA.
Remote Condensing and Remote Compressor	Air	<934	7.52—0.0032H	NA.
	Air	≥934 and <4,000	4.5	NA.
Self-Contained	Water	<200	8.55—0.0143H	191–0.0315H.
		≥200 and <2,500	5.7	191–0.0315H.
		≥2,500 and <4,000	5.7	112.
Self-Contained	Air	<175	12.6—0.0328H	NA.
		≥175 and <4,000	6.9	NA.

* H = Harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate. Source: 42 U.S.C. 6313(d).
** Water use is for the condenser only and does not include potable water used to make ice.

TABLE II.3—PROPOSED ENERGY CONSERVATION STANDARDS FOR CONTINUOUS TYPE AUTOMATIC COMMERCIAL ICE MAKERS

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kWh/100 lb ice *	Maximum condenser water use gal/100 lb ice **
Ice-Making Head	Water	<900	6.08—0.0025H	160–0.0176H.
		≥900 and <2,500	3.8	160–0.0176H.
		≥2,500 and <4,000	3.8	116.
Ice-Making Head	Air	<700	9.24—0.0061H	NA.
		≥700 and <4,000	5.0	NA.
Remote Condensing (but not remote compressor)	Air	<850	7.5—0.0034H	NA.
		≥850 and <4,000	4.6	NA.
Remote Condensing and Remote Compressor	Air	<850	7.65—0.0034H	NA.
		≥850 and <4,000	4.8	NA.
Self-Contained	Water	<900	7.28—0.0027H	153–0.0252H.
		≥900 and <2,500	4.9	153–0.0252H.
		≥2,500 and <4,000	4.9	90.
Self-Contained	Air	<700	9.2—0.0050H	NA.
		≥700 and <4,000	5.7	NA.

* H = Harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate. Source: 42 U.S.C. 6313(d).
** Water use is for the condenser only and does not include potable water used to make ice.

In the March 2014 NOPR, DOE identified nineteen issues on which it was particularly interested in receiving comments and views of interested parties: Standards compliance dates, utilization factors, baseline efficiency, screening analysis, maximum technology feasibility, markups, equipment life, installation costs, open- vs closed loop installations, ice maker shipments by type of equipment, intermittency of manufacturer R&D and impact of standards, INPV results and impact of standards, small businesses, consumer utility and performance, analysis period, social cost of carbon, remote to rack equipment, design options associated with each TSD, and standard levels for batch type ice makers over 2,500 lb ice/hour. 79 FR 14846 at 14947–49. After the publication of the March 2014 NOPR, DOE received written comments on these and other issues. DOE also held a public meeting in Washington, DC, on April 14, 2014, to discuss and receive comments regarding the tools and methods DOE used in the NOPR analysis, as well as the results of the analysis. DOE also invited written comments and announced the availability of a NOPR analysis technical support document (NOPR TSD). The NOPR TSD is available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0037-0061*.

The NOPR TSD described in detail DOE's analysis of potential standard levels for automatic commercial ice makers. The document also described the analytical framework used in considering standard levels, including a description of the methodology, the analytical tools, and the relationships between the various analyses. In addition, the NOPR TSD presented each analysis that DOE performed to evaluate automatic commercial ice makers, including descriptions of inputs, sources, methodologies, and results. DOE included the same analyses that were conducted at the preliminary analysis stage, with revisions based on comments received and additional research.

At the public meeting held on April 14, 2014, DOE presented the methodologies and results of the analyses set for in the NOPR TSD. Interested parties provided comments. Key issues raised by stakeholders included: (1) Whether the energy model accurately predicts efficiency improvements; (2) the size restrictions and applications of 22-inch wide ice makers; (3) the efficiency distributions assumed for shipments of icemakers; and (4) the impact on manufacturers relating to design of icemaker models, in light of the proposed compliance date of 3 years after publication of the final rule.

In response to comments regarding the energy model used in the analysis, DOE held a public meeting on June 19, 2014 in order to facilitate an additional review of the energy model, gather additional feedback and data on the energy model, and to allow for a more thorough explanation of DOE's use of the model in the engineering analysis. 79 FR 33877 (June 13, 2014). At that meeting, DOE presented the energy model, demonstrated its operations, and described how it was used in the rulemaking's engineering analysis. DOE indicated in this meeting that it was considering modifications to its NOPR analyses based on the NOPR comments and additional research and information gathering.

On September 11, 2014, DOE published a notice of data availability (NODA) in the **Federal Register** (September 2014 NODA). 79 FR 54215. The purpose of the September 2014 NODA was to notify industry, manufacturers, customer groups, efficiency advocates, government agencies, and other stakeholders of the publication of the updated rulemaking analysis for new and/or amended energy conservation standards for automatic ice makers. The comments received since the publication of the March 2014 NOPR, including those received at the April 2014 and the June 2014 public meetings, provided inputs which led DOE to revise its analysis. Stakeholders also submitted additional information to DOE's consultant pursuant to non-disclosure agreements regarding efficiency gains and costs of potential design options. DOE reviewed additional market data, including published ratings of available ice makers, to recalibrate its engineering analysis. Generally, the revisions to the NOPR analysis as specified in the NODA include modifications of inputs for its engineering, LCC, and NIA analyses, adjustments of its energy model calculations, and more thorough considerations of size-constrained ice maker applications. The analysis revisions addressing size-constrained applications include development of engineering analyses for three size-constrained equipment categories and restructuring of the LCC and NIA analyses to consider size constraints for applicable equipment classes. DOE encouraged stakeholders to provide comments and additional information in response to the September NODA publication.

This final rule responds to the issues raised by commenters for the March 2014 NOPR and the September 2014 NODA.[18]

III. General Discussion

A. Equipment Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered equipment into equipment classes by the type of energy use or by capacity or other performance-related features that justifies a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q)) and 6316(a))

Throughout this rulemaking, DOE's analysis has been based on a set of equipment classes derived from the existing DOE batch commercial ice maker standards, effective as of January 1, 2010 (42 U.S.C. 6313(d)(1)) and review of the existing ice maker market. These equipment classes form the basis of analysis and public comments. In this final rule, equipment class names are frequently abbreviated. These abbreviations are shown on Table III.1.

TABLE III.1—LIST OF EQUIPMENT CLASS ABBREVIATIONS

Abbreviation	Equipment type	Condenser type	Harvest rate lb ice/24 hours	Ice type
IMH–W–Small–B	Ice-Making Head	Water	<500	Batch.
IMH–W–Med–B	Ice-Making Head	Water	≥500 and <1,436	Batch.

[18] A parenthetical reference at the end of a quotation or paraphrase provides the location of the item in the public record.

TABLE III.1—LIST OF EQUIPMENT CLASS ABBREVIATIONS—Continued

Abbreviation	Equipment type	Condenser type	Harvest rate lb ice/24 hours	Ice type
IMH–W–Large–B *	Ice-Making Head	Water	≥1,436 and <4,000	Batch.
IMH–A–Small–B	Ice-Making Head	Air	<450	Batch.
IMH–A–Large–B * ** (also IMH–A–Large–B–1).	Ice-Making Head	Air	≥450 and <875	Batch.
IMH–A–Extended–B * ** (also IMH–A–Large–B–2).	Ice-Making Head	Air	≥875 and <4,000	Batch.
RCU–NRC–Small–B	Remote Condensing, not Remote Compressor.	Air	<1,000	Batch.
RCU–NRC–Large–B *	Remote Condensing, not Remote Compressor.	Air	≥1,000 and <4,000	Batch.
RCU–RC–Small–B	Remote Condensing, and Remote Compressor.	Air	<934	Batch.
RCU–RC–Large–B	Remote Condensing, and Remote Compressor.	Air	≥934 and <4,000	Batch.
SCU–W–Small–B	Self-Contained Unit	Water	<200	Batch.
SCU–W–Large–B	Self-Contained Unit	Water	≥200 and <4,000	Batch.
SCU–A–Small–B	Self-Contained Unit	Air	<175	Batch.
SCU–A–Large–B	Self-Contained Unit	Air	≥175 and <4,000	Batch.
IMH–W–Small–C	Ice-Making Head	Water	<900	Continuous.
IMH–W–Large–C	Ice-Making Head	Water	≥900 and <4,000	Continuous.
IMH–A–Small–C	Ice-Making Head	Air	<700	Continuous.
IMH–A–Large–C	Ice-Making Head	Air	≥700 and <4,000	Continuous.
RCU–NRC–Small–C	Remote Condensing, not Remote Compressor.	Air	<850	Continuous.
RCU–NRC–Large–C	Remote Condensing, not Remote Compressor.	Air	≥850 and <4,000	Continuous.
RCU–RC–Small–C	Remote Condensing, and Remote Compressor.	Air	<850	Continuous.
RCU–RC–Large–C	Remote Condensing, and Remote Compressor.	Air	≥850 and <4,000	Continuous.
SCU–W–Small–C	Self-Contained Unit	Water	<900	Continuous.
SCU–W–Large–C	Self-Contained Unit	Water	≥900 and <4,000	Continuous.
SCU–A–Small–C	Self-Contained Unit	Air	<700	Continuous.
SCU–A–Large–C	Self-Contained Unit	Air	≥700 and <4,000	Continuous.

* IMH–W–Large–B, IMH–A–Large–B, and RCU–NRC–Large–B were modeled in some final analyses as two different units, one at the lower end of the harvest range and one near the high end of the harvest range in which a significant number of units are available. In the LCC and NIA models, the low and high harvest rate models were denoted simply as B–1 and B–2. Where appropriate, the analyses add or perform weighted averages of the two typical sizes to present class level results.

** IMH–A–Large–B was established by EPACT–2005 as a class between 450 and 2,500 lb ice/24 hours. In this rule, DOE analyzed this class as two ranges, which could either be considered ''Large'' and ''Very Large'' or ''Medium'' and ''Large.'' In the LCC and NIA modeling, this was denoted as B–1 and B–2.

B. Test Procedure

On December 8, 2006, DOE published a final rule in which it incorporated by reference Air-Conditioning and Refrigeration Institute (ARI) Standard 810–2003, ''Performance Rating of Automatic Commercial Ice Makers,'' with a revised method for calculating energy use, as the DOE test procedure for this equipment. 71 FR 71340. The DOE rule included a clarification to the energy use rate equation to specify that the energy use be calculated using the entire mass of ice produced during the testing period, normalized to 100 lb ice produced. *Id.* at 71350. ARI Standard 810–2003 requires performance tests to be conducted according to the American National Standards Institute (ANSI)/American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 29–1988 (reaffirmed 2005), ''Method of Testing Automatic Ice Makers.'' The DOE test procedure also incorporated by reference the ANSI/ASHRAE Standard 29–1988 (Reaffirmed 2005) as the method of test.

On January 11, 2012, DOE published a test procedure final rule (2012 test procedure final rule) in which it adopted several amendments to the DOE test procedure. 77 FR 1591. The 2012 test procedure final rule included an amendment to incorporate by reference Air-Conditioning, Heating, and Refrigeration Institute (AHRI) Standard 810–2007 with Addendum 1 [19] as the DOE test procedure for this equipment. AHRI Standard 810–2007 with Addendum 1 amends ARI Standard 810–2003 to expand the capacity range of covered equipment, provide definitions and specific test procedures for batch and continuous type ice makers, provide a definition for ice hardness factor, and incorporate several new or amended definitions regarding how water consumption and capacity are measured, particularly for continuous type machines. 77 FR at 1592–93. The 2012 test procedure final rule also included an amendment to incorporate by reference the updated ANSI/ASHRAE Standard 29–2009. *Id.* at 1613.

In addition, the 2012 test procedure final rule included several amendments designed to address issues that were not accounted for by the previous DOE test procedure. 77 FR at 1593 (Jan. 11, 2012). First, DOE expanded the scope of the test procedure to include equipment with capacities from 50 to 4,000 lb ice/24 hours.[20] DOE also adopted

[19] In March 2011, AHRI published Addendum 1 to Standard 810–2007, which revised the definition of ''potable water use rate'' and added new definitions for ''purge or dump water'' and ''harvest water.''

[20] EPCA defines *automatic commercial ice maker* under 42 U.S.C. 6311(19) as ''a factory-made assembly (not necessarily shipped in 1 package) that—(A) Consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and (B) May include means for storing ice, dispensing ice, or storing and dispensing ice.'' 42 U.S.C. 6313(d)(1) explicitly sets standards for cube type ice makers up to 2,500 lb ice/24 hours, however, 6313(d)(2) establishes authority to set standards for other equipment types, such as those with capacities greater than 2,500 lb ice/24 hours, provided the equipment types meet the EPCA definition of an automatic commercial ice maker.

amendments to provide test methods for continuous type ice makers and to standardize the measurement of energy and water use for continuous type ice makers with respect to ice hardness. In the 2012 test procedure final rule, DOE also clarified the test method and reporting requirements for remote condensing automatic commercial ice makers designed for connection to remote compressor racks. Finally, the 2012 test procedure final rule discontinued the use of the clarified energy use rate calculation and instead required energy-use to be calculated per 100 lb ice as specified in ANSI/ASHRAE Standard 29–2009. The 2012 test procedure final rule became effective on February 10, 2012, and the changes set forth in the final rule became mandatory for equipment testing starting January 7, 2013. 77 FR 1591.

The test procedure amendments established in the 2012 test procedure final rule are required to be used in conjunction with new and amended standards promulgated as a result of this standards rulemaking. Thus, manufacturers must use the amended test procedure to demonstrate compliance with the new and amended energy conservation standards on the compliance date of any energy conservation standards established as part of this rulemaking. 77 FR at 1593 (Jan. 11, 2012).

C. Technological Feasibility

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis, which is based on information that the Department has gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such analysis, DOE develops a list of design options for consideration, in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of these options for improving efficiency are technologically feasible. DOE considers a design option to be technologically feasible if it is used by the relevant industry or if a working prototype has been developed. Technologies incorporated in commercially available equipment or in working prototypes were considered technologically feasible. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(i) Although DOE considers technologies that are proprietary, it will not consider efficiency levels that can only be reached through the use of proprietary technologies (*i.e.,* a unique pathway), which could allow a single manufacturer to monopolize the market.

Once DOE has determined that particular design options are technologically feasible, DOE further evaluates each of these design options in light of the following additional screening criteria: (1) Practicability to manufacture, install, or service; (2) adverse impacts on 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) Chapter 4 of the final rule TSD discusses the results of the screening analyses for automatic commercial ice makers. Specifically, it presents the designs DOE considered, those it screened out, and those that are the bases for the TSLs considered in this rulemaking.

2. Maximum Technologically Feasible Levels

When DOE adopts (or does not adopt) an amended or new energy conservation standard for a type or class of covered equipment such as automatic commercial ice makers, it determines the maximum improvement in energy efficiency that is technologically feasible for such equipment. (*See* 42 U.S.C. 6295(p)(1) and 6313(d)(4)) Accordingly, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for automatic commercial ice makers in the engineering analysis using the design options that passed the screening analysis.

As indicated previously, whether efficiency levels exist or can be achieved in commonly used equipment is not relevant to whether they are considered max-tech levels. DOE considers technologies to be technologically feasible if they are incorporated in any currently available equipment or working prototypes. Hence, a max-tech level results from the combination of design options predicted to result in the highest efficiency level possible for an equipment class, with such design options consisting of technologies already incorporated in automatic commercial ice makers or working prototypes. DOE notes that it reevaluated the efficiency levels, including the max-tech levels, when it updated its results for the NODA and final rule. See chapter 5 of the final rule TSD for the results of the analyses and a list of technologies included in max-tech equipment. Table III.2 and Table III.3 shows the max-tech levels determined in the engineering analysis for batch and continuous type automatic commercial ice makers, respectively.

TABLE III.2—FINAL RULE ''MAX-TECH'' LEVELS FOR BATCH AUTOMATIC COMMERCIAL ICE MAKERS

Equipment type *	Energy use lower than baseline
IMH–W–Small–B	23.9%, 21.5% (22-inch wide).
IMH–W–Med–B	18.1%.
IMH–W–Large–B	8.3% (at 1,500 lb ice/24 hours), 7.4% (at 2,600 lb ice/24 hours).
IMH–A–Small–B	25.5%, 18.1% (22-inch wide).
IMH–A–Large–B	23.4% (at 800 lb ice/24 hours), 15.8% (at 590 lb ice/24 hours, 22-inch wide), 11.8% (at 1,500 lb ice/24 hours).
RCU–Small–B	Not directly analyzed.
RCU–Large–B	17.3% (at 1,500 lb ice/24 hours), 13.9% (at 2,400 lb ice/24 hours).
SCU–W–Small–B	Not directly analyzed.
SCU–W–Large–B	29.8%.
SCU–A–Small–B	32.7%.
SCU–A–Large–B	29.1%.

* IMH is ice-making head; RCU is remote condensing unit; SCU is self-contained unit; W is water-cooled; A is air-cooled; Small refers to the lowest harvest category; Med refers to the Medium category (water-cooled IMH only); Large refers to the large size category; RCU units were modeled as one with line losses used to distinguish standards.

Note: For equipment classes that were not analyzed, DOE did not develop specific cost-efficiency curves but attributed the curve (and maximum technology point) from one of the analyzed equipment classes.

TABLE III.3—FINAL RULE "MAX-TECH" LEVELS FOR CONTINUOUS AUTOMATIC COMMERCIAL ICE MAKERS

Equipment type *	Energy use lower than baseline
IMH–W–Small–C	Not directly analyzed.
IMH–W–Large–C	Not directly analyzed.
IMH–A–Small–C	25.7%.
IMH–A–Large–C	23.3% lb ice.
RCU–Small–C	26.6%.
RCU–Large–C	Not directly analyzed.
SCU–W–Small–C	Not directly analyzed.
SCU–W–Large–C *	No units available.
SCU–A–Small–C	26.6%.
SCU–A–Large–C *	No units available.

* DOE's investigation of equipment on the market revealed that there are no existing products in either of these two equipment classes (as defined in this final rule).

Note: For equipment classes that were not analyzed, DOE did not develop specific cost-efficiency curves but attributed the curve (and maximum technology point) from one of the analyzed equipment classes.

D. Energy Savings

1. Determination of Savings

For each TSL, DOE projected energy savings from automatic commercial ice makers purchased during a 30-year period that begins in the year of compliance with amended standards (2018–2047). The savings are measured over the entire lifetime of products purchased in the 30-year period. DOE used the NIA model to estimate the national energy savings (NES) for equipment purchased over the period 2018–2047. The model forecasts total energy use over the analysis period for each representative equipment class at efficiency levels set by each of the considered TSLs. DOE then compares the energy use at each TSL to the base-case energy use to obtain the NES. The NIA model is described in section IV.H of this rule and in chapter 10 of the final rule TSD.

DOE used its NIA spreadsheet model to estimate energy savings from amended standards for automatic commercial ice makers. The NIA spreadsheet model (described in section IV.H of this preamble) calculates energy savings in site energy, which is the energy directly consumed by products at the locations where they are used.

Because automatic commercial ice makers use water, water savings were quantified in the same way as energy savings.

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) *AEO.*

DOE also has begun to estimate full-fuel-cycle energy savings. 76 FR 51282 (August 18, 2011), as amended by 77 FR 49701 (August 17, 2012). The full-fuel-cycle (FFC) metric includes the energy consumed in extracting, processing, and transporting primary fuels, and thus presents a more complete picture of the impacts of energy efficiency standards. DOE's approach is based on calculations of an FFC multiplier for each of the fuels used by automatic commercial ice makers.

2. Significance of Savings

EPCA prohibits DOE from adopting a standard that would not result in significant additional energy savings. (42 U.S.C. 6295(o)(3)(B) and 6313(d)(4)While the term ''significant'' is not defined in EPCA, the U.S. Court of Appeals for the District of Columbia in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), indicated that Congress intended significant energy savings to be savings that were not ''genuinely trivial.'' The energy savings for all of the TSLs considered in this rulemaking (presented in section V.B.3.a) are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

E. Economic Justification

1. Specific Criteria

As discussed in section III.E.1, EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i) and 6313(d)(4) The following sections generally discuss how DOE is addressing each of those seven factors in this rulemaking. For further details and the results of DOE's analyses pertaining to economic justification, see sections IV and V of this rule.

a. Economic Impact on Manufacturers and Commercial Customers

In determining the impacts of a potential new or amended energy conservation standard on manufacturers, DOE first determines its quantitative impacts using an annual cash flow approach. This includes both a short-term assessment (based on the cost and capital requirements associated with new or amended standards during the period between the announcement of a regulation and the compliance date of the regulation) and a long-term assessment (based on the costs and marginal impacts over the 30-year analysis period). The impacts analyzed include INPV (which values the industry based on expected future cash flows), cash flows by year, changes in revenue and income, and other measures of impact, as appropriate. Second, DOE analyzes and reports the potential impacts on different types of manufacturers, paying particular attention to impacts on small manufacturers. Third, DOE considers the impact of new or amended standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for new or amended standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of other DOE regulations and non-DOE regulatory requirements on manufacturers.

For individual customers, measures of economic impact include the changes in LCC and the PBP associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the economic impacts applicable to a particular rulemaking.

DOE also evaluates the LCC impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a national standard.

b. Savings in Operating Costs Compared To Increase in Price (Life Cycle Costs)

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of the covered product that are likely to result from the imposition of the standard. (42 U.S.C. 6295(o)(2)(B)(i)(II) and 6313(d)(4) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of equipment (including the cost of its installation) and the operating costs (including energy and maintenance and repair costs) discounted over the lifetime of the equipment. To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value. For its analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with amended standards.

The LCC savings and the PBP for the considered efficiency levels are calculated relative to a base-case scenario, which reflects likely trends in the absence of new or amended standards. DOE identifies the percentage of consumers estimated to receive LCC savings or experience an LCC increase, in addition to the average LCC savings associated with a particular standard level. DOE's LCC and PBP analysis is discussed in further detail in section IV.G.

c. Energy Savings

While significant conservation of energy is a statutory requirement for imposing an energy conservation standard, EPCA also requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(III) and 6313(d)(4)) DOE uses NIA spreadsheet results in its consideration of total projected savings. For the results of DOE's analyses related to the potential energy savings, see section IV.H of this preamble and chapter 10 of the final rule TSD.

d. Lessening of Utility or Performance of Equipment

In establishing classes of equipment, and in evaluating design options and the impact of potential standard levels, DOE seeks to develop standards that would not lessen the utility or performance of the equipment under consideration. DOE has determined that none of the TSLs presented in today's final rule would reduce the utility or performance of the equipment considered in the rulemaking. (42 U.S.C. 6295(o)(2)(B)(i)(IV) and 6313(d)(4)) During the screening analysis, DOE eliminated from consideration any technology that would adversely impact customer utility. For the results of DOE's analyses related to the potential impact of amended standards on equipment utility and performance, see section IV.C of this preamble and chapter 4 of the final rule TSD.

e. Impact of Any Lessening of Competition

EPCA requires DOE to consider any lessening of competition that is likely to result from setting new or amended standards for covered equipment. Consistent with its obligations under EPCA, DOE sought the views of the United States Department of Justice (DOJ). DOE asked DOJ to provide a written determination of the impact, if any, of any lessening of competition likely to result from the amended standards, together with an analysis of the nature and extent of such impact. 42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii). DOE transmitted a copy of its proposed rule to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue. DOJ's response, that the proposed energy conservation standards are unlikely to have a significant adverse impact on competition, is reprinted at the end of this rule.

f. Need of the Nation To Conserve Energy

Another factor that DOE must consider in determining whether a new or amended standard is economically justified is the need for national energy and water conservation. (42 U.S.C. 6295(o)(2)(B)(i)(VI) and 6313(d)(4))) The energy savings from new or amended standards are likely to provide improvements to the security and reliability of the Nation's energy system. Reductions in the demand for electricity may also result in reduced costs for maintaining the reliability of the Nation's electricity system. DOE conducts a utility impact analysis to estimate how new or amended standards may affect the Nation's needed power generation capacity, as discussed in section IV.M.

Amended standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with energy production and use. DOE conducts an emissions analysis to estimate how standards may affect these emissions, as discussed in section IV.K. DOE reports the emissions impacts from each TSL it considered, in section V.B.6 of this rule. DOE also estimates the economic value of emissions reductions resulting from the considered TSLs, as discussed in section IV.L.

g. Other Factors

EPCA allows the Secretary, in determining whether a new or amended standard is economically justified, to consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII) and 6313(d)(4)) There were no other factors considered for this final rule.

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii) and 6313(d)(4), EPCA provides for a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the customer of equipment that meets the new or amended standard level is less than three times the value of the first-year energy (and, as applicable, water) savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values that calculate the PBP for customers of potential new and amended energy conservation standards. These analyses include, but are not limited to, the 3-year PBP contemplated under the rebuttable presumption test. However, DOE routinely conducts a full economic analysis that considers the full range of impacts to the customer, manufacturer, Nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i) and 6313(d)(4). The results of these analyses serve as the basis for DOE to evaluate 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.G.12 of this rule and chapter 8 of the final rule TSD.

IV. Methodology and Discussion of Comments

A. General Rulemaking Issues

During the April 2014 and June 2014 public meetings, and in subsequent written comments in response to the NOPR and NODA, stakeholders provided input regarding general issues

pertinent to the rulemaking, such as issues regarding proposed standard levels and the compliance date. These issues are discussed in this section.

1. Proposed Standard Levels

In response to the level proposed in the NOPR (TSL 3), Manitowoc commented that there are significant deficiencies in the models and cost assumptions that were used to arrive at the proposed efficiency levels and that, consequently, the selected levels are not optimal from a life-cycle cost standpoint. (Manitowoc, Public Meeting Transcript, No. 70 at p. 24–26) Follett commented that DOE is recommending efficiency levels that are neither technologically nor economically justified. (Follett, No. 84 at p. 8)

Hoshizaki and Scotsman both recommended DOE select NOPR TSL 1 (Hoshizaki, No. 86 at p. 5–6; Scotsman, Public Meeting Transcript, No. 70 Public Meeting Transcript, at p. 44–46) Scotsman stated that doing so effective 2020 is technologically feasible, economically justified, consistent with past regulations, and will save a significant amount of energy. (Scotsman, Public Meeting Transcript, Public Meeting Transcript, No. 70 at p. 44–46) Although the following comment regarding choosing a standard level mentioned ''ELs,'' efficiency levels, DOE believes Hoshizaki intended that this comment refer to ''TSLs,'' trial standard levels levels and DOE has interpreted the comment accordingly. Hoshizaki stated that NOPR EL1 (interpreted as TSL1) would garner similar savings as NOPR EL3 (interpreted as TSL3) while reducing the burden on the industry to meet such stringent standards in such a short amount of time. (Hoshizaki, No. 86 at p. 5–6)

Scotsman stated that they have not identified technology combinations that are suitable for achieving any efficiency level beyond NOPR TSL 1. (Scotsman, No. 85 at p. 8b) Scotsman added that they do not have data indicating that their machines will be able to meet NOPR TSL 3 using the design options under consideration. (Scotsman, No. 85 at p. 7b)

Pacific Gas and Electric Company (PG&E) and San Diego Gas and Electric Company (SDG&E), commenting jointly, and a group including the Appliance Standards Awareness Project (ASAP), the American Council for an Energy-Efficient Economy (ACEEE), the Alliance to Save Energy, Natural Resources Defense Council (NRDC), and the Northwest Power and Conservation Council (NPCC) (Joint Commenters) both recommended that DOE adopt a higher TSL for ACIMs. (Joint Commenters, No. 87 at p. 1–2; PG&E and SDG&E, No. 89 at p. 1–2) ASAP noted that based on their review of the certification database, there are products existing on the market today that meet the proposed standard levels. (ASAP, Public Meeting Transcript, No. 70 at p. 50–52) Joint Commenters urged DOE to adopt TSL 5 for batch type equipment and TSL 4 for continuous type equipment. (Joint Commenters, No. 87 at p. 1–2) PG&E and SDG&E recommended that DOE adopt the maximum cost-effective TSL for each equipment class noting that DOE could adopt TSLs higher than TSL 3 while maintaining a net benefit to U.S. consumers. (PG&E and SDG&E, No. 89 at p. 1–2)

Although the NODA only provided data regarding the updated analysis and did not propose a standard level, several interested parties provided comment regarding the appropriateness of setting the ACIM energy conservation standard at a given NODA TSL.

In their written comment, Manitowoc stated that the NODA analysis was an improvement over the original NOPR analysis. Manitowoc stated that they did not believe the standard should be set at a single TSL level for all equipment classes and suggested a different TSL level for each equipment class. Although the following comments regarding specific classes mention ''ELs,'' efficiency levels, DOE believes Manitowoc intended that these comments apply to ''TSLs,'' trial standard levels and DOE has interpreted the comment accordingly. For IMH–A batch equipment with package widths less than 48 inches (the 48-inch corresponds to the 1,500 lb ice/24 hour representative capacity), Manitowoc supported an efficiency level no higher than EL 3 (interpreted as TSL3). Manitowoc suggested that DOE adopt a standard that would be limited to 5% improvement in efficiency over baseline for the IMH–A–B2 (48-inch wide) equipment. DOE believes Manitowoc's third point in the comments, citing the ''IMH-small'' class refers to IMH–W–Small–B, for which Manitowoc indicated that the standard level should be set no higher than EL 3 (interpreted as TSL3). Manitowoc also suggested DOE adopt standards with efficiency gains no greater than 4.7% and 3.7% efficiency gains, respectfully, for the MH–W–Large–B1 (1,500 lb ice/24 hours representative capacity) and IMH–W–Large–B2 (2,600 lb ice/24 hours representative capacity) equipment. Manitowoc suggested that DOE adopt EL 2 (interpreted as TSL2) for the RCU–NRC–B1 (1,500 lb ice/24 hours representative capacity) and RCU–NRC–B2 (2,400 lb ice/24 hours representative capacity) equipment, as well as the SCU–A–Small and SCU–A–Large equipment classes and for 22-inch IMH equipment. For the RCU–NRC–Large–B1, Manitowoc indicated that the 20 percent improvement in compressor energy efficiency ratio (EER) used in DOE's analysis for this equipment is unrealistic. For the RCU–NRC–Large–B2, Manitowoc mentioned that the increase in condenser size considered in the DOE analysis would present significant issues with refrigerant charge management. For the SCU–A–Small–B class, Manitowoc indicated that the 40% improvement in compressor EER considered in DOE's analysis is not likely to be achieved and adding a tube row to the condenser may not be possible. For the SCU–A–Large–B class, Manitowoc similarly commented that the compressor EER improvement and condenser size increases considered in DOE's analyses are unrealistic. For the 22-inch IMH equipment, Manitowoc indicated that some of the considered design options (increase in evaporator size and/or a drain water heat exchanger) would not be feasible due to the compact nature of these units. Manitowoc suggested that DOE select EL 3 (interpreted as TSL3) for IMH–A–B small and large-1 batch equipment classes (not including 48″ models), as well as the IMH-Small equipment class and all other equipment classes not specifically mentioned. (Manitowoc, No. 126 at p. 1–2)

Ice-O-Matic requested that DOE select NODA TSL 3. (Ice-O-Matic, No. 121 at p. 1) Scotsman suggested that DOE select NODA TSL 2. (Scotsman, No. 125 at p. 3) Hoshizaki suggested that DOE select NODA TSL 2 for batch units. (Hoshizaki, No. 124 at p. 3)

ASAP encouraged DOE to adopt NODA TSL 5 for batch type remote condensing equipment and NODA TSL 4 for all other equipment classes, noting that these choices would be cost effective. (ASAP, No. 127 at p. 1) CA IOU suggested that DOE adopt the NODA TSL for each equipment class that saves the most energy and has a positive NPV. CA IOU noted that DOE could adopt a level more stringent than NODA TSL 3 for all equipment classes while maintaining a net benefit to US consumers. (CA IOU, No. 129 at p. 1)

DOE understands the concerns voiced by stakeholders regarding their future ability to meet standard levels as proposed in the NOPR. DOE must adhere to the EPCA guidelines for determining the appropriate level of standards that were outlined in sections III.E.1. In this Final Rule, DOE selected the TSL that best meets the EPCA

requirements for establishing that a standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i) and 6313(d)(4)). Since the publication of the NOPR, DOE has revised and updated its analysis based on stakeholders comments received at the NOPR public meeting, comments made during the June 19 meeting, and in written comments received in response to the NOPR and NODA. These updates included changes in its approach to calculating the energy use associated with groups of design options, changes in inputs for calculations of energy use and equipment manufacturing cost, and consideration of space-constrained applications. After applying these changes to the analyses, the efficiency levels that DOE determined to be cost effective changed considerably. The NODA comments described above reveal partial industry support for the standard levels chosen by DOE in the final rule.

DOE notes that much of the commentary regarding the selection of efficiency levels for the standard are based on more detailed comments regarding the feasibility of design options, the savings that these design options can achieve, and their costs. DOE response regarding many of these comments is provided in section IV.D.3.

2. Compliance Date

In the March 2014 NOPR analysis, DOE assumed a 3-year period for manufacturers to prepare for compliance. DOE requested comments as to whether a January 1, 2018 effective date provides an inadequate period for compliance and what economic impacts would be mitigated by a later effective date.

Following the publication of the NOPR, several manufacturers and NAFEM expressed an expected inability to meet the proposed standard levels within the three year compliance period. (Manitowoc, No. 92 at p. 2–3, Scotsman, No. 85 at p. 2b, Hoshizaki, No. 86 at p. 2, NAFEM, No. 82 at pg. 2–3) Manitowoc and Hoshizaki both commented that a 5-year compliance period would be necessary for this rulemaking. (Manitowoc, No. 92 at p. 2–3; Hoshizaki, No. 86 at p. 2) Scotsman commented that an 8-year compliance period would be more feasible for the technology specification, R&D investment, performance evaluation, reliability evaluation, and manufacturing required for product redesign. Scotsman added that the negative economic impacts of the rule would be mitigated by a later effective date. (Scotsman, No. 85 at p. 2b–3)

AHRI, Manitowoc, and NAFEM commented that a three year compliance period is not adequate for this rulemaking and that DOE should extend the compliance period to allow time for manufacturers to obtain new components. (AHRI, Public Meeting Transcript, No. 70 at p. 18; NAFEM, No. 82 at pg. 2–3; Manitowoc, No. 92 at p. 2 –3) NAFEM and AHRI commented that DOE should extend the compliance period by two years. (AHRI, No. 93 at p. 2; NAFEM, No. 82 at pg. 2–3) AHRI and Manitowoc noted that there is a potential for Environmental Protection Agency (EPA) Significant New Alternatives Policy (SNAP) regulations to force further product redesign and extending the compliance period would provide relief should refrigerant regulatory issues not be finalized in time.[21] (AHRI, No. 93 at p. 2; Manitowoc, No. 126 at p. 3) Emerson urged DOE to wait until after EPA finalizes its decision on refrigerants before starting the 3-year period given to manufacturers to meet the new standards so manufacturers can re-design for both energy efficiency and low global warming potential (GWP) refrigerants in one design cycle. (Emerson, No. 122, p. 1)

NAFEM stated that manufacturers will only be able to achieve energy efficiency gains up to the level of NOPR TSL 1 within the five-year compliance timeline and that the current proposal will result in the unavailability of ice makers with the characteristics, sizes, capacities, and volumes that are generally available in the U.S. (NAFEM, No. 82 at p. 2) NAFEM's comment mentions a five-year compliance timeline, although DOE proposed a three-year timeline in the NOPR. 79 FR at 14949 (March 17, 2014).

Another concern amongst manufacturers was the belief that the proposed standard levels were based on technology that was currently not available. At the April 2014 NOPR public meeting, Ice-O-Matic commented that they did not believe that the technology exists to achieve the proposed standards in the allotted time frame. (Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 33)

Joint Commenters noted that, in balancing the stringency of the standards with the compliance dates and manufacturer impacts, they believe that the stringency of the standard is more important for national energy savings than the compliance dates. (Joint Commenters, No. 87 at p. 4)

[21] Details regarding EPA SNAP regulations are discussed in section IV.A.4.

In response to the assertion that DOE's standard levels were not based upon currently available technologies, DOE maintains that all technology options and equipment configurations included in its NOPR reflect technologies currently in use in automatic commercial ice makers. For example, DOE considered use only of compressors that are currently commercially available and which manufacturers have indicated are acceptable for use in ice makers in confidential discussions with DOE's contractor. Moreover, the proposed standard levels are exceeded by the ratings of some products that are currently commercially available. However, the standard levels established in this final rule are significantly less stringent than the standard levels proposed in the NOPR, and a greater percentage of currently-available products already meet these efficiency levels. DOE expects that this reduction in stringency and the reduced number of products requiring redesign means that the time required for manufacturers to achieve compliance would be reduced.

In response to the NODA, Scotsman, Manitowoc, NAFEM, and Ice-O-Matic all requested that the effective date for the new efficiency standard for ACIMs be extended to 5 years after the publication of the final rule. (Scotsman, No. 125 at p. 3; Manitowoc, No. 126 at p. 3; NAFEM, No. 123 at p. 2; Ice-O-Matic, No. 121 at p. 1) NAFEM stated that even with the more realistic assumptions presented in the NODA, manufactures still require an extended timeline to obtain new components needed to meet higher efficiency levels.

In response to the request that DOE extend the compliance date period for automatic commercial ice makers beyond the 3 years specified by the NOPR, DOE notes that EPCA requires that the amended standards established in this rulemaking must apply to equipment that is manufactured on or after 3 years after the final rule is published in the **Federal Register** unless DOE determines, by rule, that a 3-year period is inadequate, in which case DOE may extend the compliance date for that standard by an additional 2 years. (42 U.S.C. 6313(d)(3)(C)) DOE believes that the modifications to the analysis, relative to the NOPR, it announced in the NODA and made to the final rule will reduce the burden on manufacturers to meet requirements established by this rule, because the standard levels are less stringent and fewer ice maker models will require redesign to meet the new standard. Therefore, DOE has determined that the

3-year period is adequate and is not extending the compliance date for ACIMs.

3. Negotiated Rulemaking

Stakeholders AHRI, Hoshizaki, Manitowoc, and the North American Association of Food Equipment Manufactures (NAFEM) both suggested that DOE use a negotiated rulemaking to develop ACIM standards. (AHRI, Public Meeting Transcript, No. 70 at p. 15–16; AHRI, Public Meeting Transcript, No. 128 at p. 1; Hoshizaki, Public Meeting Transcript, No. 70 at p. 38–39; Hoshizaki, Public Meeting Transcript, No. 124 at p. 3; Manitowoc, Public Meeting Transcript, No. 70 at p. 344–345; NAFEM, No. 82 at p. 2; NAFEM, No. 123 at p. 1) NAFEM stated that a negotiated rulemaking would ensure the level of enhanced dialogue needed for DOE to effectively assess the rule's impact on end-users. (NAFEM, No. 82 at p. 2) AHRI stated that there are significant issues in the analysis, that the current direction of this rulemaking will place significant burden on the industry, and that the completion of this rulemaking under the current process will be difficult, expensive, and not timely. (AHRI, Public Meeting Transcript, No. 70 at p. 15–16)

In response to the manufacturers' suggestion to use a negotiated rulemaking to develop ACIM standards, DOE notes that this issue was raised before the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) on June 6, 2014 and the ASRAC membership declined to establish a working group to negotiate a final rule for ACIM energy conservation standards. Several ASRAC members voiced concern of using ASRAC at such a late stage in the rulemaking when it would be more appropriate to raise these concerns in the normal public comment process. (See public transcript at: *http://www.regulations.gov/#!documentDetail;D=EERE-013-BT-NOC-0005-0025*)

4. Refrigerant Regulation

Manitowoc noted that the EPA has proposed delisting R–404A, the refrigerant used in nearly all currently available ice makers, for commercial refrigeration applications. Manitowoc stated that while commercial ice makers are not within the current scope for the SNAP NOPR, it seems likely that ice makers could be affected by a subsequent rulemaking. (Manitowoc, No. 126 at p. 3) Several interested parties, including AHRI, NAFEM, Hoshizaki, Manitowoc, and Howe requested that DOE consider the hardships associated with refrigerant choice uncertainty caused by potential future EPA SNAP regulations in the analysis (AHRI, Public Meeting Transcript, No. 70 at p. 16–18; NAFEM, No. 82 at p. 7; Hoshizaki, No. 86 at p. 6–7; Howe, No. 88 at p. 2–3; Manitowoc, Public Meeting Transcript, No. 70 at p. 286–287; Manitowoc, No. 126 at p. 3) Manitowoc suggested that DOE do a sensitivity analysis that examines what would happen to life-cycle costs, etc. if manufacturers had to re-engineer twice. (Manitowoc, Public Meeting Transcript, No. 70 at p. 286–287)

AHRI commented that the potential for SNAP rulemakings to require a refrigerant change will necessitate major redesigns just to maintain current efficiency levels. (AHRI, Public Meeting Transcript, No. 70 at p. 16–18) Manitowoc and Hoshizaki also expressed concern regarding the redesign work that would be needed if the EPA were to ban R–404A. (Manitowoc, Public Meeting Transcript, No. 70 at p. 286–287; Hoshizaki, No. 86 at p. 6–7) AHRI added that the burden of the potential EPA SNAP rulemaking must be taken into account in the engineering and life-cycle cost analyses. AHRI requested that DOE put a hold on the ACIM rulemaking until after the next SNAP rollout is completed. (AHRI, Public Meeting Transcript, No. 70 at p. 16–18)

AHRI also commented that the DOE should make an effort to look at refrigerants because its cost-benefit analysis is based solely on a refrigerant that may not exist three years from now. (AHRI, Public Meeting Transcript, No. 70 at p. 284–285) AHRI noted that, because low-GWP refrigerants also have lower heat transfer capability than R–404A, coil sizes may need to further increase in order to maintain the performance with other refrigerants, which could be infeasible if the proposed standards are already calling for an increased coil size for units using R–404A. (AHRI, Public Meeting Transcript, No. 70 at p. 293–294)

Scotsman and Hoshizaki suggested that DOE and EPA collaborate so that both the energy conservation rulemaking and the SNAP rulemaking don't promulgate standards that are unduly burdensome. (Scotsman, No. 125 at p. 2; Hoshizaki, No. 86 at p. 6–7)

Manitowoc stated that even if the EPA takes no action on ice makers in the next 3 years, the component supplier industry (compressors, expansion valves, heat exchangers, etc.) will focus its efforts on supporting the transition to hydrocarbons, HFO blends, and other acceptable refrigerants for the refrigeration industry as the volume of display case, reach-in, walk-in, and vending is significantly larger than that for commercial ice machines. (Manitowoc, No. 126 at p. 3)

ASAP commented that the way that DOE is dealing with the refrigerants issue is consistent with how it has dealt with it in all other rulemakings. (ASAP, Public Meeting Transcript, No. 70 at p. 52–53) Joint Commenters commented that DOE's approach of conducting their analysis based on the most commonly-used refrigerants today is appropriate and that it does not appear that a phase-out of R–404A would negatively impact ice maker efficiency, given the fact that propane, DR–33, and N–40 all have lower GWP and similar efficiency compared to R–404A. (Joint Commenters, No. 87 at p. 4) NEEA expressed their support for DOE's current refrigerant-neutral position. (NEEA, No. 91 at p. 2)

In response to these comments, DOE notes that the EPA SNAP NOPR mentioned by Manitowoc (see 79 FR 46149 (Aug. 6, 2014)) did not propose to delist the use of R–404A for ACIMs. EPA proposed to delist R–404A for certain retail food refrigeration applications including condensing units. However, ACIMs do not qualify as retail food refrigeration equipment and therefore will not be subject to SNAP regulations that pertain to retail refrigeration applications. Further, alternate refrigerants have not been proposed by the SNAP program for use in ACIMs.[22] DOE recognizes that the engineering analysis is based on the use of R–404A, the most commonly used refrigerant in ACIMs, and that a restriction of R–404A in ACIMs would have impacts on the design options selected in the engineering analysis. However, DOE cannot speculate on the outcome of a rulemaking in progress and can only consider in its rulemakings rules that are currently in effect. Therefore, DOE has not included possible outcomes of a potential EPA SNAP rulemaking in the engineering or LCC analysis. This position is consistent with past DOE rulings, such as in the 2011 direct final rule for room air conditioners. 76 FR 22454 (April 21, 2011). DOE is aware of stakeholder concerns that EPA may broaden the uses for which R–404A is phased out at some point in the future. DOE is confident

[22] EPA on July 9, 2014 proposed new alternative refrigerants for several applications, but not ACIMs. 79 FR 38811. EPA also, on August 6, 2014, proposed delisting of refrigerants for several applications, but not ACIMs. 79 FR 46126 (Aug. 6, 2014). The notice did indicate that EPA is considering whether to delist use of R–404A for ACIMs, but did not propose such action. 79 FR at 46149.

that there will be an adequate supply of R–404A for compliance with the standards being finalized in today's rule, however, consistent with EO 13563, Improving Regulation and Regulatory Review, DOE will prioritize its review of the potential effects of any future phase-out of the refrigerant R–404A (should there be one) on the efficiency standards set by this rulemaking.

DOE does not have reason to believe that EPA's SNAP proposal to delist R–404A for commercial refrigeration applications will have a deleterious impact on the availability of components for ACIMs. Although the component supplier industry may focus efforts on supporting the transition to alternative refrigerants for the commercial refrigeration industry as suggested by Manitowoc, the design options included in this final rule are based on existing component technology and do not assume an advancement in such components. Therefore, DOE believes that those components currently on the market will remain available for use by ACIM manufactures. DOE wishes to clarify that it will continue to consider ACIM models meeting the definition of automatic commercial ice makers to be part of their applicable covered equipment class, regardless of the refrigerant that the equipment uses. If a manufacturer believes that its design is subjected to undue hardship by regulations, the manufacturer may petition DOE's Office of Hearing and Appeals (OHA) for exception relief or exemption from the standard pursuant to OHA's authority under section 504 of the DOE Organization Act (42 U.S.C. 7194), as implemented at subpart B of 10 CFR part 1003. OHA has the authority to grant such relief on a case-by-case basis if it determines that a manufacturer has demonstrated that meeting the standard would cause hardship, inequity, or unfair distribution of burdens.

DOE investigated ice makers which it believes use refrigerants other than R–404A, specifically refrigerants HFC–134a and R–410A. While these refrigerants are also HFCs, their GWP is significantly lower than that of R–404A,[23] and for this reason may be less likely to be delisted for use in ice makers under future SNAP rule revisions. Based on the available information, DOE concludes that compliance challenges for these alternative refrigerants are not greater than for R–404A. Table IV.1 below presents performance data of alternative-refrigerant ice makers and compares their energy use to the energy use associated with TSL3 for their equipment class and capacity. Thirteen of these 31 ice makers meet the TSL3 level.

TABLE IV.1—ICE MAKERS USING ALTERNATIVE REFRIGERANTS

Refrigerant	Equipment class	Harvest capacity rate (lb ice/24 hr)	Energy use (kWh/100 lb)	Energy use percent below baseline	TSL3 Energy use (kWh/100 lb)
HFC–134a	SCU–A–Small–B	121	8.4	31.8	9.4
R–410A	IMH–W–Small–B *	302	6.1	0.6	5.2
R–410A	IMH–W–Small–B	305	5.2	15.1	5.2
R–410A	IMH–W–Small–B	310	5.2	14.7	5.2
R–410A	IMH–W–Small–B	428	4.7	13.7	5.0
R–410A	IMH–W–Small–B	430	4.7	13.5	5.0
R–410A	IMH–W–Small–B	494	5	1.6	4.9
R–410A	IMH–W–Med–B	510	5	0.4	4.8
R–410A	IMH–W–Med–B *	730	4.75	0.6	4.4
R–410A	IMH–W–Med–B *	1,200	4.1	3.8	4.1
R–410A	IMH–A–Small–B	222	7.5	10.2	7.3
R–410A	IMH–A–Small–B	300	6.2	19.3	6.3
R–410A	IMH–A–Small–B	305	6.8	11.0	6.3
R–410A	IMH–A–Small–B	388	6	13.3	6.1
R–410A	IMH–A–Large–B	485	6	5.6	5.8
R–410A	IMH–A–Large–B	714	6.1	0.1	5.3
R–410A	IMH–A–Large–B	230	7.5	9.4	6.5
R–410A	IMH–A–Large–B	320	6.2	17.4	6.3
R–410A	IMH–A–Large–B	310	6.8	10.5	6.3
R–410A	IMH–A–Large–B	405	5.8	14.4	6.0
R–410A	IMH–A–Large–B	538	6	4.7	5.7
R–410A	IMH–A–Large–B	714	6.1	0.1	5.3
R–410A	IMH–A–Large–B *	1,100	5.3	6.7	4.9
R–410A	RCU–NRC–Small–B	724	5.4	11.5	5.5
R–410A	RCU–NRC–Small–B	720	5.4	8.8	5.5
R–410A	RCU–NRC–Small–B *	1,200	5	2.0	4.6

* Two ice makers with these ratings, one each for full-cube and half-cube ice.

5. Data Availability

AHRI, PGE/SDG&E, and NAFEM requested that DOE make data available for stakeholder review. (AHRI, Public Meeting Transcript, No. 70 at p. 349; PG&E and SDG&E, No. 89 at p. 3; NAFEM, No. 82 at p. 2) Specifically, AHRI requested that DOE's test results be made available to manufacturers for review. (AHRI, Public Meeting Transcript, No. 70 at p. 349) NAFEM suggested that DOE identify the model and serial number of components used in the engineering analysis in order to enhance transparency. (NAFEM, No. 82 at p. 2)

AHRI and Danfoss both suggested that DOE facilitate more informal dialog to discuss data and assumptions for the department to receive feedback. (AHRI, Public Meeting Transcript, No. 70 at p. 342–343; Danfoss, No. 72 at p. 1–2)

[23] *See http://www.epa.gov/ozone/snap/subsgwps.html.*

Danfoss recommended that DOE publish the list of all persons, companies and organizations they have contacted in regards to this rulemaking. (Danfoss, No. 72 at p. 1–2)

In response to stakeholders, DOE held a public meeting on June 19 to provide stakeholders with more information about the energy modeling used in developing the NOPR analysis. 79 FR 33877 (June 13, 2014). In addition, DOE published a NODA presenting analyses revised based on stakeholder comments and additional research conducted after the NOPR. 79 FR 54215 (Sept. 11, 2014). DOE's contractor also engaged in additional discussions with manufacturers under non-disclosure agreements after publication of the NOPR in order to collect additional information relevant to the analyses. DOE generally does not publish test data to avoid revealing information about product performance that may be considered trade secrets. Also for this reason, DOE does not intend to publish the model and serial number of equipment or components obtained, tested, and reverse-engineered during the analysis. DOE also does not reveal the identity of companies and organizations from which its contractor has collected information under non-disclosure agreement.

In their written response to the NODA, AHRI expressed their belief that DOE's current process in this rulemaking is not compliant with the objective of using transparent and robust analytical methods producing results that can be explained and reproduced, as required by DOE's process rule and guidelines. AHRI expressed their belief that it has been difficult to analyze and provide feedback on this rulemaking as important portions such as the energy model have not been disclosed to the public. (AHRI, No. 128 at p. 6–8)

AHRI and NAFEM requested that DOE publically release the FREEZE model for stakeholder review. NAFEM and AHRI stated that DOE was unable to show that the FREEZE model functioned and was unable to produce accurate results at the June 2014 public meeting. (AHRI, No. 128 at p. 2–3; NAFEM, No. 123 at p. 1–2) AHRI stated that given the results of the limited runs model at the June 19th meeting, they believe that there are serious concerns about the quality and reproducibility of the information that is not in accordance with the applicable guidelines for ensuring and maximizing the quality, objectivity, utility and integrity of information disseminated to the public by the Department of Energy. AHRI added that without public release of the model, DOE cannot demonstrate sufficient transparency about the data and methods such that an independent reanalysis can be undertaken by a qualified member of the public. AHRI noted that if DOE had compelling interests that prohibit public access to the model, DOE must identify those interests and describe and document the rigorous checks it has undertaken to ensure reproducibility. (AHRI, No. 128 at p. 6–8)

DOE notes that stakeholders have placed great emphasis on the FREEZE model in their responses, but this model is only part of the analysis. Moreover, DOE has published output of the engineering analysis on which stakeholders have had the opportunity to comment, for both the NOPR and NODA phases. As part of the final rule documentation, DOE presents the revised engineering analysis output.

Over the course of the rulemaking, DOE has attained additional information regarding the efficiency improvements associated with different design options, through public comments as well as through confidential information exchange between DOE's contractor and manufacturers. As a result the efforts made by all parties in preparing and providing this additional information, the projections of efficiency improvements associated with the design options considered in the analysis are based more on test data than theoretical analysis. For example, in the NODA and final rule analysis, the energy use reduction in a batch ice maker as a result of compressor EER improvement is based on test data provided both in written comments and through confidential information exchange.

In the NOPR and the NODA phases, DOE has published engineering spreadsheets that show projected energy savings associated with specific design options for the analyses of energy use for the ice maker models representing most of the ice maker equipment classes. These results document the analysis and have allowed stakeholders to review details of the analysis as a check on accuracy. DOE's calibration of the energy use analysis results at the highest commercially-available efficiency levels, described in section IV.D.4.b, provides a check of the analysis, specifically ensuring that the group of design options required to attain these highest available efficiency levels (as predicted by the analysis) is consistent with actual equipment. The section presents examples of maximum available commercial units against which the energy use calculations are calibrated for the highest analyzed efficiency levels not using permanent magnet motors and drain water heat exchangers. DOE conducted calibration at this efficiency level because these design options are not generally used in commercially available units, thus preventing calibration with commercialized units at higher efficiency levels. These calibration comparisons, which are discussed in section IV.D.4.b and in Chapter 5 of the TSD, show (a) that the efficiency levels attainable without use of permanent magnet motors and drain water heat exchangers have not been overestimated by the analysis, and (b) the design options that are projected to be required to attain these maximum available efficiency levels are consistent with or conservative (more costly) as compared with the design options used in maximum-available ice makers that are available for purchase.

DOE is not at liberty to release the FREEZE energy model to the public because it does not own the modeling tool.

AHRI stated that DOE did not publically provide the information necessary for affected parties to have adequate notice and ability to comment on the results of the public meeting. AHRI stated that DOE failed to publically state a timeframe for collecting the data it has requested. AHRI added that the public statement issued after the public meeting did not indicate to whom the data should be sent. AHRI stated their belief that without the clarity of a defined comment period, or the knowledge of the next steps in the process DOE is not following its own process rule and the notice and comment requirements for federal agency rulemaking. (AHRI, No. 128 at p. 6–8)

In response to AHRI's comment, DOE expressed willingness during the NOPR public meeting, subject to potential legal restrictions, to allow additional information exchange by stakeholders with DOE's contractor under non-disclosure agreement. DOE also expressed willingness to possibly publish a NODA which would allow stakeholders additional opportunity to comment. (DOE, NOPR Public Meeting Transcript, No. 70 at pp. 341–344) In general, any information exchange regarding a rulemaking is strictly limited after publication of a NOPR, in order to limit the potential for undue influence on the process from any particular interested party. DOE allowed additional information exchange with stakeholders and published a NODA to allow additional opportunity for input. 79 FR 54215 (Sept. 11, 2014). Thus, contrary to AHRI's comment, with the

additional public meeting and with the issuance of the NODA, stakeholders have had several opportunities to provide input beyond the opportunities normally provided for an energy conservation standard rulemaking.

6. Supplemental Notice of Proposed Rulemaking

NAFEM stated that DOE should not issue a final rule because the revisions in the NODA did not address each issue raised in response to the NOPR analysis. (NAFEM, No. 123 at p. 1) NAFEM and AHRI both requested that the department issue a supplemental notice of proposed rulemaking (SNOPR) to allow manufacturers and end users enough time to address the substantial changes in the analysis made between the NOPR and NODA phases. (NAFEM, No. 123 at p. 1; AHRI, No. 128 at p. 2) NAFEM stated that there are many unknowns regarding the changes made in the NODA analysis and noted that DOE did not identify a technologically feasible and economically justified standard level. NAFEM also requested that DOE release the model used to determine TSL standards. (NAFEM, No. 123 at p. 1)

In response to AHRI and NAFEM, DOE notes that the modifications made to the analyses in the NODA were based on stakeholder participation, and each issue raised in response to the NOPR and NODA have been addressed in this final rule. The objective of the NODA was to enable stakeholders to understand the changes made in the basic analyses as a result of input received during the NOPR phase, and DOE believes that was accomplished. Therefore, DOE does not believe that an SNOPR is necessary for this rulemaking. In response to NAFEM's request for DOE to release the model used to determine the TSL standard, DOE assumes that this refers to the FREEZE model, which is discussed in section IV.A.5. DOE is not at liberty to release the FREEZE energy model to the public because it does not own the modeling tool. Regarding NAFEM's comment concerning identification of a technologically feasible and economically justified standard level, DOE notes that the NODA did not propose a standard level. Rather the NODA's purpose was to provide stakeholders the opportunity to comment on revisions in DOE's analysis.

7. Rulemaking Structure Comments

A Policy Analyst at the George Washington University Regulatory Studies Center commented on basic underpinnings of the DOE energy conservation standards rulemaking process. Policy Analyst commented that DOE does not explain why sophisticated, profit-motivated purchasers of ACIMs would suffer from informational deficits or cognitive biases that would cause them to purchase products with high lifetime costs without demanding higher-price, higher-efficiency products. (Policy Analyst, No. 75 at p. 5)

Policy Analyst indicated that two of the three problems identified by DOE, lack of access to information and information asymmetry, are not addressed by the rule, indicating that DOE's rule is flawed. (Policy Analyst, No. 75 at p. 6) Policy Analyst added that only one of the problems identified by DOE is addressed by any of the metrics stated in the proposed rule: Internalizing the externality of greenhouse gas emissions. (Policy Analyst, No. 75 at p. 7)

Policy Analyst suggested that the proposed rule should include DOE's plans for how it will gather information to assess the success of the rule and whether its assumptions were accurate. (Policy Analyst, No. 75 at p. 8) Policy Analyst added that DOE should include a timeframe for retrospective review in its final rule. (Policy Analyst, No. 75 at p. 8)

Policy Analyst stated that DOE should pay attention to the linkages between the rule and the measured outcomes in order to increase its awareness of mediating factors that may have accomplished or undermined the stated metrics absent the rule. (Policy Analyst, No. 75 at p. 8)

In response, DOE believes there are two main reasons that purchasers of ACIM equipment would lack complete information, causing them to, in Policy Analyst's words, ''purchase products with high lifetime costs without demanding higher-price, higher-efficiency products.'' The first reason is the time involved in collection and processing of information and the second is that the available information is incomplete. ACIM purchasers have access only to information that is readily available, and would not have ready access to information about additional efficiency options that could be made available to the market. The information that is available is dispersed in many sources, and the cost of querying all information sources takes the form of time taken away from the primary business of the purchaser, whether running a hotel or provision of medical care. By virtue of simply undertaking the energy conservation standard rulemaking, DOE provides significant information to all who are interested via the analyses undertaken by the rulemaking.

As the energy conservation standard rulemaking has proceeded from the initial framework phase through to the final rule phase, DOE has solicited information, purchased, examined and tested actual ACIM products, and performed numerous analyses to ensure assumptions are as accurate as possible. Once a rule is finalized, DOE continues collecting information as well as interacting with the industry, and such activities will enable DOE to measure whether the rule is achieving its intended results—namely increasing the efficiency of automatic commercial ice makers.

DOE will undertake subsequent analyses of ACIM equipment in order to meet legislative requirements for reviewing the standard by a date no later than 5 years after the effective date of new and amended standards established by this rulemaking. DOE follows a standard process in energy conservation standards rulemakings, and believes as such, that establishing plans within this final rule for gathering information for the next proceeding is unnecessary.

B. Market and Technology Assessment

When beginning an energy conservation standards rulemaking, DOE develops information that provides an overall picture of the market for the equipment concerned, including the purpose of the equipment, the industry structure, and market characteristics. This activity includes both quantitative and qualitative assessments based primarily on publicly available information (*e.g.,* manufacturer specification sheets, industry publications) and data submitted by manufacturers, trade associations, and other stakeholders. The subjects addressed in the market and technology assessment for this rulemaking include: (1) Quantities and types of equipment sold and offered for sale; (2) retail market trends; (3) equipment covered by the rulemaking; (4) equipment classes; (5) manufacturers; (6) regulatory requirements and non-regulatory programs (such as rebate programs and tax credits); and (7) technologies that could improve the energy efficiency of the equipment under examination. DOE researched manufacturers of automatic commercial ice makers and made a particular effort to identify and characterize small business manufacturers. See chapter 3 of the final rule TSD for further discussion of the market and technology assessment.

1. Equipment Classes

In evaluating and establishing energy conservation standards, DOE generally divides covered equipment into classes by the type of energy used, or by capacity or other performance-related feature that justifies a different standard for equipment having such a feature. (42 U.S.C. 6295(q) and 6316(a)) In deciding whether a feature justifies a different standard, DOE considers factors such as the utility of the feature to users. DOE normally establishes different energy conservation standards for different equipment classes based on these criteria.

Automatic commercial ice makers are divided into equipment classes based on physical characteristics that affect commercial application, equipment utility, and equipment efficiency. These equipment classes are based on the following criteria:

- Ice-making process
  - ''Batch'' icemakers that operate on a cyclical basis, alternating between periods of ice production and ice harvesting
  - ''Continuous'' icemakers that can produce and harvest ice simultaneously
- Equipment configuration
  - Ice-making head (a single-package ice-making assembly that does not include an ice storage bin)
  - Remote condensing (an ice maker consisting of an ice-making head in which the ice is produced—but also without an ice storage bin—and a separate condenser assembly that can be remotely installed,)
- With remote compressor (compressor packaged with the condenser)
- Without remote compressor (compressor packaged with the evaporator in the ice-making head)
  - Self-contained (with storage bin included)
- Condenser cooling
  - Air-cooled
  - Water-cooled
- Capacity range

Table IV.2 shows the 25 automatic commercial ice maker equipment classes that DOE used for its analysis in this rulemaking. These equipment classes were derived from existing DOE standards and commercially available products. The final rule adjusts these capacity ranges, based on this analysis, as a result of setting appropriate energy use standards across the overall capacity range (50 to 4,000 lb ice/24 hours) for a given type of equipment, such as all batch air-cooled ice-making head units.

TABLE IV.2—FINAL RULE AUTOMATIC COMMERCIAL ICE MAKER EQUIPMENT CLASSES USED FOR ANALYSIS

Type of ice maker	Equipment type	Type of condenser cooling	Harvest capacity rate lb ice/24 hours
Batch	Ice-Making Head	Water	≥50 and <500
			≥500 and <1,436
			≥1,436 and <4,000
		Air	≥50 and <450
			≥450 and <4,000
	Remote Condensing (but not remote compressor)	Air	≥50 and <1,000
			≥1,000 and <4,000
	Remote Condensing and Remote Compressor	Air	≥50 and <934
			≥934 and <4,000
	Self-Contained Unit	Water	≥50 and <200
			≥200 and <4,000
		Air	≥50 and <175
			≥175 and <4,000
Continuous	Ice-Making Head	Water	≥50 and <900
			≥900 and <4,000
		Air	≥50 and <700
			≥700 and <4,000
	Remote Condensing (but not remote compressor)	Air	≥50 and <850
			≥850 and <4,000
	Remote Condensing and Remote Compressor	Air	≥50 and <850
			≥850 and <4,000
	Self-Contained Unit	Water	≥50 and <900
			≥900 and <4,000
		Air	≥50 and <700
			≥700 and <4,000

Batch type and continuous type ice makers are distinguished by the mechanics of their respective ice-making processes. Continuous type ice makers are so named because they simultaneously produce and harvest ice in one continuous, steady-state process. The ice produced in continuous processes is called ''flake'' ice or ''nugget'' ice, which can both be a ''soft'' ice with high liquid water content, in the range from 10 to 35 percent, but can also be subcooled, *i.e.* be entirely frozen and at temperature lower than 32 °F. Continuous type ice makers were not included in the EPACT 2005 standards and therefore were not regulated by existing DOE energy conservation standards.

Existing energy conservation standards cover batch type ice makers that produce ''cube'' ice, which is defined as ice that is fairly uniform, hard, solid, usually clear, and generally weighs less than two ounces (60 grams) per piece, as distinguished from flake, crushed, or fragmented ice. 10 CFR 431.132 Batch ice makers alternate between freezing and harvesting periods and therefore produce ice in discrete batches rather than in a continuous process. After the freeze period, hot gas is typically redirected from the compressor discharge to the evaporator, melting the surface of the ice cubes that is in contact with the evaporator surface, enabling them to be removed from the evaporator. The water that is left in the sump at the end of the icemaking part of the cycle is purged (drained from the unit), removing with it the impurities that could decrease ice clarity form scale (the result of dissolved solids in the incoming water coming out of solution) on the ice maker

surfaces. Consequently, batch type ice makers typically have higher potable water usage than continuous type ice makers.

After the publication of the Framework document, several parties commented that machines producing ''tube'' ice, which is created in a batch process with both freeze and harvest periods similar to the process used for cube ice, should also be regulated. DOE notes that tube ice machines of the covered capacity range that produce ice fitting the definition for cube type ice are covered by the current standards, whether or not they are referred to as cube type ice makers within the industry. Nonetheless, DOE has addressed the commenters' suggestions by emphasizing that all batch type ice machines are within the scope of this rulemaking, as long as they fall within the covered capacity range of 50 to 4,000 lb ice/24 hours. This includes tube ice machines and other batch type ice machines (if any) that produce ice that does not fit the definition of cube type ice. To help clarify this issue, DOE now refers to all batch automatic commercial ice makers as ''batch type ice makers,'' regardless of the shape of the ice pieces that they produce. 77 FR 1591 (Jan. 11, 2012).

During the April 2014 NOPR public meeting and in subsequent written comments, a number of stakeholders addressed issues related to proposed equipment classes and the inclusion of certain types of equipment in the analysis. These topics are discussed in this section.

a. Cabinet Size

In the March 2014 NOPR, DOE indicated that it was not proposing to create separate equipment classes for space-constrained units. DOE requested comment on this issue in the preliminary analysis phase. Few stakeholders commented on whether DOE should consider establishing equipment classes based on cabinet size. Earthjustice supported such an approach, while Manitowoc suggested that such an approach would be complicated. (Earthjustice, Preliminary Analysis Public Meeting Transcript, No. 42 at pp. 90–91; Manitowoc, (Manitowoc, Preliminary Analysis Public Meeting Transcript, No. 42 at p. 91)) DOE also reviewed size/efficiency trends of commercially available ice makers and concluded that the data do not show a definitive trend suggesting specific size limits for space-constrained classes. 79 FR 14846, at 14862 (March 17, 2014).

In response to the March 2014 NOPR, AHRI and NAFEM commented that DOE did not conduct analysis for the full range of product offerings in the market. (AHRI, No. 93 at p. 12–13; NAFEM, No. 82 at p. 4) AHRI, NAFEM, and Manitowoc commented that DOE's analysis did not take into account the difficulty associated with increasing cabinet volume for 22-inch models (*i.e.* ice makers that are 22 inches wide). (AHRI, No. 93 at p. 12–13; Manitowoc, No. 92 at p. 2; NAFEM, No. 82 at p. 4) Manitowoc added that the engineering analysis focused on 30-inch cabinets and that the design options may not all fit within the 22-inch cabinet models. (Manitowoc, No. 92 at p. 2 and p. 26–27) AHRI stated that they had data showing that 22-inch units cannot accommodate evaporator or condenser growth without chassis growth which is not possible for these size-restricted units. AHRI noted that DOE included chassis size increases for some equipment classes without taking into account in the engineering analysis the special case of 22-inch ice makers. (AHRI, No. 93 at p. 12–13) NAFEM specifically requested that DOE differentiate between 22-inch and 30-inch IMH–A–Small–B machines, since 22-inch models cannot achieve increases in cabinet volume and 30-inch models cannot be substituted for 22-inch models. (NAFEM, No. 82 at p. 4) Hoshizaki also urged DOE to take 22-inch units into special consideration in the analysis. (Hoshizaki, No. 86 at p. 8)

Manitowoc commented that 22-inch air-cooled ice-making heads are growing in importance due to the shrinking size of restaurant kitchens and that such machines cannot grow in height because they are already very tall. Manitowoc asserted that this product category may disappear if efficiency standards require significant chassis size growth. (Manitowoc, Public Meeting Transcript, No. 70 at p. 162–164)

However, the Northwest Energy Efficiency Alliance (NEEA) stated that they believe that DOE appropriately considered the issues concerning increased chassis size, citing DOE's consideration of chassis size increase only for three of the twenty-two classes analyzed, and the fact that DOE considered only increases in height, not increases in footprint. (NEEA, No. 91 at p. 1–2)

DOE has maintained its position from the NOPR and has not created a new equipment class for 22-inch ACIMs. However, in response to commenters DOE revised the NOPR analysis to consider the size restrictions and applications of 22-inch wide ice makers in its revised analysis. Specifically, DOE has developed cost-efficiency curves for 22-inch width units in the IMH–A–Small–B, IMH–A–Large–B, and IMH–W–Small–B equipment classes. These curves were used in the LCC and NIA analyses in the evaluation of efficiency levels for classes for which 22-inch ACIMs are an important category. The LCC and NIA analyses were also revised to more carefully consider the impact of size restrictions in applications for 30-inch units—this is discussed in greater detail in section IV.G.2. Ultimately these revisions in the analyses led to selection of less stringent efficiency levels for some of the affected classes.

b. Large-Capacity Batch Ice Makers

In the November 2010 Framework document for this rulemaking, DOE requested comments on whether coverage should be expanded from the current covered capacity range of 50 to 2,500 lb ice/24 hours to include ice makers producing up to 10,000 lb ice/24 hours. All commenters agreed with expanding the harvest capacity coverage, and all but one of the commenters supported or accepted an upper harvest capacity cap of 4,000 lb ice/24 hours, which would be consistent with the current test procedure, AHRI Standard 810–2007. Most commenters categorized ice makers with harvest capacities above 4,000 lb ice/24 hours as industrial rather than commercial. Since the publication of the framework analysis, DOE revised the test procedure, with the final rule published in January 2012, to include all batch and continuous type ice makers with capacities between 50 and 4,000 lb ice/24 hours. 77 FR 1591, 1613–14. In the 2012 test procedure final rule, DOE noted that 4,000 lb ice/24 hours represented a reasonable limit for commercial ice makers, as larger-sized ice makers were generally used for industrial applications and testing machines up to 4,000 lb was consistent with AHRI 810–2007. 77 FR 1591 (Jan. 11, 2012). To be consistent with the majority of the framework comments, during the preliminary analysis DOE discussed setting the upper harvest capacity limit to 4,000 lb ice/24 hours, even though there are few ice makers currently produced with capacities ranging from 2,500 to 4,000 lb ice/24 hours. 77 FR 3404 (Jan. 24, 2012) DOE proposed in the March 2014 NOPR to set efficiency standards that include all ice makers in this extended capacity range and has maintained this position in this final rule.

PG&E and SDG&E commented that they support the inclusion of previously unregulated equipment classes into the scope of this rulemaking, including equipment with a capacity range up to 4,000 lb/24 hour. (PG&E and SDG&E,

No. 89 at p. 1) However, Hoshizaki, NAFEM, and AHRI commented that DOE should refrain from regulating products with capacities above 2,500 lb ice/24 hours, if there are not enough models in this category for DOE to directly evaluate. (Hoshizaki, No. 86 at p. 9; Hoshizaki, No. 124 at p. 2; AHRI, No. 93 at p. 16; NAFEM, No. 123 at p. 2) Hoshizaki commented that large units perform differently than small units in the ways that their compressors and condensers interact. Hoshizaki requested that DOE not add higher levels to the standard extended beyond 2,000 lb ice/24 hours, but have a flat level no more stringent than the standard at 2,000 lb ice/24 hours for higher capacity equipment. (Hoshizaki, No. 124 at p. 2)

DOE acknowledges that there are currently few automatic commercial ice makers with harvest capacities above 2,500 lb ice/24 hours. However, AHRI has extended the applicability of its test standard, AHRI Standard 810–2007 with Addendum 1, ''Performance Rating of Automatic Commercial Ice Makers,'' to ice makers up to 4,000 lb ice/24 hours. Likewise, DOE extended the applicability of its test procedure to the same range. 77 FR 1591 (January 11, 2012). Stakeholders have not cited reasons that ice makers with capacities greater than 2,000 lb ice/24 hours would not be able to achieve the same efficiency levels as those producing 2,000 lb ice/24 hours. Because it is possible that batch-type ice makers with harvest capacities from 2,500 to 4,000 lb ice/24 hours will be manufactured in the future, DOE does not find it unreasonable to set standards in this rulemaking for batch type ice makers with harvest capacities in the range up to 4,000 lb ice/24 hours. Therefore, DOE maintains its position to include large-capacity batch type ice makers in the scope of this rulemaking. In response to Hoshizaki's comment, DOE notes that each product class has flat levels, *i.e.* efficiency levels that do not vary with harvest capacity, beyond 2,000 lb ice/24 hours.

c. Regulation of Potable Water Use

Under EPACT 2005, water used for ice—referred to as potable water—was not regulated for automatic commercial ice makers.

The amount of potable water used varies significantly among batch type automatic commercial ice makers (*i.e.,* cube, tube, or cracked ice machines). Continuous type ice makers (*i.e.,* flake and nugget machines) convert essentially all of the potable water to ice, using roughly 12 gallons of water to make 100 lb ice. Batch type ice makers use an additional 3 to 38 gallons of water in the process of making 100 lb ice. This additional water is referred to as ''dump or purge water'' and is used to cleanse the evaporator of impurities that could interfere with the ice-making process.

As indicated in the preliminary analysis and NOPR, DOE is not setting potable water limits for automatic commercial ice makers.

The Natural Resource Defense Council (NRDC) commented that they previously urged the Department to propose standards for potable water use in batch type ice makers and that failure to do so is short-sighted, given the increasing severity of drought conditions in many states, and may cause states to consider their own water use standards for ice makers. (NRDC, No. 90 at p. 54–1) NRDC urged DOE to reconsider its decision not to evaluate and set standards for potable water use. NRDC noted that EPCA was amended in 1992 explicitly to include water conservation as one of its purposes. (NRDC, No. 90 at p. 1)

PG&E and SDG&E also recommended that DOE establish a maximum potable water use requirement. PG&E and SDG&E also added that in the event that DOE maintains that there is ambiguity in EPACT 2005 on whether DOE is required to regulate water usage and uses its discretion not to mandate a potable water standard PG&E and SDG&E request that DOE comment whether states are preempted from establishing such a standard. (PG&E and SDG&E, No. 89 at p. 4)

In response to comments from NRDC, and PG&E and SDG&E, DOE was not given a specific mandate by Congress to regulate potable water. EPCA, as amended, explicitly gives DOE the authority to regulate water use in showerheads, faucets, water closets, and urinals (42 U.S.C. 6291(6), 6295(j) and (k)), clothes washers (42 U.S.C. 6295(g)(9)), dishwashers (42 U.S.C. 6295(g)(10)), commercial clothes washers (42 U.S.C. 6313(e)), and batch (cube) commercial ice makers. (42 U.S.C. 6313(d)) With respect to batch commercial ice makers (cube type machines), however, Congress explicitly set standards in EPACT 2005 at 42 U.S.C. 6313(d)(1) only for condenser water and noted in a footnote to the table setting the standards that potable water use was not included.[24] Congress thereby recognized both types of water, and did not provide direction to DOE with respect to potable water standards. This ambiguity gives the DOE considerable discretion to regulate or not regulate potable water. The U.S. Supreme Court has determined that, when legislative intent is ambiguous, a government agency may use its discretion in interpreting the meaning of a statute, so long as the interpretation is reasonable.[25] In the case of ice makers, EPACT 2005 is ambiguous on the subject of whether DOE must regulate water usage for purposes other than condenser water usage in cube-making machines, and DOE has chosen to use its discretion not to mandate a standard in this case. Pursuant to 42 U.S.C. 6297(b) and (c), preemption applies with respect to covered products and no State regulation concerning energy efficiency, energy use, or water use of such covered product shall be effective with respect to such product unless the State regulation meets the specified criteria under these provisions.

DOE elected to not set potable water limits for automatic commercial ice makers in order to allow manufacturers to retain flexibility in this aspect of ice maker design. The regulation of ice maker energy use does in itself make high levels of potable water use untenable because energy use does increase as potable water use increases, since the additional water must be cooled down, diverting refrigeration capacity from the primary objective of cooling and freezing the water that will be delivered from the machine as ice.

DOE notes that ENERGY STAR has adopted potable water limits for ENERGY STAR-compliant ice makers at 15 gal/100 lb ice for continuous equipment classes, 20 gal/100 lb ice for IMH and RCU batch classes, and 25 gal/100 lb ice for SCU batch classes.[26]

d. Regulation of Condenser Water Use

As previously noted in section II.B.1, EPACT 2005 prescribes maximum condenser water use levels for water-cooled cube type automatic commercial ice makers. (42 U.S.C. 6313(d)) [27] For units not currently covered by the standard (continuous machines of all harvest rates and batch machines with harvest rates exceeding 2,500 lb ice/24 hours), there currently are no limits on condenser water use.

[24] Footnote to table at 42 U.S.C. 6313(d)(1).

[25] *Nat'l Cable & Telecomms. Ass'n* v. *Brand X Internet Servs.,* 545 U.S. 967, 986 (2005) (quoting *Chevron U.S.A. Inc.* v. *Natural Res. Def. Council, Inc.,* 467 U.S. 837, 845 (1984)).

[26] *http://www.energystar.gov/index.cfm?c=comm_ice_machines.pr_crit_comm_ice_machines.*

[27] The table in 42 U.S.C. 6313(d)(1) states maximum energy and condenser water usage limits for cube type ice machines producing between 50 and 2,500 lb of ice per 24 hour period (lb ice/24 hours). A footnote to the table states explicitly the water limits are for water used in the condenser and not potable water used to make ice.

In the preliminary analysis and the NOPR, DOE indicated its intent to primarily focus the automatic commercial ice maker rulemaking on energy use. DOE also noted that DOE is not bound by EPCA to comprehensively evaluate and propose reductions in the maximum condenser water consumption levels, and likewise has the option to allow increases in condenser water use, if this is a cost-effective way to improve energy efficiency.

In the preliminary analysis, DOE stated that EPCA's anti-backsliding provision in section 325(o)(1), which lists specific products for which DOE is forbidden from prescribing amended standards that increase the maximum allowable water use, does not include ice makers. However in response to the preliminary analysis, Earthjustice asserted that DOE lacks the authority to relax condenser water limits for water-cooled ice makers. Earthjustice argued that the failure of section 325(o)(1) to specifically call out ice maker condenser water use as a metric that is subject to the statute's prohibition against the relaxation of a standard is not determinative. On the contrary, Earthjustice maintained that the plain language of EPCA shows that Congress intended to apply the anti-backsliding provision to ice makers. Earthjustice commented that section 342(d)(4) requires DOE to adopt standards for ice-makers ''at the maximum level that is technically (DOE interprets the comment to mean technologically) feasible and economically justified, as provided in [section 325(o) and (p)].'' (42 U.S.C. 6313(d)(4)) Earthjustice stated that, by referencing all of section 325(o), the statute pulls in each of the distinct provisions of that subsection, including, among other things, the anti-backsliding provision, the statutory factors governing economic justification, and the prohibition on adopting a standard that eliminates certain performance characteristics. By applying all of section 325(o) to ice-makers, section 342(d)(4) had already made the anti-backsliding provision applicable to condenser water use, according to Earthjustice. Finally, Earthjustice stated that even if DOE concludes that the plain language of EPCA is not clear on this point, the only reasonable interpretation is that Congress did not intend to grant DOE the authority to relax the condenser water use standards for ice makers. Earthjustice added that the anti-backsliding provision is one of EPCA's most powerful tools to improve the energy and water efficiency of appliances and commercial equipment, and Congress would presumably speak clearly if it intended to withhold its application to a specific product. (Earthjustice, No. 47 at pp. 4–5)

In the NOPR DOE maintained that the 42 U.S.C. Sec. 6295(o)(1) anti-backsliding provisions apply to water in only a limited set of residential appliances and fixtures. Therefore, an increase in condenser water use would not be considered backsliding under the statute. Nevertheless, the DOE did not include increases in condenser water use as a technology option for the NOPR, NODA, and final rule.

In response to the NOPR, NRDC stated that they disagree that DOE may lawfully relax water use standards. NRDC added that even if DOE were correct in stating that EPCA's anti-backsliding provision does not apply, as explored in EarthJustice's comment, DOE cannot relax the water efficiency levels set by Congress itself. (NRDC, No. 90 at p. 1)

In this rule, DOE is not revising its NOPR position regarding the application of anti-backsliding to ACIM condenser water use. Nevertheless, DOE did not consider design options that would represent increase in condenser water use in its final rule analysis.

e. Continuous Models

The EPACT 2005 amendments to EPCA did not set standards for continuous type ice makers. Pursuant to EPCA, DOE is required to set new or amended energy conservation standards for automatic commercial ice makers to: (1) Achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified; and (2) result in significant conservation of energy. (42 U.S.C. 6295(o)(2)(A) and (o)(3)(B); 6313(d)(4))

Hoshizaki stated that due to their small market share, continuous models should be considered separately from batch machines. (Hoshizaki, No, 124 at p. 1)

DOE notes that it has conducted analysis for continuous models as part of separate equipment classes than batch type models and has set different energy standards for them.

f. Gourmet Ice Machines

AHRI stated that this rulemaking has ignored the niche market of gourmet ice cubes. AHRI stated that gourmet ice cubes are two to three times larger than standard ice cubes. They are also harder and denser than conventional machine-made ice and require more energy to produce. AHRI noted that this issue impacts small business manufacturers. (AHRI, No. 128 at p. 5)

In response to AHRI's comment regarding gourmet ice makers, DOE has not conducted separate analysis for such equipment. DOE has, however, considered small business impacts, as discussed in section IV.J.3.f. DOE notes that the ACIM rulemaking has provided stakeholders many opportunities to provide comment on the issues that would be important to consider in the analysis, including potential equipment classes associated with different types of ice, whether different types of ice provide specific utility that would be the basis of considering separate equipment classes, and any other issues associated with such ice that might affect the analysis. DOE does not have nor did it receive in response to requests for comments sufficient specific information to evaluate whether larger ice has specific consumer utility, nor to allow separate evaluation for such equipment of costs and benefits associated with achieving the efficiency levels considered in the rulemaking. In the absence of information, DOE cannot conclude that this type of ice has unique consumer utility justifying consideration of separate equipment classes. DOE notes that manufacturers of this equipment have the option seeking exception relief pursuant to 41 U.S.C. 7194 from DOE's Office of Hearings and Appeals.

2. Technology Assessment

As part of the market and technology assessment, DOE developed a comprehensive list of technologies to improve the energy efficiency of automatic commercial ice makers, shown in Table IV.3. Chapter 3 of the final rule TSD contains a detailed description of each technology that DOE identified. DOE only considered in its analysis technologies that would impact the efficiency rating of equipment as tested under the DOE test procedure. The technologies identified by DOE were carried through to the screening analysis, which is discussed in section IV.C.

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Table IV.3 Technology Options for Automatic Commercial Ice Makers

Technology Options		Batch Ice Makers	Continuous Ice Makers	Notes
Compressor	Improved compressor efficiency	√	√	
	Part load operation	√	√	
Condenser	Increased surface area	√	√	
	Enhanced fin surfaces	√	√	Air-cooled only
	Increased air flow	√	√	Air-cooled only
	Increased water flow	√	√	Water-cooled only
	Brazed plate condenser	√	√	Water-cooled only
	Microchannel condenser	√	√	
Fans and Fan Motors	Higher efficiency condenser fans and fan motors	√	√	Air-cooled only
Other Motors	Improved auger motor efficiency		√	
	Improved pump motor efficiency	√		
Controls	Smart Technologies	√	√	
Evaporator	Design options which reduce energy loss due to evaporator thermal cycling	√		
	Design options which reduce harvest meltage or reduce harvest time	√		
	Larger evaporator surface area	√	√	
	Tube evaporator configuration	√		
Insulation	Improved insulating material and/or thicker insulation around the evaporator compartment	√	√	
Refrigeration Line	Larger diameter suction line	√	√	RCUs with remote compressor
Potable Water	Reduced potable water flow	√		
	Drain water thermal exchange	√		

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The section below addresses the potential consideration of another technology option.

a. Alternative Refrigerants

The Environmental Investigation Agency (EIA Global) urged DOE to include hydrocarbon refrigerants as an ACIM technology option. EIA Global expressed their concern that DOE's analysis will be incomplete without the inclusion of hydrocarbon refrigerants and that the high global warming potential (GWP) of current ACIM refrigerants will further damage the stability of the climate, thus offsetting the efficiency gains associated with standards. (EIA Global, No. 80 at p. 1)

EIA Global commented that it is likely that EPA will include hydrocarbons as acceptable ACIM refrigerants in the near future and urged DOE to bring a SNAP petition to do so. EIA Global added that accepting hydrocarbons for use in ACIMs with charge sizes of 150g or less is highly likely and that according to a United Nations Environment Programme (UNEP) report, such refrigerants have lower viscosity, resulting in improved cooling efficiency and reducing energy consumption by 18 percent. (EIA Global, No. 80 at p. 2) EIA Global noted that DOE should set standards that anticipate future alternatives, rather than being limited to what is available today. (EIA Global, No. 80 at p. 4–5)

EIA Global stated that including hydrocarbon refrigerants in the analysis will be of little burden to DOE because Scotsman, Hoshizaki, and Manitowoc already sell hydrocarbon machines throughout Europe and other international markets and noted that these three manufacturers have observed energy savings associated with use of these refrigerants. (EIA Global, No. 80 at p. 1–4)

In response to EIA Global's comments, DOE notes that hydrocarbon refrigerants have not yet been approved by the EPA SNAP program and hence cannot be considered as a technology option in DOE's analysis. DOE also notes that, while it is possible that HFC refrigerants currently used in automatic commercial ice makers may be restricted by future rules, DOE cannot speculate on the outcome of a rulemaking in progress and can only consider in its rulemakings rules that are currently in effect. Therefore, DOE has not included possible outcomes of a potential EPA SNAP rulemaking. This position is consistent with past DOE rulings, such as in the 2014 final rule for commercial refrigeration equipment. 79 FR 17725 (March 28, 2014) DOE notes that recent proposals by the EPA to allow use of hydrocarbon refrigerants or to impose new restrictions on the use of HFC refrigerants do not address automatic commercial ice maker applications. 79 FR 46126 (August 6, 2014) DOE acknowledges that there are government-wide efforts to reduce emissions of HFCs, and such actions are being pursued both through international diplomacy as well as domestic actions. DOE, in concert with other relevant agencies, will continue to work with industry and other stakeholders to identify safer and more sustainable alternatives to HFCs while

evaluating energy efficiency standards for this equipment. As mentioned in section IV.A.4, if a manufacturer believes that its design is subjected to undue hardship by regulations, the manufacturer may petition DOE's Office of Hearing and Appeals (OHA) for exception relief or exemption from the standard pursuant to OHA's authority under section 504 of the DOE Organization Act (42 U.S.C. 7194), as implemented at subpart B of 10 CFR part 1003. OHA has the authority to grant such relief on a case-by-case basis if it determines that a manufacturer has demonstrated that meeting the standard would cause hardship, inequity, or unfair distribution of burdens.

C. Screening Analysis

In the technology assessment section of this final rule, DOE presents an initial list of technologies that can improve the energy efficiency of automatic commercial ice makers. The purpose of the screening analysis is to evaluate the technologies that improve equipment efficiency to determine which of these technologies is suitable for further consideration in its analyses. To do this, DOE uses four screening criteria—design options will be removed from consideration if they are not technologically feasible; are not practicable to manufacture, install, or service; have adverse impacts on product utility or product availability; or have adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, section (4)(a)(4). See chapter 4 of the final rule TSD for further discussion of the screening analysis. Another consideration is whether a design option provides a unique pathway towards increasing energy efficiency and that pathway is a proprietary design that a manufacturer can only get from one source. In this instance, such design option would be eliminated from consideration because it would require manufacturers to procure it from a sole source. Table IV.4 shows the EPCA criteria and additional criteria used in this screening analysis, and the design options evaluated using the screening criteria.

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Table IV.4 Justification for Eliminating Technology Options from Further Consideration

Design Option	EPCA Criteria for Screening				Not Considered in the Analysis for Other Reasons		
	Technological Feasibility	Practicability to Manufacture, Install, and Service	Adverse Impacts on Product Utility	Adverse Impacts on Health and Safety	No Energy Savings or Savings not Measurable	Test Procedure Efficiency Metric Does Not Capture Savings	Sole-Source Proprietary Technology
Compressor Part Load Operation	√					√	
Enhanced Fin Surfaces					√		
Brazed Plate Condenser					√		
Microchannel Condenser					√		
Technology Options to Reduce Evaporator Thermal Cycling			√				√
Technology Options Which Reduce Harvest Meltage or Reduce Harvest Time					√		
Tube Evaporator Configuration			√				
Improved or Thicker Insulation					√		
Larger Diameter Suction Line			√				
Smart Technologies					√	√	

Table IV.5 contains the list of technologies that remained after the screening analysis.

Table IV.5 Technology Options for Automatic Commercial Ice Makers that were Screened In

Technology Options		Batch Ice Makers	Continuous Ice Makers	Notes
Compressor	Improved compressor efficiency	√	√	
Condenser	Increased surface area	√	√	
	Increased air flow	√	√	Air-cooled only
	Increased water flow	√	√	Water-cooled

				only
Fans and Fan Motors	Higher efficiency condenser fans and fan motors*	√	√	Air-cooled only
Other Motors*	Improved auger motor efficiency		√	
	Improved pump motor efficiency	√		
Evaporator	Larger evaporator surface area	√	√	
Potable Water	Reduced potable water flow	√		
	Drain water thermal exchange (Drain water heat exchanger)	√		

* Higher efficiency motors considered in the analysis include permanent split capacitor (PSC) motors and/or permanent magnet motors (e.g. such as electronically-commutated motors (ECMs)).

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a. General Comments

Manitowoc expressed its agreement with the screening analysis. (Manitowoc, No. 92 at p. 3) However, Scotsman requested that the following additional criteria be used in the screening analysis: Impact on end-user facility and operations, impact on end-user profit-generating beverage sales, impact on machine footprint, impact on end-user ''repair existing'' or ''purchase new'' decision hierarchy, impact on ACIM service and installation network support capability, and impact on manufacturer component tooling/fixture obsolescence prior to depreciation. (Scotsman, No. 85 at p. 3b–4b)

In response to Scotsman comment, DOE notes that while DOE's screening analysis specifically focuses on the four criteria identified in the process rule (see 10 CFR part 430, subpart C, appendix A, section (4)(a)(4)), some of the suggested screening criteria outlined in Scotsman's comment are taken into account in other parts of the analysis. Specifically, impacts to end user facility and operations, including installations costs, are considered in the life cycle cost analysis described in section IV.G. Impacts regarding manufacturing tooling are examined in the manufacturing impact analysis described in section IV.J.

b. Drain Water Heat Exchanger

Batch ice makers can benefit from drain water thermal exchange that cools the potable water supply entering the sump, thereby reducing the energy required to cool down and freeze the water. Technological feasibility is demonstrated by one commercially available drain water thermal heat exchanger that is currently sold only for aftermarket installation. This product is designed to be installed externally to the ice maker, and both drain water and supply water are piped through the device.

Drain water heat exchangers, both internally mounted and externally mounted, are design options that can increase the energy efficiency of automatic commercial ice makers. The current test procedures would give manufacturers credit for efficiency improvement of drain water heat exchangers, including externally mounted drain water heat exchangers as long as they are provided with the machine and the installation instructions for the machine indicate that the heat exchangers are part of the machine and must be installed as part of the overall installation.

In response to the NODA, Manitowoc stated that drain water heat exchangers have not been proven in the industry (DOE assumes that this comment addresses issues such as their reliability rather than their potential for energy savings) and their use is likely to result in lower reliability due to issues with fouling and clogging associated with mineral particles that naturally accumulate in the dump water for batch cycle machines. Manitowoc also added that the high costs for drain water heat exchangers are not justified by their efficiency gains. (Manitowoc, No. 126 at p. 2) AHRI stated that a drain water heat exchanger cannot reasonably be implemented in a 22-inch IMH–A–Small–B unit. (AHRI, No. 128 at p. 2)

DOE notes that drain water heat exchangers have been discussed as a possible technology option from the framework stage of this rulemaking. DOE has investigated the feasibility of drain water heat exchangers through review of product literature, patents, reports on installations, and product teardowns, and has also conducted testing to evaluate the claims of efficiency improvement for the technology. While fouling of the heat exchanger is a potential concern based on the higher mineral concentration in dump water, heat exchangers designed for use with ice makers have been designed with electrically insulated gaskets to substantially reduce deposition of particulates on heat exchanger surfaces.[28] Moreover, drain water heat exchangers would also benefit from typical maintenance of ice machines that includes dissolution of such mineral deposits on all components that come into contact with potable water. DOE is not aware of data showing that the units sold have substantial reliability issues as a consequence of fouling in retrofit applications. Further, Manitowoc has not provided information or test data showing that they would reduce reliability. DOE also notes that answering the question of whether the inclusion of a drain water heat exchanger is cost-effective is a goal of the DOE analyses and is not considered during the screening analysis. DOE has examined the added cost of a drain water heater along with the energy savings resulting from its use and has found drain water heat exchangers to be cost justified for certain equipment classes.

In response to AHRI's comment suggesting that drain water heat exchangers may not fit in a 22-inch IMH–A–Small–B cabinet, DOE notes that the heat exchanger would be mounted outside the unit, rather than enclosed within the cabinet. If AHRI's comment did not mean to indicate that the objection was to placement of the heat exchanger within the unit, the comment also did not make clear why such a component could not be implemented specifically for a 22-inch wide unit.

In response to AHRI's comment suggesting that drain water heat exchangers may not fit in a 22-inch IMH–A–Small–B cabinet, DOE notes that the heat exchanger would be mounted outside the unit, rather than enclosed within the cabinet. If AHRI's comment did not mean to indicate that the objection was placement of the heat exchanger within the unit, the comment also did not make clear why such a component could not be implemented

[28] Welch, D.L., et al., U.S. Patent No. 5,555,734, Sep. 17, 1996.

specifically for a 22-inch wide unit. DOE did screen in this technology.

c. Tube Evaporator Design

Among the technologies that DOE considered were tube evaporators that use a vertical shell and tube configuration in which refrigerant evaporates on the outer surfaces of the tubes inside the shell, and the freezing water flows vertically inside the tubes to create long ice tubes that are cut into smaller pieces during the harvest process. Some of the largest automatic commercial ice makers in the RCU–NRC–Large–B and the IMH–W–Large–B equipment classes use this technology. However, DOE concluded that implementation of this technology for smaller capacity ice makers would significantly impact equipment utility, due to the greater weight and size of these designs, and to the altered ice shape. DOE noted that available tube ice makers (for capacities around 1,500 lb ice/24 hours and 2,200 lb ice/24 hours) were 150 to 200 percent heavier than comparable cube ice makers. Based on the impacts to utility of this technology, DOE screened out tube evaporators from consideration in this analysis.

d. Low Thermal Mass Evaporator Design

DOE's analysis did not consider low thermal mass evaporator designs. Reducing evaporator thermal mass of batch type ice makers reduces the heat that must be removed from the evaporator after the harvest cycle, and thus decreases refrigeration system energy use. DOE indicated during the preliminary analysis that it was concerned about the potential proprietary status of such evaporator designs, since DOE is aware of only one manufacturer that produces equipment with such evaporators. DOE has not altered its decision to screen out this technology in its analysis.

e. Microchannel Heat Exchangers

Through discussions with manufacturers, DOE has determined that there are no instances of energy savings associated with the use of microchannel heat exchangers in ice makers. Manufacturers also noted that the reduced refrigerant charge associated with microchannel heat exchangers can be detrimental to the harvest performance of batch type ice makers, as there is not enough charge to transfer heat to the evaporator from the condenser.

DOE contacted microchannel manufacturers to determine whether there were energy savings associated with use of microchannel heat exchangers in automatic commercial ice makers. These microchannel manufacturers noted that investigation of microchannel was driven by space constraints rather than efficiency.

Because the potential for energy savings is inconclusive, based on DOE analysis as well as feedback from manufacturers and heat exchanger suppliers, and based on the potential utility considerations associated with compromised harvest performance in batch type ice makers associated with this heat exchanger technology's reduced refrigerant charge, DOE screened out microchannel heat exchangers as a design option in this rulemaking.

f. Smart Technologies

While there may be energy demand benefits associated with use of ''smart technologies'' in ice makers in that they reduce energy demand (*e.g.,* shift the refrigeration system operation to a time of utility lower demand), DOE is not aware of any commercialized products or prototypes that also demonstrate improved energy efficiency in automatic commercial ice makers. Demand savings alone do not impact energy efficiency, and DOE cannot consider technologies that do not offer energy savings as measured by the DOE test procedure. Since the scope of this rulemaking is to consider energy conservation standards that increase the energy efficiency of automatic commercial ice makers this technology option has been screened out because it does not save energy as measured by the test procedure.

g. Motors

Manufacturers Follett and Manitowoc provided comment regarding the use of higher efficiency motors in ACIMs. Follett stated that they are not aware of gear motors more efficient than the hypoid motors they use. (Follett, No. 84 at p. 5) Manitowoc stated that they do not consider brushless direct-current (DC) fan motors to be cost effective. (Manitowoc, Public Meeting Transcript, No. 70 at p. 157–159)

In response to Follett's comment, DOE notes that its consideration of motor efficiency applies to the prime mover portion of the motor, not the gear drive. Gear motor assemblies include both a motor which converts electricity to shaft power and a gear drive, which converts the high rotational speed of the motor shaft to the rotational speed required by the auger. DOE screened in higher efficiency options for the motor, but did not consider higher-efficiency gear drives. In response to Manitowoc, the cost-effectiveness of a given technology, such as DC fan motors, is not a factor that is considered when screening technologies.

D. Engineering Analysis

The engineering analysis determines the manufacturing costs of achieving increased efficiency or decreased energy consumption. DOE historically has used the following three methodologies to generate the manufacturing costs needed for its engineering analyses: (1) The design-option approach, which provides the incremental costs of adding to a baseline model design options that will improve its efficiency; (2) the efficiency-level approach, which provides the relative costs of achieving increases in energy efficiency levels, without regard to the particular design options used to achieve such increases; and (3) the cost-assessment (or reverse engineering) approach, which provides ''bottom-up'' manufacturing cost assessments for achieving various levels of increased efficiency, based on detailed data as to costs for parts and material, labor, shipping/packaging, and investment for models that operate at particular efficiency levels.

As discussed in the Framework document, preliminary analysis, and NOPR analysis, DOE conducted the engineering analyses for this rulemaking using an approach that combines the efficiency level, design option, and reverse engineering approaches to develop cost-efficiency curves for automatic commercial ice makers. DOE established efficiency levels defined as percent energy use lower than that of baseline efficiency products. DOE's engineering analysis is based on illustrating a typical design path to achieving the specified percentage efficiency improvements at each level through the incorporation of a group of design options. Finally, DOE developed manufacturing cost models based on reverse engineering of products to develop baseline manufacturer production costs (MPCs) and to supplement incremental cost estimate associated with efficiency improvements.

DOE directly analyzed 19 ice maker configurations representing different classes, capacities, and physical sizes. To develop cost-efficiency curves, DOE collected information from multiple sources to characterize the manufacturing cost and energy use reduction of each of the design options or grouping of design options. DOE conducted an extensive review of product literature on hundreds of ice makers and selected 50 of them for testing and reverse engineering.

To gather cost and performance information of different ice maker

design strategies, DOE conducted interviews with ice maker manufacturers and component vendors of compressors and fan motors during the preliminary, NOPR, NODA, and final phases of the rulemaking Cost information from the vendor interviews and discussions with manufacturers provided input to the manufacturing cost model. DOE determined incremental costs associated with specific design options from vendor information, discussion with manufacturers, and the cost model. DOE calculated energy use reduction based on test data, data provided in comments, data provided in manufacturer interviews, and using the FREEZE program, The reverse engineering, equipment testing, vendor interviews, and manufacturer interviews provided input for the energy analysis. Information about specific ice makers also provided equipment examples against which the modeling results could be calibrated. The final incremental cost estimates and the energy modeling results together constitute the energy efficiency curves presented in the final rule TSD chapter 5.

The cost-efficiency relationships were derived from current market designs so that efficiency calculations could be verified by ratings or testing. Another benefit of using market designs is that the efficiency performance can be associated with the use of particular design options or design option groupings. The cost of these design option changes can then be isolated and also verified. In earlier stages of the rule DOE had limited information on current market designs and relied on the FREEZE model to supplement and extend its design-option energy modeling analysis. For the NODA and Final Rule, DOE has expanded its knowledge base of market designs through its own program of testing and reverse engineering, but also received test and design information from ice maker manufacturers. The cost-efficiency curves are now based on these market designs, test data obtained both through DOE testing and from manufacturers, specific information about component performance (*e.g.* motor efficiency) on which stakeholders have been able to comment, and in some instances use of the FREEZE model. DOE limited the projected efficiency levels for groups of design options found in available equipment to the maximum available efficiency levels associated with the specific classes. The groups of design options that DOE's analysis predicted would be required to attain these maximum efficiency levels were consistent with those of the maximum available ice makers or were found to provide a conservative estimate of cost compared to the market designs of equal efficiency employing different design option groups to attain the level.

Additional details of the engineering analysis are available in chapter 5 of the final rule TSD.

1. Representative Equipment for Analysis

In performing its engineering analysis, DOE selected representative units within specific equipment types to serve as analysis points in the development of cost-efficiency curves. DOE selected models that were representative of the typical offerings within a given equipment class. DOE sought to select models having features and technologies typically found in both the minimum and maximum efficiency equipment currently available on the market.

DOE received several comments from interested parties regarding those equipment classes not directly analyzed in the NOPR. Follett commented that they object to the fact that only one RCU–Large–C was purchased for testing, given that it represents nearly half of Follett's sales. Follett added that they also object to the fact that DOE did not analyze IMH–W–Small–C, IMH–W–Large–C, RCU–Small–C, and RCU–Large–C, which comprise a significant portion of Follett's revenue. Follett expressed its fear that DOE's approach could require Follett to enact design changes that are neither technologically feasible nor economically justified. (Follett, No. 84 at p. 7–8) Follett added that all manufacturers have unique designs that should be noted during reverse engineering analyses. (Follett, No. 84 at p. 8) Similarly, Hoshizaki commented that DOE only analyzed less than 1% of available units and that analysis did not include testing to validate proposed design changes. (Hoshizaki, No. 86 at p. 1)

Ice-O-Matic noted that half cube machines represent a significant portion of the industry and expressed concern that DOE did not attempt to analyze half cube machines. (Ice-O-Matic, No. 121 at p. 3)

In response to Ice-o-Matic, DOE notes that it focused its analysis on full cube machines based on the observation that half cube machines may have an efficiency advantage over full cube machines. For some models that are available in both versions, the energy use ratings are different, and generally the half-dice version has lower energy. This is consistent with the fact that the additional copper strips that divide the full-cube cells into two half-cube cells also provide additional heat transfer surface area that can enhance ice maker performance.

In response to Follett and Hoshizaki's comments, DOE is limited in time and resources, and as such, cannot directly analyze all models. DOE responded to NOPR comments regarding lack of analysis of continuous RCU units by adding direct analysis of a continuous RCU configuration with capacity of 800 lb ice/24 hours. This capacity is near the border between the small and large RCU continuous classes, hence it provides representation for both capacity ranges. DOE reviewed Follett's available continuous RCU ice maker data, as listed in the ENERGY STAR© database, and found that nearly all of the models meet the standard set in this rule. Of the two that don't, one has adjusted energy use within 1 percent of the standard, and one has energy use within 6 percent.

DOE disagrees with Hoshizaki's statement that DOE analyzed less than one percent of available units and believes it mischaracterizes DOE's analysis. DOE identified 656 current ice maker models in its research of available databases and Web sites. DOE did not analyze Hoshizaki batch ice makers, due to their proprietary evaporator design—hence the 91 Hoshizaki batch models would not have been considered in DOE's analysis for this reason. DOE developed 19 analyses, 3.4 percent of the remaining 565 models. Moreover, DOE asserts that the range of models analyzed provides a good representation of ice maker efficiency trends. DOE carefully selected the analyzed units to represent 13 of the 25 ice maker equipment classes listed in Table IV.2 representing roughly 93 percent of ice maker shipments.

DOE does not generally conduct prototype testing to verify the energy savings projections associated with specific design changes. For this, DOE has requested data from stakeholders who have done such work. DOE received such test data, some of it through confidential information exchange with its contractor, and considered this data in the analysis. Further, DOE also considered test data and design details of commercially available ice makers, which it used to calibrate its projections of energy reductions associated with groups of design options.

In many cases, DOE leveraged information found by directly analyzing similar product classes to supplement the analysis of those secondary equipment classes which were not

directly analyzed. These similar equipment classes are listed in Table IV.6. The details of why these equipment classes were chosen can be found in chapter 5 of the final rule TSD.

TABLE IV.6—DIRECTLY ANALYZED EQUIPMENT CLASSES USED TO DEVELOP STANDARDS FOR SECONDARY CLASSES

Secondary equipment class	Analyzed equipment class associated with efficiency level for secondary equipment class
RCU–NRC–Small–B	RCU–NRC–Large–B.
RCU–RC–Small–B	RCU–NRC–Large–B.
RCU–RC–Large–B	RCU–NRC–Large–B.
SCU–W–Small–B	SCU–W–Large–B.
IMH–W–Small–C	IMH–A–Small–C.
IMH–W–Large–C	IMH–A–Large–C.
RCU–NRC–Large–C	RCU–NRC–Small–C.
RCU–RC–Small–C	RCU–NRC–Small–C.
RCU–RC–Large–C	RCU–NRC–Small–C.
SCU–W–Small–C	SCU–A–Small–C.
SCU–W–Large–C	SCU–A–Small–C.
SCU–A–Large–C	SCU–A–Small–C.

2. Efficiency Levels

a. Baseline Efficiency Levels

EPCA, as amended by the EPACT 2005, prescribed the following standards for batch type ice makers, shown in Table IV.7, effective January 1, 2010. (42 U.S.C. 6313(d)(1)) For the engineering analysis, DOE used the existing batch type equipment standards as the baseline efficiency level for the equipment types under consideration in this rulemaking. Also, DOE applied the standards for equipment with harvest capacities up to 2,500 lb ice/24 hours as baseline efficiency levels for the larger batch type equipment with harvest capacities between 2,500 and 4,000 lb ice/24 hours, which are currently not regulated. DOE applied two exceptions to this approach, as discussed below.

For the IMH–W–Small–B equipment class, DOE slightly adjusted the baseline energy use level to close a gap between the IMH–W–Small–B and the IMH–W–Medium–B equipment classes. For equipment in the IMH–A–Large–B equipment class with harvest capacity above 2,500 lb ice per 24 hours, DOE chose a baseline efficiency level equal to the current standard level at the 2,500 lb ice per 24 hours capacity. In its analysis, DOE is treating the constant portion of the IMH–A–Large–B equipment class as a separate equipment class, IMH–A–Extended–B.

As noted in section IV.B.1.d DOE is not proposing adjustment of maximum condenser water use standards for batch type ice makers. The section also generally discusses DOE regulation of condenser water. First, DOE's authority does not extend to regulation of water use, except as explicitly provided by EPCA. Second, DOE determined that increasing condenser water use standards to allow for more water flow in order to reduce energy use is not cost-effective. The details of this analysis are available in chapter 5 of the final rule TSD.

For water-cooled batch equipment with harvest capacity less than 2,500 lb ice per 24 hours, the baseline condenser water use is equal to the current condenser water use standards for this equipment.

For water-cooled equipment with harvest capacity greater than 2,500 lb ice per 24 hours, DOE set maximum condenser water standards equal to the current standard level for the same type of equipment with a harvest capacity of 2,500 lb ice per 24 hours—the proposed standard level would not continue to drop as harvest capacity increases, as it does for equipment with harvest capacity less than 2,500 lb ice per 24 hours.

TABLE IV.7—BASELINE EFFICIENCY LEVELS FOR BATCH ICE MAKERS

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kWh/100 lb ice	Maximum condenser water use * gal/100 lb ice
Ice—Making Head	Water	<500	7.80—0.0055H **	200—0.022H.
		≥500 and <1,436	5.58—0.0011H	200—0.022H.
		≥1,436	4.0	145.
	Air	<450	10.26—0.0086H	Not Applicable.
		≥450 and <2,500	6.89—0.0011H	Not Applicable.
		≥2,500	4.1	Not Applicable.
Remote Condensing (but not remote compressor)	Air	<1,000	8.85—0.0038H	Not Applicable.
		≥1,000	5.10	Not Applicable.
Remote Condensing and Remote Compressor	Air	<934	8.85—0.0038H	Not Applicable.
		≥934	5.30	Not Applicable.
Self—Contained	Water	<200	11.4—0.019H	191—0.0
		≥200	7.60	For <2,500: 191—0.0315H. For ≥2,500: 112.
	Air	<175	18.0—0.0469H	Not Applicable.
		≥175	9.80	Not Applicable.

* Water use is for the condenser only and does not include potable water used to make ice.
** H = harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate.
Source: 42 U.S.C. 6313(d).

Currently there are no DOE energy standards for continuous type ice makers. During the preliminary analysis, DOE developed baseline efficiency levels using energy use data available from several sources, as discussed in chapter 3 of the preliminary TSD. DOE chose baseline efficiency levels that would be met by nearly all ice makers represented in the databases, using ice hardness assumptions of 70 for flake ice makers and 85 for nugget ice makers, since ice hardness data was not available at the time. For the NOPR analysis, DOE used available information published in the AHRI Directory of Certified Product Performance, the California Energy Commission, the ENERGY STAR program, and vendor Web sites, to update its icemaker ratings database (''DOE icemaker ratings database''). The AHRI published equipment ratings including ice hardness data, measured as prescribed by ASHRAE 29–2009, which is incorporated by reference in the DOE test procedure. DOE recreated

its baseline efficiency levels for continuous type ice makers based on the available AHRI data, considering primarily the ice makers for which ice hardness data were available. DOE also adjusted the harvest capacity break points for the continuous equipment classes based on the new data.

The baseline efficiency levels used in the NOPR analysis for continuous type ice makers are presented in Table IV.8. For the remote condensing equipment, the large-capacity remote compressor and large-capacity non-remote compressor classes have been separated and are different by 0.2 kWh/100 lb, identical to the batch equipment differential for the large batch classes.

TABLE IV.8—NOPR BASELINE EFFICIENCY LEVELS FOR CONTINUOUS ICE MAKER EQUIPMENT CLASSES

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kWh/100 lb ice *	Maximum condenser water use * gal/100 lb ice
Ice-Making Head	Water	Small (<900)	8.1–0.00333H	160–0.0176H.
		Large (≥900)	5.1	≤2,500: 160–0.0176H. >2,500: 116.
	Air	Small (<700)	11.0–0.00629H	Not Applicable.
		Large (≥700)	6.6	Not Applicable.
Remote Condensing (Remote Compressor)	Air	Small (<850)	10.2–0.00459H	Not Applicable.
		Large (≥850)	6.3	Not Applicable.
Remote Condensing (Non-remote Compressor)	Air	Small (<850)	10.0–0.00459H	Not Applicable.
		Large (≥850)	6.1	Not Applicable.
Self-Contained	Water	Small (<900)	9.1–0.00333H	153–0.0252H.
		Large (≥900)	6.1	≤2,500: 153–0.0252H. >2,500: 90.
	Air	Small (<700)	11.5–0.00629H	
		Large (≥700)	7.1	

* H = harvest capacity in lb ice/24 hours

After the publication of the NOPR and the NOPR public meeting, DOE received two comments from interested parties regarding its establishment of baseline models.

In response to the NOPR, Scotsman commented that there is not sufficient historical data (greater than 1 year) to establish continuous type baselines with statistical confidence. Scotsman added that the current ASHRAE standard is biased against low-capacity machines, and therefore does not accurately represent the energy usage of the machine when corrected for hardness factor. (Scotsman, No. 85 at p. 3b)

DOE has found multiple sources of information regarding the energy efficiency of continuous ice machines on the market. As noted previously, DOE investigated information published in the AHRI Directory of Certified Product Performance, the California Energy Commission, the ENERGY STAR program, and vendor Web sites to inform the establishment of a baseline for continuous models. In regards to Scottsman's comment that the standard is biased against low capacity machines, DOE has set its baseline levels while considering continuous model energy use that has been adjusted using the current ASHRAE test standard. If the test is biased against low-capacity machines, this bias should be reflected in the data and already be accounted for in the selected baseline levels.

Hoshizaki stated that they believe the baseline levels presented in the NOPR are too harsh for continuous equipment as it leaves many ENERGY STAR units unable to meet the minimum energy efficiency baseline. Hoshizaki noted that DOE based its analysis on the 2012 AHRI listing. Hoshizaki requested that DOE reassess the baseline data for all current continuous models as many more units have since been listed on AHRI's Web site. (Hoshizaki, No. 86 at p. 2–3) Similarly, Follett commented that some of the data on continuous type ice makers were not available in 2012, since they were not a part of the ENERGY STAR program until 2013, and that the baseline line might move up if recent data was added to the plot. (Follet, Public Meeting Transcript, No. 70 at p. 76–78) PGE/SDG&E commented that they support DOE's updating their database with new data from all sources, including the CEC, AHRI, and NRCan databases. (PG&E and SDG&E, No. 89 at p. 3)

In response to Hoshizaki's comment about ENERGY STAR-rated continuous models, for which there are currently no federal standard levels that would clearly represent the baseline efficiency levels, DOE revised its continuous class baselines so that no ENERGY STAR-rated continuous models have energy use higher than the baseline. The revised baseline efficiency levels for the continuous SCU classes are shown in Table IV.9 below. However, DOE notes that baseline efficiency levels are not required to be set at a level with which all commercially available equipment would be compliant. There are some IMH–W models and some IMH–A models that have energy use higher than the selected baseline levels—this is illustrated in the comparison of equipment data and efficiency levels in Chapter 3 of the TSD. DOE selected baseline efficiency levels that provide a good representation of the highest energy use exhibited by models available on the market with the exclusion of a few outliers (*i.e.* models exhibiting very different energy use than the majority of models).

TABLE IV.9—MODIFIED BASELINE EFFICIENCY LEVELS FOR SCU CONTINUOUS ICE MAKER EQUIPMENT CLASSES

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kWh/100 lb ice *	Maximum condenser water use * gal/100 lb ice
Self-Contained	Water	Small (<900)	9.5—0.00378H	153—0.0252H.
		Large (≥900)	6.1	≤2,500: 153—0.0252H >2,500: 90.
	Air	Small (<200)	16.3—0.03H	Not Applicable.
		Large (≥200 and < 700)	11.84—0.0078H	Not Applicable.
		Extended (≥ 700)	6.38	Not Applicable.

* H = harvest capacity in lb ice/24 hours.

In response to the comments related to data sources DOE notes that it has continued to update the analysis with new data as it becomes available. This includes new information published in the AHRI Directory of Certified Product Performance, the California Energy Commission and the ENERGY STAR program.

In response to the NODA analysis, Hoshizaki again stated that DOE has not conducted enough analysis to accurately portray the baseline efficiency levels of continuous models (Hoshizaki, No. 124 at p. 1) NAFEM also stated that the NODA continuous unit baselines do not reflect the current models in the marketplace. (NAFEM, No. 123 at p. 2)

DOE has evaluated all available data sources in its determination of the baseline efficiency levels for continuous units. However, as stated above, DOE notes that the baseline level selected is not necessarily the least efficient equipment on the market. As part of this review of data sources, DOE has modified the baseline condenser water use levels for IMH–W continuous classes such that they are 10 percent below the IMH–W batch baseline water use levels.

b. Incremental Efficiency Levels

For each of the 11 analyzed batch type ice-maker equipment classes and the four analyzed continuous ice maker equipment classes, DOE established a series of incremental efficiency levels for which it has calculated incremental costs. DOE chose these classes to be representative of all ice-making equipment classes, and grouped non-analyzed equipment classes with similar analyzed equipment classes accordingly in the downstream analysis. Table IV.10 shows the selected incremental efficiency levels considered in the final rule analysis for batch ice makers, and Table IV.11 shows the incremental efficiency levels considered for continuous ice makers.

TABLE IV.10—INCREMENTAL EFFICIENCY LEVELS FOR BATCH ICE MAKER EQUIPMENT CLASSES CONSIDERED IN THE FINAL RULE ANALYSIS

Equipment type *	Harvest capacity rate lb ice/24 hours		EL 2 ** (%)	EL 3 EL 3A *** (%)	EL 4 EL 4A *** (%)	EL 5 (%)	EL 6 (%)	EL 7 (%)
	Range	Representative capacity						
IMH–W–Small–B	<500	300	10	15	20	24		
					22			
IMH–W–Med–B	≥500 and <1,436	850	10	15	18			
IMH–W–Large–B	≥1,436	1,500	8					
IMH–W–Large–B	≥1,436	2,600	7					
IMH–A–Small–B	<450	300	10	15	20	25	26	
				18				
IMH–A–Large–B	≥450	800	10	15	20	23		
				16				
IMH–A–Large–B	≥450	1,500	10	12				
RCU–NRC–Small–B		Not Directly Analyzed						
RCU–NRC–Large–B	≥1,000	1,500	10	15	17			
RCU–NRC–Large–B	≥1,000	2,400	10	14				
RCU–RC–Small–B	<934	Not Directly Analyzed						
RCU–RC–Large–B	≥934	Not Directly Analyzed						
SCU–W–Small–B	>200	Not Directly Analyzed						
SCU–W–Small–B	≥200	300	10	15	20	25	30	
SCU–A–Small–B	<175	110	10	15	20	25	30	33

TABLE IV.10—INCREMENTAL EFFICIENCY LEVELS FOR BATCH ICE MAKER EQUIPMENT CLASSES CONSIDERED IN THE FINAL RULE ANALYSIS—Continued

Equipment type *	Harvest capacity rate lb ice/24 hours		EL 2 ** (%)	EL 3 EL 3A *** (%)	EL 4 EL 4A *** (%)	EL 5 (%)	EL 6 (%)	EL 7 (%)
	Range	Representative capacity						
SCU–A–Large–B	≥175	200	10	15	20	25	29	.....

* See Table III.1 for a description of these abbreviations.
** EL = efficiency level; EL 1 is the baseline efficiency level, while EL 2 through EL 7 represent increased efficiency levels.
*** DOE considered intermediate efficiency levels 3A and 4A for some equipment classes.

TABLE IV.11—INCREMENTAL EFFICIENCY LEVELS FOR CONTINUOUS TYPE ICE MAKER EQUIPMENT CLASSES CONSIDERED IN THE FINAL RULE ANALYSIS

Equipment Type *	Harvest capacity lb ice/24 hours		EL 2 ** (%)	EL 3 (%)	EL 4 (%)	EL 5 (%)	EL 6 (%)
	Range	Representative capacity					
IMH–W–Small–C	<900	Not Directly Analyzed					
IMH–W–Large–C	≥900	Not Directly Analyzed					
IMH–A–Small–C	<700	310	10	15	20	25	26
IMH–A–Large–C	≥700	820	10	15	20	23	.....
RCU–Small–C	<850	800	10	15	20	25	27
RCU–Large–C	≥850	Not Directly Analyzed					
SCU–W–Small–C	<900	Not Directly Analyzed					
SCU–W–Large–C	≥900	No existing products on the market					
SCU–A–Small–C	<700	220	10	15	20	25	27
SCU–A–Large–C	≥700	No existing products on the market					

* See Table III.1 for a description of these abbreviations.
** EL 1 is the baseline efficiency level, while EL 2 through EL 6 represent increased efficiency levels.

In response to the NODA, Hoshizaki stated that ''there are no models that achieve the NODA levels in SCU–A, IMH–W large, or RCU–A large'' equipment classes. Hoshizaki added that these same levels were not analyzed for cost curves. (Hoshizaki, No. 124 at p. 1)

As discussed above in section IV.D.1, DOE's analysis for the RCU class was at a representative capacity of 800 lb ice/24 hours, intended to provide representation for both small and large classes, by being at a capacity level in the large range but within 100 lb ice/24 hours of the small range. Continuous ice maker data that DOE collected from publicly available sources does show that nearly all ice makers meet the baseline efficiency levels considered in the analysis. Not all meet the efficiency levels eventually designated as TSL 3 for the final rule, but some ice makers over a broad capacity range in each of the cited classes (SCU–A–C, IMH–W–C, RCU–RC–C, and RCU–NRC–C) do meet this level, shown in Table IV.12 through Table IV.15. A comparison of the levels achieved by commercially available ice makers with the considered TSL levels is shown graphically in Chapter 3 of the TSD.

TABLE IV.12—AIR-COOLED, SELF-CONTAINED, CONTINUOUS UNITS MEETING THE FINAL RULE STANDARD

Manufacturer	Model	Harvest capacity (lb ice/24 hours)	Adjusted energy use (kWh/100 lb ice)	Standard (kWh/100 lb ice)	Hardness factor
Hoshizaki	F–330BAH–C	222	7.99	8.08	84.5
Hoshizaki	F–330BAH	238	7.56	7.98	69.8
Manitowoc	RNS0385A–161	248	7.75	7.92	86
Scotsman	MDT5N25WS–1#	455	4.99	6.63	75
Hoshizaki	DCM–751BWH	631	5.21	5.53	88.9

TABLE IV.13—WATER-COOLED, ICE MAKING HEAD, CONTINUOUS UNITS MEETING THE FINAL RULE STANDARD

Manufacturer	Model	Harvest capacity (lb ice/24 hours)	Adjusted energy use (kWh/100 lb ice)	Standard (kWh/100 lb ice)	Hardness factor
Ice-O-Matic	GEM0450W	429	4.66	5.33	(*)
Follet	HC *700W **	535	4.43	5.05	(*)
Ice-O-Matic	GEM0655W	578	4.2	4.94	(*)
Ice-O-Matic	MFI0805W	604	4.26	4.87	(*)
Hoshizaki	F–801MWH	635	4.48	4.78	75.1
Ice-O-Matic	GEM0650W	633	3.86	4.79	(*)
Ice-O-Matic	MFI0800W	740	3.93	4.50	(*)
Ice-O-Matic	GEM0956W	877	3.54	4.34	(*)
Ice-O-Matic	GEM0955W	927	3.71	4.34	(*)
Ice-O-Matic	MFI1256W	959	3.54	4.34	(*)
Ice-O-Matic	MFI1255W	1000	3.41	4.34	(*)
Follet	HCE1400W**	1150	4.31	4.34	(*)
Ice-O-Matic	RN–1409W	1318	4.27	4.34	(*)
Ice-O-Matic	RN1409W–261	1318	4.15	4.34	88
Follet	HCC1400W ***	1374	4.28	4.34	(*)

* Ice hardness factor assumed to be 70 for flake ice makers and 85 for nugget ice makers.

TABLE IV.14—REMOTE CONDENSING, NOT REMOTE COMPRESSOR, CONTINUOUS UNITS MEETING THE FINAL RULE STANDARD

Manufacturer	Model	Harvest capacity (lb ice/24 hours)	Adjusted energy use (kWh/100 lb ice)	Proposed standard (kWh/100 lb ice)	Hardness factor
Ice-O-Matic	GEM0650R	550	6.41	6.51	(*)
Ice-O-Matic	GEM0956R	825	4.77	4.915	(*)
Ice-O-Matic	MFI1256R	950	4.79	5.06	(*)
Scotsman	N1322R–32#	1030	5.04	5.06	74
Scotsman	F1222R–32#	1050	4.97	5.06	60

* Ice hardness factor assumed to be 70 for flake ice makers and 85 for nugget ice makers.

TABLE IV.15—REMOTE CONDENSING, REMOTE COMPRESSOR, CONTINUOUS UNITS MEETING THE FINAL RULE STANDARD

Manufacturer	Model	Harvest capacity (lb ice/24 hours)	Adjusted energy use (kWh/100 lb ice)	Standard (kWh/100 lb ice)	Hardness factor
Follet	HCD700RBT	566	5.44	6.62	88
Manitowoc	RFS1278C–261	958	5.11	5.26	72
Follet	HCD1400R ***	1184	4.87	5.26	(*)
Follet	HCF1400RBT	1195	4.59	5.26	89.4
Follet	HCD1650R ***	1284	5.24	5.26	(*)
Follet	HCF1650RBT	1441	4.14	5.26	89.9
Manitowoc	RFS2378C–261	1702	5.18	5.26	68
Ice-O-Matic	MFI2406LS	2000	4.27	5.26	(*)
Scotsman	FME2404RLS	2000	3.54	5.26	(*)

* Ice hardness factor assumed to be 70 for flake ice makers and 85 for nugget ice makers.

c. IMH–A–Large–B Treatment

The existing DOE energy conservation standard for large air-cooled IMH cube type ice makers is represented by an equation for which maximum allowable energy usage decreases linearly as harvest rate increases from 450 to 2,500 lb ice/24 hours. In the NOPR, DOE proposed efficiency levels for this class that maintain a constant energy use in kwh per 100 pounds of ice at large capacities to the extent that this approach does not violate EPCA's anti-backsliding provision. 79 FR at 14877 (March 17, 2014).

DOE did not receive any comments on the approach described in the NOPR. Therefore, DOE maintained this approach for the final rule.

d. Maximum Available Efficiency Equipment

DOE considered the most-efficient equipment available on the market, known as maximum available equipment. For many batch equipment classes, the maximum available equipment uses proprietary or screened-out technology options that DOE did not consider in its engineering analysis, such as low thermal-mass evaporators and tube evaporators for batch type ice makers. Hence, DOE considered only batch maximum available equipment that does not include these technologies. These maximum available efficiency levels are shown in Table IV.16. This information is based on DOE's icemaker ratings database (see data in chapter 3 of the final rule TSD). The efficiency levels are represented as an energy use percentage reduction compared to the energy use of baseline-efficiency equipment. For some batch equipment classes, DOE has presented maximum available efficiency levels at different capacity levels or for 22-inch wide ice makers.

TABLE IV.16—EFFICIENCY LEVELS FOR MAXIMUM AVAILABLE EQUIPMENT WITHOUT SCREENED TECHNOLOGIES IN BATCH ICE MAKER EQUIPMENT CLASSES

Equipment class	Energy use lower than baseline
IMH–W–Small–B	19.2%, 16.9% (22-inch wide).
IMH–W–Med–B	14.3%.
IMH–W–Large–B	5% (at 1,500 lb ice/24 hours), 2.5% (at 2,600 lb ice/24 hours).
IMH–A-Small–B	19.3%, 16.6% (22-inch wide).
IMH–A–Large–B	16.1% (at 800 lb ice/24 hours) 5.5% (at 590 lb ice/24 hours, 22-inch wide) 6.0% (at 1,500 lb ice/24 hours).
RCU–Small–B	25.8%.
RCU–Large–B	15.7% (at 1,500 lb ice/24 hours), 14.9% (at 2,400 lb ice/24 hours).
SCU–W–Small–B	26.2%.
SCU–W–Large–B	27.6%.
SCU–A–Small–B	24.9%.
SCU–A–Large–B	26.4%.

Efficiency levels for maximum available equipment in the continuous type ice-making equipment classes are shown in Table IV.17. This information is based on a survey of product databases and manufacturer Web sites (see data in chapter 3 of the final rule TSD). The efficiency levels are represented as an energy use percentage reduction compared to the energy use of baseline-efficiency equipment.

TABLE IV.17—EFFICIENCY LEVELS FOR MAXIMUM AVAILABLE EQUIPMENT FOR CONTINUOUS TYPE ICE MAKER EQUIPMENT CLASSES

Equipment class	Energy use lower than baseline
IMH–W–Small–C	16.5%.
IMH–W–Large–C	12.2% (at 1,000 lb ice/24 hours), 8.6% (at 1,800 lb ice/24 hours).
IMH–A–Small–C	28.0%.
IMH–A–Large–C	35.7% (at 820 lb ice/24 hours), lb ice.
RCU–Small–C	18.4%.
RCU–Large–C	18.5%.
SCU–W–Small–C	18.7%*.
SCU–W–Large–C	No equipment on the market*.
SCU–A–Small–C	29.3%.
SCU–A–Large–C	No equipment on the market*.

*DOE's inspection of currently available equipment revealed that there are no available products in the defined SCU–W–Large–C and SCU–A–Large–C equipment classes at this time.

In response to the maximum available efficiency levels presented in the NODA AHRI suggested that DOE review the max available unit for the 22-inch IMH–A–Small–B equipment class which is cited at 17% as they believe the unit may contain proprietary design options. (AHRI, No. 128 at p. 3)

DOE maintains that the representative 22-inch unit for the IMH–A–Small–B equipment class did not contain any proprietary designs—specifically, the model analyzed does not include any proprietary or screened options such as low-thermal-mass evaporators or tube-ice evaporators. Table IV.18 lists 22-inch ice makers of this class that are in DOE's ice maker database. DOE calculated an efficiency level equal to 12.3% for such a unit with design options included in maximum available equipment. There are three available units with higher efficiency level. Therefore, DOE has maintained the maximum available level for this equipment class in the final rule engineering analysis.

TABLE IV.18—22-INCH IMH–A–SMALL–B MODELS

Harvest capacity rate (lb ice/24 hours)	Rated energy use (kWh/100 lb ice)	Percent efficiency level	Contains proprietary or screened technology (*e.g.*, low-thermal-mass or tube evaporators)?
249	8.10	0.2	No.
290	7.23	6.9	No.
225	7.49	10.0	No.
335	6.64	10.0	No.
360	6.45	10.0	No.
310	6.80	10.5	No.
305	6.80	11.0	No.
230	7.32	11.6	No.
278	6.90	12.3	Yes.
214	7.20	14.5	No.
370	5.90	16.6	No.
255	6.60	18.2	No.
324	5.80	22.4	Yes.

e. Maximum Technologically Feasible Efficiency Levels

When DOE adopts an amended or new energy conservation standard for a type or class of covered equipment such as automatic commercial ice makers, it determines the maximum improvement in energy efficiency that is technologically feasible for such equipment. (*See* 42 U.S.C. 6295(p)(1) and 6313(d)(4)) DOE determined maximum technologically feasible (''max-tech'') efficiency levels for automatic commercial ice makers in the engineering analysis by considering efficiency improvement beyond the maximum available levels associated with two design options that are generally not used in commercially available equipment, brushless DC motors and drain water heat exchangers. DOE has not screened out these design options—cost-effectiveness is not one of the screening criteria (see section IV.C). Table IV.19 and Table IV.20 show the max-tech levels determined in the NOPR engineering analysis for batch and continuous type automatic commercial ice makers, respectively. These max-tech levels do not consider use of screened technology, specifically low-thermal-mass evaporators and tube ice evaporators.

TABLE IV.19—FINAL RULE MAX-TECH LEVELS FOR BATCH AUTOMATIC COMMERCIAL ICE MAKERS

Equipment type *	Percent energy use lower than baseline
IMH–W–Small–B	23.9%, 21.5% (22 inch wide).
IMH–W–Med–B	18.1%.
IMH–W–Large–B	8.3% (at 1,500 lb ice/24 hours), 7.4% (at 2,600 lb ice/24 hours).
IMH–A–Small–B	25.5%, 18.1% (22 inch wide).
IMH–A–Large–B	23.4% (at 800 lb ice/24 hours), 15.8% (at 590 lb ice/24 hours, 22 inch wide), 11.8% (at 1,500 lb ice/24 hours).
RCU–Small–B	Not directly analyzed.
RCU–Large–B	17.3% (at 1,500 lb ice/24 hours), 13.9% (at 2,400 lb ice/24 hours).
SCU–W–Small–B	Not directly analyzed.
SCU–W–Large–B	29.8%.
SCU–A–Small–B	32.7%.
SCU–A–Large–B	29.1%.

* IMH is ice-making head; RCU is remote condensing unit; SCU is self-contained unit; W is water-cooled; A is air-cooled; Small refers to the lowest harvest category; Med refers to the Medium category (water-cooled IMH only); Large refers to the large size category; RCU units were modeled as one with line losses used to distinguish standards.

Note: For equipment classes that were not analyzed, DOE did not develop specific cost-efficiency curves but attributed the curve (and maximum technology point) from one of the analyzed equipment classes.

TABLE IV.20—FINAL RULE MAX-TECH LEVELS FOR CONTINUOUS AUTOMATIC COMMERCIAL ICE MAKERS

Equipment type	Percent energy use lower than baseline
IMH–W–Small–C	Not directly analyzed.
IMH–W–Large–C	Not directly analyzed.
IMH–A–Small–C	25.7% †.
IMH–A–Large–C	23.3% (at 820 lb ice/24 hours).
RCU–Small–C	26.6% †.
RCU–Large–C	Not directly analyzed.

TABLE IV.20—FINAL RULE MAX-TECH LEVELS FOR CONTINUOUS AUTOMATIC COMMERCIAL ICE MAKERS—Continued

Equipment type	Percent energy use lower than baseline
SCU–W–Small–C	Not directly analyzed.
SCU–W–Large–C *	No units available.
SCU–A–Small–C	26.6% †.
SCU–A–Large–C *	No units available.

* DOE's investigation of equipment on the market revealed that there are no existing products in either of these two equipment classes (as defined in this NOPR).

** For equipment classes that were not analyzed, DOE did not develop specific cost-efficiency curves but attributed the curve (and maximum technology point) from one of the analyzed equipment classes

† Percent energy use lower than baseline.

Several stakeholders provided comment regarding the maximum technological efficiency levels presented in the NOPR.

PG&E recommended that DOE continue to update its product database to ensure that max-tech levels are set appropriately. (PG&E and SDG&E, No. 89 at p. 3–4) Manitowoc stated that examples of currently available models that are near the max-tech levels are not generally representative of the full range of models in each equipment class, explaining that small-capacity ice makers can attain higher efficiency levels than large-capacity ice makers built using the same package size. (Manitowoc, No. 92 at p. 3) AHRI commented that the maximum technologically feasible efficiency levels presented in the NOPR analysis were overestimated by up to 13% for at least 10 equipment classes. AHRI added that the FREEZE energy model has been proven invalid through testing, citing two examples of testing to evaluate the efficiency improvement associated with switching to a higher-EER compressor in which the observed efficiency improvement was significantly less than the NOPR projections of efficiency improvement associated with compressor switching. (AHRI, No. 93 at p. 5–6)

In response to the comment provided by PGE DOE notes that it has continued to update the product database with new data as it becomes available.

In response to Manitowoc, DOE notes that its analysis has considered multiple capacity levels for key classes. Also, although DOE agrees that higher efficiency levels may be more difficult to attain by higher-capacity ice makers, DOE has investigated the trend of efficiency level as a function of harvest capacity and package size and concluded that there are no consistent trends in the available data that would indicate which capacities should be analyzed for each specific package size. 79 FR at 14871–3 (March 17, 2014). DOE notes that while Manitowoc's comment indicates that higher efficiency levels may be easier to attain for a smaller-capacity unit in a given package size, the comment does not indicate which classes and capacities in DOE's analysis represent capacities for which attaining higher efficiency would be so much easier that equipment with these characteristics would not be representative of their classes. An example review of the relationship of harvest capacity rate, efficiency level, and package size in volume (cubic feet) is shown in Table IV.21 for IMH air-cooled batch ice makers. The data shown does not include ice makers with proprietary evaporator technology, nor does it include ice makers that produce large-size (gourmet) ice cubes. The data show that higher efficiency levels do not necessarily correlate either with larger package sizes or the smallest harvest capacity rates—the maximum 20.7% efficiency level is associated with a relatively small 8.3 cubic foot volume and a 530 lb ice/24 hour capacity rate.

TABLE IV.21—RELATIONSHIP BETWEEN HARVEST CAPACITY RATE, EFFICIENCY LEVEL, AND VOLUME FOR IMH AIR-COOLED BATCH ICE MAKERS BETWEEN 300 AND 600 LB ICE/24 HOURS

Harvest capacity rate (lb ice/24 hours)	Energy use (kWh/100 lb ice)	Percent efficiency level * (%)	Volume (cu ft)
305	6.80	11.0	6.7
310	6.80	10.5	6.7
335	6.64	10.0	6.7
360	6.45	10.0	6.7
370	5.90	16.6	7.0
380	6.70	4.2	7.0
404	6.10	10.1	7.3
357	6.30	12.4	8.3
358	5.95	17.1	8.3
368	6.10	14.0	8.3

TABLE IV.21—RELATIONSHIP BETWEEN HARVEST CAPACITY RATE, EFFICIENCY LEVEL, AND VOLUME FOR IMH AIR-COOLED BATCH ICE MAKERS BETWEEN 300 AND 600 LB ICE/24 HOURS—Continued

Harvest capacity rate (lb ice/24 hours)	Energy use (kWh/100 lb ice)	Percent efficiency level * (%)	Volume (cu ft)
448	6.10	4.8	8.3
448	6.10	4.8	8.3
530	5.00	20.7	8.3
530	5.00	20.7	8.3
366	6.00	15.6	8.5
459	5.80	9.2	8.5
590	5.90	5.5	8.9
300	6.20	19.3	9.1
316	6.36	15.7	9.1
320	6.20	17.4	9.1
335	5.97	19.1	9.1
370	5.94	16.1	9.1
388	6.00	13.3	9.1
390	5.79	16.2	9.1
405	5.80	14.4	9.1
410	5.73	14.9	9.1
485	6.00	5.6	9.1
490	5.41	14.8	9.1
538	6.00	4.7	9.1
555	5.29	15.8	9.1
300	6.50	15.4	9.6
380	5.80	17.0	9.6
400	6.40	6.2	9.6
528	6.00	4.9	9.6
486	5.30	16.6	17.6

* Percent energy use less than baseline energy use.

In response to AHRI, DOE notes that modifications have been made to the engineering analysis to incorporate new data provided by interested parties regarding the expected energy savings resulting from the incorporation of design options. These modifications have resulted in a reevaluation of max-tech levels for several equipment classes. See chapter 5 of the final rule TSD for the results of the analyses and a list of technologies included in max-tech equipment. Table IV.22 below compares the max-tech levels of AHRI's NOPR comment to DOE's NOPR phase max-tech levels, the maximum available efficiency levels, and the max-tech levels of DOE's final rule analysis. The final-rule max-tech levels are higher than the AHRI max-tech levels in only three classes, IMH–W–Small–B, IMH–A–Small–B, and RCU–NRC–Large–B1 (1,500 lb ice/24 hour representative capacity). AHRI's comment mentions that certain design options were removed from consideration as part of AHRI's ''correction'' of the DOE analysis. These design option changes are described in Exhibit 3 of the comment. (AHRI, No. 93 at p. 24).

For IMH–A–Small–B, AHRI eliminated ''increase in evaporator area by 51% (with chassis growth)''. Efficiency improvement of 12.8 percent is attributed to this design option in the final rule analysis, accounting for more than the 7 percent difference between the DOE and AHRI max-tech projections. For IMH–W–Small–B, AHRI similarly eliminated design options involving increase in chassis size. AHRI indicated that design options that increase package size should not be considered for these classes because they include 22-inch units, which AHRI claimed to be space-constrained. DOE retained consideration of these design options for the final rule analysis, conducting additional analysis for 22-inch wide models, and considering the installation cost impacts of the larger chassis size for a representative population of units where some rebuilding of the surrounding space would be required to accommodate the larger size (see section IV.G.2) DOE considers package size increase a potential for added cost, rather than a reduction in utility that must be screened out of the analysis, since added cost is not one of the four screening criteria. (see 10 CFR 430, subpart C, appendix A, section (4)(a)(4)) For RCU–NRC–Large–B1, DOE's final rule max-tech efficiency level is only 1 percent higher than the AHRI max-tech level, and the maximum available efficiency levels is equal to the AHRI max-tech level. For this class, AHRI modified the performance improvement associated with higher-EER compressors. DOE's analysis uses ice maker efficiency improvement attributable to compressor improvement slightly better than assumed by AHRI—DOE's estimate is based on a larger dataset of test data, evaluating the ice maker efficiency improvement possible by using improved compressors.

TABLE IV.22—COMPARISON OF AHRI MAX TECH LEVELS WITH DOE NOPR AND FINAL RULE MAX TECH LEVELS

Equipment class	Representative capacity (lb ice/24 hours)	AHRI max tech (% below baseline)	DOE NOPR max tech (% below baseline)	Max available (% below baseline)	DOE final rule max tech (% below baseline)
IMH–W–Small–B	300	18	29	19	24

TABLE IV.22—COMPARISON OF AHRI MAX TECH LEVELS WITH DOE NOPR AND FINAL RULE MAX TECH LEVELS—Continued

Equipment class	Representative capacity (lb ice/24 hours)	AHRI max tech (% below baseline)	DOE NOPR max tech (% below baseline)	Max available (% below baseline)	DOE final rule max tech (% below baseline)
IMH–W–Med–B	850	18	21	14	18
IMH–W–Large–B–1	1500	15	17	5	8
IMH–W–Large–B–2	2600	14	15	2.5	7
IMH–A–Small–B	300	19	31	19	26
IMH–A–Large–B–1	800	25	29	16	16
IMH–A–Large–B–2	1500	18	20	6	12
RCU–NRC–Large–B–1	1500	16	21	16	17
RCU–NRC–Large–B–2	2400	18	21	15	14
SCU–W–Large–B	300	30	30	28	30
SCU–A–Small–B	110	39	39	31	33
SCU–A–Large–B	200	35	35	26	29
IMH–A–Small–C	310	26	31	28	26
IMH–A–Large–C	820	30	30	36	23
SCU–A–Small–C	110	28	28	24	27

In response to AHRI's comment that the FREEZE model has been proven to be invalid, DOE notes that this comment is based on tests illustrating the ice maker efficiency improvement associated with two examples of switch to higher-EER compressors. AHRI points to only one of the design options considered in the DOE's analysis, for which DOE updated its analysis. DOE has modified its treatment of compressors in the analysis, basing the calculation of ice maker efficiency improvement on test data provided both by the AHRI comment and other data provided confidentially by manufacturers to DOE's contractor. Based on the data DOE reviewed, the ice maker energy use reduction associated with improvement in compressor EER averages 57 percent of the compressor energy use reduction expected based on the EER improvement—DOE used this ratio for its analysis of batch ice makers for the final rule. Hence, this particular issue with the engineering analysis has been addressed through changes in DOE's approach in both the NODA and final rule analyses.

3. Design Options

After conducting the screening analysis and removing from consideration the technologies described above, DOE considered the inclusion of the remaining technologies as design options in the final rule engineering analysis. The technologies that were considered in the engineering analysis are listed in Table IV.23, with indication of the equipment classes to which they apply.

Table IV.23 Final Rule Design Options by Equipment Class

Ice Maker Type	Equipment Class	Compressor Upgrade	Condenser Fan Motors	Pump Motors	Auger Motors	Larger Air-Cooled Condensers	Larger Water-Cooled Condensers	Batch Fill	Larger Evaporators	Drainwater Heat Exchanger
Batch	IMH-W-B	√		√			√	√	√	√
	IMH-A-B	√	√	√		√		√	√	√
	RCU-B	√	√	√		√		√	√	√
	SCU-W-B	√		√			√	√	√	√
	SCU-A-B	√	√	√		√		√	√	√
Continuous	IMH-W-C	Not Directly Analyzed								
	IMH-A-C	√	√		√	√			√	
	RCU-C	Not Directly Analyzed								
	SCU-W-C	Not Directly Analyzed								
	SCU-A-C	√	√		√	√			√	

a. Design Options That Need Cabinet Growth

Some of the design options considered by DOE in its technology assessment could require an increased cabinet size. Examples of such design options include increasing the surface area of the evaporator or condenser, or both. Larger heat exchangers would enable the refrigerant circuit to operate with an increased evaporating temperature and a decreased

condensing temperature, thus reducing the temperature lift imposed on the refrigeration system and hence the compressor power input. In some cases the added refrigerant charge associated with increasing heat exchanger size could also necessitate the installation of a refrigerant receiver to ensure proper refrigerant charge management in all operating conditions for which the unit is designed, thus increasing the need for larger cabinet size.

In the preliminary analysis, DOE did not consider design options that increase cabinet size. However, in the NOPR DOE changed the approach and considered design options that increase cabinet size for certain equipment classes: IMH–W–Small–B, IMH–A–Small–B, IMH–A–Large–B (800 lb ice/24 hours representative capacity), and IMH–A–Small–C. DOE only applied these design options for those equipment classes where the representative baseline unit had space to grow relative to the largest units on the market. DOE also considered size increase for the remote condensers of RCU classes.

In response to the March 2014 NOPR, several manufacturers noted that the size of icemakers is limited in certain applications. Manitowoc commented that not all end users can accept larger or taller ice-making cabinets. (Manitowoc, Public Meeting Transcript, No. 70 at p. 133) Ice-O-Matic commented that customers want ice machines that are able to produce more ice in a smaller physical space and that such ice makers will be difficult to make if standards necessitate design options that require cabinet growth. (Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 29–31)

Scotsman and AHRI both noted that cabinet size increases would require users to either enlarge the space in the kitchen to accommodate a larger unit or to repair older ice makers rather than buying new ones or to make due with a smaller capacity ice maker. (AHRI, No. 93 at p. 7–8; Scotsman, Public Meeting Transcript, No. 70 at p. 126–127) Manitowoc, Ice-O-Matic, and AHRI each stated that incorporating design options that may increase the size of automatic commercial ice makers will increase the likelihood that consumers refurbish rather than replace their existing units. (Manitowoc, Public Meeting Transcript, No. 70 at p. 129–130; Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 32–33; AHRI, No. 93 at p. 7–8) Scotsman, Manitowoc and Follett all agreed that large ice makers would have an impact in installation costs. (Scotsman, No. 85 at p. 5b–6b; Manitowoc, No. 92 at p. 3; Follett, No. 84 at p. 6) Follett commented that maintenance costs will increase because larger components will reduce serviceability and energy-efficient components, such as a lower horsepower auger motor, may not be as robust. (Follet, No. 70 at p. 132–133)

AHRI commented that design options which increase chassis size should not be considered for IMH–A–Small–B, IMH–A–Large–B, IMH–W–Small–B, and IMH–W–Med–B classes, as 22-inch units wide units account for 18% of all ice makers sold in the US. AHRI added that if design options which increase cabinet size are not screened out for these product classes, there will likely be an adverse impact on product availability. (AHRI, No. 93 at p. 4)

In contrast, PGE/SDG&E commented that they support DOE's decision to include in the engineering analysis design options that increase chassis size. (PG&E and SDG&E, No. 89 at p. 3) The Joint Commenters expressed their belief that DOE has appropriately considered size increases in their engineering analysis and that those customers who have smaller units today could purchase a taller unit with the same capacity, a smaller-capacity unit, or two smaller-capacity units. (Joint Commenters, No. 87 at p. 3)

In response to the NODA analysis, CA IOU stated their support of DOE including technically (DOE interprets this to mean technologically) feasible design options that may increase chassis sizes in certain cases. (CA IOU, No. 129 at p. 2)

DOE recognizes that the size of ice makers is limited in certain applications. DOE notes that many of the equipment classes analyzed do not require any cabinet growth to reach higher efficiency levels. DOE considered design options involving package size increase for IMH–A–Large–B, IMH–A–Small–B, and IMH–W–Med units. For the final rule analyses, DOE did not consider design options which necessitate a cabinet size increase for IMH–A–Small–C units. DOE adjusted the analysis of installation costs to consider the impact of added costs associated with renovation to accommodate size increase for the few equipment classes for which DOE did consider size increase. The life cycle cost analysis, described in section IV.G.2 details how these added installation costs were considered in the analysis.

Table IV.24 lists the equipment classes for which DOE considered design options that involve increase in chassis size in the final rule analysis.

TABLE IV.24—ANALYZED EQUIPMENT CLASSES WHERE DOE ANALYZED SIZE-INCREASING DESIGN OPTIONS IN THE FINAL RULE ANALYSIS

Unit	Harvest capacity lb ice/24 hours	Used design options that increased size?
IMH–A–Small–B	300	Yes.
IMH–A–Large–B (med)	800	Yes.
IMH–A–Large–B (large)	1,500	No.
IMH–W–Small–B	300	Yes.
IMH–W–Med–B	850	No.
IMH–W–Large–B	2,600	No.
RCU–XXX–Large–B (med)	1,500	For the remote condenser, but not for the ice-making head.
RCU–XXX–Large–B (large)	2,400	For the remote condenser, but not for the ice-making head.
SCU–A–Small–B	110	No.
SCU–A–Large–B	200	No.
SCU–W–Large–B	300	No.
IMH–A–Small–C	310	No.
IMH–A–Large–C (med)	820	No.
SCU–A–Small–C	110	No.

Note: "XXX" refers to "RC" or "NRC" for each of the entries with "XXX".

b. Improved Condenser Performance

During the NOPR analysis, DOE considered size increase for the condenser to reduce condensing temperature and compressor power input. DOE requested comment on use of this design option and on the difficulty of implementing it in ice makers with size constraints.

Follet commented that 10 °F is the practical limit for the temperature difference between the ambient air and the hot gas in the condenser. Follet added that it is possible to increase the surface area, but either no meaningful efficiency is gained, or the size of the condenser would have to increase to the point that it would not fit into tight spaces. (Follet, No. 84 at p. 5)

DOE did not consider any condenser sizes that would result in condensing temperatures as close as 10 °F to the ambient temperatures for air-cooled icemakers.

Stakeholders AHRI, Hoshizaki, Follet, and Ice-O-Matic noted that improved condenser performance would likely require an increase in cabinet size. (AHRI, No. 93 at p. 4; Hoshizaki, Public Meeting Transcript, No. 70 at p. 128–129; Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 32–33; Follet, No. 84 at p. 5)

In response to concerns about the potential need to increase cabinet size to make space for larger condensers, DOE agrees that increasing condenser size may require also increasing cabinet size. DOE has limited cabinet size increases to just three equipment classes, IMH–A–Large–B, IMH–A–Small–B, and IMH–W–Small–B. Furthermore, the specific size increases considered for these ice makers do not involve size increase beyond the size of ice makers that are currently being sold. The specific size increases considered are presented in Chapter 5 of the TSD. In addition, the life cycle cost analysis considers additional installation cost associated with a proportion of ice makers sold as replacements that, with the new larger sizes, will not fit in the existing spaces where the old ice makers are located (see section IV.G.2.a).

Manitowoc commented regarding condenser size increase for water-cooled ice makers that increasing water-cooled surface area can reduce the condensing temperature and cause the ice machine to be unable to harvest the ice at low inlet water temperature conditions, which affects the performance of models in northern regions. (Manitowoc, Public Meeting Transcript, No. 70 at p. 108–110)

DOE is aware that increasing condenser surface area may have an impact on the ice machine's ability to harvest ice. As discussed in the NOPR, DOE generally avoided consideration of very low condensing temperatures in its analysis, using 101 °F as a guideline lower limit. The analysis also considered the increase in harvest cycle energy use—Section IV.D.4 describes how the longer harvest times were addressed in the engineering analysis.

Manitowoc noted that the NODA EL3 level for the RCU–NRC–B2 equipment class assumes a 19-inch increase in condenser width with an additional condenser row. Manitowoc asserted that an increase this large could lead to significant refrigerant charge issues. Therefore, Manitowoc suggested that NODA EL2 be selected for this equipment class. (Manitowoc, No. 126 at p. 2)

In the final rule DOE modified the engineering analysis for this class and has eliminated one of the two condenser size increase steps in the final rule engineering analysis. DOE notes that the final condenser size is still smaller on the basis of refrigerant volume per harvest capacity rate than the largest remote condenser for an RCU ice maker observed in DOE's review of units purchased for reverse engineering. Therefore, DOE has confidence that the refrigerant management challenges are manageable for the maximum condenser size considered in the analysis.

Manitowoc also noted that adding a condenser row in the SCU–A–Small–B class may not be possible due to the small volume available in the compact chassis required for these models. Similarly, a 9'' increase in condenser width for the SCU–A–Large–B may be unrealistic. (Manitowoc, No. 126 at p. 2) In selecting these design options, DOE reviewed the spatial constraints and condenser sizes within both reverse-engineered units used as the basis for energy use calculations for these classes. While the space underneath the ice storage bins of these units is limited in height, there is sufficient room for the width and depth increases that DOE considered. Based on data gathered from these teardowns, DOE concluded that these condenser size design options were feasible for these units.

c. Compressors

Several interested parties provided comment regarding the feasibility of incorporating more efficient compressors in ACIMs. AHRI urged DOE to reevaluate the feasibility of implementing more efficient compressors into the IMH–A–Small–C product class, which Follett has found are too small to fit larger compressors. (AHRI, No. 93 at p. 4) Follett also individually commented that they independently evaluated a more efficient compressor for IMH–A–Small–C and that its size made it infeasible given the restrictions of the Follett chassis. (Follet, No. 84 at p. 8)

In response to AHRI and Follet's assertion that higher efficiency compressors may not fit within the chassis of IMH–A–Small–C, DOE's analysis of this class was based on use of a Copeland RST45C1E–CAV compressor, which is no larger than the compressor used in the model upon which DOE based the analysis. Hence, DOE concluded that use of this higher-efficiency compressor would not require an increase in the package size. DOE notes that it did avoid consideration of the highest-efficiency compressors for 22-inch wide classes when these compressors clearly are physically larger than the available space allows. In particular, DOE did not consider use of high-efficiency Bristol compressor in these cases, because Bristol compressors are generally larger than other available compressors.

Several commenters, including AHRI, NEEA, Danfoss, and Ice-O-Matic each noted that the harvest process of automatic commercial ice makers needs to be considered when evaluating increased compressor efficiency as a design option. (AHRI, No. 93 at p. 4; NEEA, No. 91 at p.1; Danfoss, Public Meeting Transcript, No. 70 at p. 152–153; Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 160–161) Danfoss and Ice-O-Matic commented that ice machines differ significantly from other compressor-based applications in that, when harvesting ice, it is desirable to have a less efficient compressor because the waste heat helps harvest the ice. (Danfoss, Public Meeting Transcript, No. 70 at p. 152–153; Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 160–161)

In response, DOE has adjusted its calculation of energy savings associated with improved compressor efficiency in the NODA and final rule analyses. Specifically, DOE considered all available data for tests involving compressor replacement for batch ice makers. This included the two examples provided in AHRI's NOPR comment. (AHRI, No. 93 at pp. 25–30) It also included information provided confidentially to DOE's contractor. DOE reviewed the data to determine if it could be used to robustly predict any trends of ice maker performance impacts compared with compressor EER improvements that might vary as a function of key parameters such as ice maker class, capacity, compressor manufacturer, but no such trends were

evident. DOE used the data to develop an estimate of ice maker energy use reduction as a fraction of compressor energy use reduction—this value averaged 0.57 for the data set. DOE used this factor to calculate ice maker energy use reduction for all of the batch analyses for the NODA and final rule. Applying this approach significantly reduced the energy savings associated with improved-EER compressors for batch ice makers in the NODA and final rule analyses.

Howe commented that variable-speed compressors are most effective at saving energy under part-load conditions, which is not taken into account in the DOE test procedure. Therefore, such components would be operating at or near maximum capacity during DOE tests, thus canceling their positive measurable benefit. (Howe, No. 88 at p. 1)

In response to Howe's comment regarding variable speed compressors, DOE did not consider the use of variable-speed compressors in the analysis.

Several interested parties submitted additional concerns about the feasibility of implementing design options involving increases in compressor efficiency. NAFEM commented that high-efficiency compressor motors for automatic commercial ice makers will not be available for the foreseeable future and that the investment required was not available for products with shipments as low as automatic commercial ice makers (150,000/year) and that DOE must account for their unavailability in its analysis. (NAFEM, No. 82 at p. 10)

In response, DOE considered only compressors that are currently offered for use by compressor manufacturers. All of the compressors considered in the analysis are currently commercially available and are acceptable for use in ice makers as indicated by manufacturers in confidential discussions with DOE's contractor. Hence, DOE does not need to consider the development of new compressors with higher-efficiency motors. The compressors considered in the analysis are listed in the compressor database. (Compressor Database, No. 135)

In response to the NODA, Manitowoc noted that the RCU–NRC–B1 equipment class assumes an increase in compressor EER of 20% which Manitowoc stated could not be achieved without resorting to radical design changes and possibly the use of permanent magnet motor technology. (Manitowoc, No. 126 at p. 3) Additionally, Manitowoc stated that for SCU–A–Small–B and SCU–Large–B, increases in compressor EER of 40% and 25%, respectively, are unlikely to be achieved. (Manitowoc, No. 126 at p. 2)

For the RCU–NRC–Large–B–1 class, DOE based the analysis on a unit with a compressor having a rated EER of 7.16 Btu/Wh. In order to represent baseline performance, a less-efficient available compressor was used in the analysis. For the final rule, DOE modified its analysis to reflect a lower efficiency level for the unit which is the basis of the analysis. Hence, DOE has reduced the compressor EER improvement considered for this class from 20 percent to 10.7 percent.

For the SCU–A–Small–B class, DOE based the analysis on an ice maker having a compressor with a rated EER of 3.3 Btu/Wh. The analysis considered use of an available compressor having a rated EER of 4.6 Btu/Wh, a 39 percent improvement. Compressors having both these levels of EER exist, and hence the 39 percent improvement in EER from 3.3 to 4.6 can be achieved.

For the SCU–A–Large–B class, DOE based the analysis on an ice maker model having a compressor with a rated EER of 4.68 Btu/Wh. DOE modeled the baseline by considering a lower EER of 4.23 Btu/Wh. Compressors within the appropriate capacity range at this EER level do exist. The highest-EER considered for this analysis is 5.2 Btu/Wh, which is achieved by an available compressor of appropriate capacity—this represents 23 percent improvement in EER, slightly less than the cited 25 percent. Compressors having both these levels of EER considered in the analysis exist, and hence the 23 percent improvement in EER from 4.23 to 5.2 can be achieved.

In response to the NODA analysis for equipment class SCU–A–Small–C, AHRI noted that DOE increased the ''percent energy use reduction'' from 8.5% in the NOPR to 10.91% in the NODA for the same design option, ''Changed compressor EER from 4.7 to 5.5''. AHRI requested that DOE provide justification for this change. (AHRI, No. 128 at p.3) In the NODA, DOE had calculated continuous ice maker percentage savings as 75% of the compressor energy savings ($0.75 \times (1 - 4.7/5.5) = 0.109$), rather than using the results of the FREEZE model to represent the compressor energy savings. However, the ice maker upon which the SCU–A–Small–C analysis was based has a greater proportion of auger and fan energy use than typical continuous units. Hence, DOE agrees that an increase in the savings projection to 10.9% is unrealistic, and has changed the projection.

For the final rule analysis, DOE also did not use the FREEZE model, and instead assumed that the compressor energy use reduction would be 5% less than would be expected, based on the EER increase. The compressor energy use for the unit started at 72% of unit energy use, and the design options considered prior to consideration of the improved-EER compressor already reduced energy use to 90.7% of baseline energy use. Hence, DOE recalculated the savings for this design option as $0.95 \times (1 - 4.7/5.5) \times 0.72 \times 0.907 = 0.09 = 9\%$.

d. Evaporator

Follett commented that increasing the length or width of continuous type evaporators would increase cabinet size. (Follet, Public Meeting Transcript, No. 70 at p. 90–91) Follett also commented that increasing the height of the continuous type evaporator is not feasible because, in 75% of Follett's automatic commercial ice makers, the evaporator is horizontal. Therefore, any evaporator growth would increase the icemaker footprint so that it could no longer fit on standard beverage dispensers. (Follett, No. 84 at p. 5–6)

DOE notes that it did not consider evaporator size increase as a design option for continuous ice makers in the final rule engineering analysis.

In response to the NODA, AHRI noted that IMH–W–Small–C units typically use the same chassis as their IMH–A–Small–B counterparts and should also be considered as space constrained units. Specifically, AHRI recommended screening out the increased evaporator size for this product class on the basis that the chassis could not withstand the corresponding 4-inch increase in width. AHRI added that if evaporator size increase option is kept for IMH–W–Small–C units, a more realistic cost must be associated with this design option. (AHRI, No. 128 at p. 2)

In response to AHRI's comment, DOE notes that the typical use of the same cabinet as IMH–A–Small–B does not mean there is no possible cabinet size increase. Nevertheless DOE has eliminated this design option step from the analysis for the IMH–A–Small–C. The evaporator size increase was considered in the NOPR analysis in conjunction with a condenser size increase. In the final rule analysis, this step in the analysis now considers only the condenser size increase.

AHRI stated in its NODA comments that an 18 percent size increase in evaporator area cannot reasonably be implemented in 22-inch IMH–A–Small–B units. (AHRI, No. 128 at p. 2). DOE developed its 22-inch IMH–A–Small–B analysis by removing from the 30-inch

chassis analysis for IMH–A–Small–B those design options that would not fit in a 22-inch chassis. The baseline evaporator used in the model upon which DOE based this analysis has a plate area that is relatively small. Hence, the 18 percent size increase can fit within the chassis of a 22-inch unit. In fact, the maximum-available 22-inch unit of this class has an evaporator that is somewhat larger than the largest evaporator size considered for the analysis. Hence, DOE concludes that it did not consider excessive increase in evaporator size for the 22-inch IMH–A–Small–B analysis.

In response to the NODA, Manitowoc stated that for IMH–A–Small–B units, a 51% increase in evaporator surface area is not always possible in the chassis sizes used in the industry and concluded that the max efficiency level that should be considered is EL3. (Manitowoc, No. 126 at p. 1)

DOE agrees that the design option mentioned by Manitowoc, a 51% increase in evaporator surface area for IMH–A–Small–B units would require a growth in cabinet size. Consequently, DOE considered such a growth in the engineering analysis. DOE notes that the NODA TSL 3 efficiency level for this class, 18% less energy than baseline, can be achieved with an evaporator growth less than 51%—DOE estimates that this would require evaporator size growth of 38%.

Manitowoc stated that the IMH-small class would likely require chassis growth to add evaporator area. (Manitowoc, No. 126 at p. 2). DOE assumes that this refers to the IMH–W–Small–B class and agrees that some increase in chassis size may be required to support increases in evaporator size. DOE notes that IMH–W–Small–B is one of the classes for which DOE considered increase in chassis size.

e. Interconnectedness of Automatic Commercial Ice Maker System

Several commenters noted that the addition of a certain design option may necessitate an alteration in the remaining automatic commercial ice maker components. AHRI stated their concern with DOE's component analysis, noting that a change in one component impacts other components and therefore the entire price and efficiency of the entire automatic commercial ice maker system. (AHRI, No. 128 at p. 2) Similarly, Scotsman stated that the manufacture product cost increase estimates do not account for system impacts when components are changed. In most cases it is inaccurate to estimate product cost changes by specific component as changing any component within the refrigeration system will require changes to other components in order to optimize performance efficiency. (Scotsman, No. 125 at p. 2) Similarly, Howe commented that component efficiency increases are not additive and not necessarily proportional when used in combination. (Howe, No. 88 at p. 2)

As explained in the NOPR, DOE had attempted to conduct an efficiency-level analysis rather than a design-option approach. However, the efficiency-level analysis did not produce consistent results, in some cases indicating that higher-efficiency units are less expensive. Therefore, DOE went forward with the design option approach and solicited comments from interested parties regarding the impact a specific design option may have on the entire system. DOE's contractor received some information regarding the potentially higher costs associated with change of some components, for which it may have underestimated overall cost increase in the NOPR phase—this information has been incorporated into the final rule analysis. However, absent more specific information regarding these interactions, DOE cannot speculate on other changes that may have been appropriate to address this issue.

Manitowoc commented that putting a larger evaporator in an ice machine would increase refrigerant charge, thus necessitating an accumulator, or rendering a compressor unreliable during harvest. Such a change would also increase the mass of the evaporator, thus requiring more energy to heat it up and cool it back down. (Manitowoc, Public Meeting Transcript, No. 70 at p. 142–143)

DOE has not considered evaporator sizes (on the basis of evaporator size per ice maker capacity in lb ice/24 hours) larger than those of ice makers on the market. DOE has not observed use of accumulators and hence concludes that the evaporator sizes considered would not require one. While Manitowoc commented in the NOPR public meeting on the potential for added harvest time or harvest energy use for larger evaporators, they did not provide details in written comments showing how this effect might impact savings associated with larger evaporators. DOE notes that a larger evaporator would operate with warmer evaporating temperature during the freeze cycle, and this effect would reduce the heat required to warm the evaporator during the harvest cycle. Without data to quantify this effect, DOE's analysis assumed that harvest energy use would scale proportionally with evaporator area. Hence, the increase in mass of the evaporator has been accounted for in the estimation of the energy use reduction associated with the design option.

Follett commented that the evaporator, auger motor, and compressor must all be sized to balance one another and that these components cannot easily be swapped out for other off-the-shelf components. (Follett, No. 84 at p. 5) Follett noted that increasing evaporator diameter is not feasible because it will increase the required torque, necessitating a larger motor that will draw more power and negate any efficiency gains. (Follet, No. 84 at p. 6)

DOE is no longer considering evaporator size increase as a design option for continuous ice makers. However, DOE notes that the engineering analysis has attempted to consider the interconnectedness of the system components wherever possible. For example, for air cooled condenser growth, fan power was increased to maintain a constant airflow through a larger condenser.

Hoshizaki commented that there is a lot of trial and error involved in pairing compressors with condensers while maintaining machine reliability. (Hoshizaki, Public Meeting Transcript, No. 70 at p. 159–160)

DOE realizes that there may be trial and error when pairing components. DOE solicited feedback from manufactures regarding the appropriateness of the use of specific compressors in the analysis. DOE did not identify any specific limitations in compressor/condenser pairings that it considered in its analysis in any comments or in interviews with manufacturers.

4. Cost Assessment Methodology

In this rulemaking, DOE has adopted a combined efficiency level, design option, and reverse engineering approaches to develop cost-efficiency curves. To support this effort, DOE developed manufacturing cost models based heavily on reverse engineering of products to create a baseline MPC. DOE estimated the energy use of different design configurations using an energy model with input data based on reverse engineering, automatic commercial ice maker performance ratings, and test data. DOE combined the manufacturing cost and energy modeling to develop cost-efficiency curves for automatic commercial ice maker equipment based to the extent possible on baseline-efficiency equipment selected to represent their equipment classes (in some cases, analyses were based on equipment with efficiency levels higher than baseline). Next, DOE derived

manufacturer markups using publicly available automatic commercial ice maker industry financial data, in conjunction with manufacturer feedback. The markups were used to convert the MPC-based cost-efficiency curves into Manufacturer Selling Price (MSP)-based curves.

The engineering analyses are summarized in an ''Engineering Results'' spreadsheet, developed initially for the NOPR phase (NOPR Engineering Results Spreadsheet, No. 59). This document was modified for the NODA (Engineering Analysis Spreadsheet—NODA, No. 112) and subsequently for the final rule (Final Rule Engineering Analysis Spreadsheet, No. 134)

Stakeholder comments regarding DOE's NOPR and NODA engineering analyses addressed the following broad areas:

1. Estimated costs in many cases were lower than manufacturers' actual costs.

2. Estimated efficiency benefits of many modeled design options were greater than the actual benefits, according to manufacturers' experience with equipment development.

3. DOE should validate its energy use model based on comparison with actual equipment test data.

These topics are addressed in greater detail in the sections below.

a. Manufacturing Cost

In response to the manufacturer costs presented in the NOPR, several stakeholders indicated that the incremental costs presented in the NOPR were optimistic. Specifically, AHRI, Follet, Manitowoc, and Danfoss stated the belief that DOE underestimated the incremental costs of its proposed design options. (AHRI, No. 93 at p. 4; Follet, No. 84 at p. 5; Danfoss, No. 72 at p. 3; Manitowoc, No. 98 at p. 1–2)

Scotsman commented that their data on the efficiency and costs associated with compressor upgrade, BLDC motors, larger heat exchangers, and drain water heat exchangers do not match the assumptions used by DOE in its analysis. (Scotsman, No. 85 at p. 4b)

Manitowoc commented that DOE significantly underestimates the cost associated with heat exchanger growth, higher compressor EER, and high-efficiency fan and pump motors. (Manitowoc, No. 98 at p. 1–2) Manitowoc also noted that their costs were not consistent with those found in the TSD, particularly in cases involving evaporator or cabinet growth (Manitowoc, Public Meeting Transcript, No. 70 at p. 116–117)

DOE has revised and updated its analysis based on data provided in comments and made available through non-disclosure agreements. These updates included changes in its approach to calculating the energy use associated with groups of design options, changes in inputs for calculations of energy use, and changes in calculated equipment manufacturing cost. Comments related to the manufacturing costs of specific design options are described in the sections below.

NAFEM and Hoshizaki stated that the cost curves were not analyzed to demonstrate what can be achieved in five years. (NAFEM, No. 123 at p. 2; Hoshizaki, No. 123 at p. 1)

In response to NAFEM and Hoshizaki's comment, DOE notes that the costs in the cost curves are intended to be representative of today's technology and current market prices.

Compressor Costs

AHRI, Danfoss, and Hoshizaki stated that DOE's assumption that a 10% compressor efficiency increase could be achieved for a 5% price increase is flawed. (AHRI, Public Meeting Transcript, No. 70 at p. 20–21; Danfoss, No. 72 at p. 3; Hoshizaki, No. 86 at p. 9) AHRI and Danfoss stated that a more realistic assumption would be a 1–2% efficiency improvement for a 5% price increase. (Danfoss, No. 72 at p. 3; AHRI, Public Meeting Transcript, No. 70 at p. 20–21) AHRI and NAFEM both requested that the relationship between cost and compressor EER should be corrected to reflect the approach adopted by the final CRE rulemaking. (AHRI, No. 93 at p. 15; NAFEM, No. 82 at p. 4–5) Follet also asserted that it is unrealistic to assume that the full efficiency gain of a more efficient compressor will be realized at the costs assumed by DOE in the NOPR. (Follet, No. 84 at p. 5) In response to the NODA, AHRI stated that there was no explanation as to why the compressor costs changed as compared to the NOPR. AHRI noted that the NODA compressor costs were still not consistent with the approach used in the CRE rulemaking. (AHRI, No. 128 at p. 2)

DOE maintains its position that the cost-EER relationship used in the CRE rulemaking was based on future improvements over existing EER levels. For example, the CRE final rule indicates that ''manufacturers and consumers expressed concern over DOE's assumptions regarding the advances in compressor technology anticipated before the compliance date.'' 79 FR 17726, 17760 (March 28, 2014). Compressor suppliers and OEMs commented that, ''if a 10% compressor efficiency improvement were possible for a 5% cost increase, then it is most likely that manufacturers would have already adopted this technology''. *Id.* The statement implies that manufacturers have not adopted the technology. In the automatic commercial ice maker NOPR public meeting, Danfoss, a compressor supplier, commented, ''these are mature technologies. They've been around 50 or 60 years. If that sort of efficiency improvement could be made available, it would have . . . we would have already done it.'' The comments insinuate that DOE was contemplating use of a technology that is not available and that the compressor manufacturers have not used. For the automatic commercial ice maker analysis, DOE did not consider future technologies. Rather, it considered only compressor options that are currently being offered by compressor suppliers. In some cases, baseline ice makers are using compressors with relatively low efficiencies compared to the levels that are available. It is for these cases that DOE has been projecting the possibility of large potential for compressor efficiency improvements. DOE has requested compressor cost data that would allow evaluation of the relationship between actual prices paid by automatic commercial ice maker manufacturers for the compressors and the EER levels of the compressors, indicating that this data might be provided confidentially to DOE's contractor. However, sufficient cost data to allow a regression analysis to determine the efficiency-cost relationship has not been made available. Based on limited data supplied confidentially to DOE's contractor during the NOPR phase, DOE initially concluded that cost does not vary significantly with EER. In addition, DOE received some feedback during interviews with manufacturers that the 10% improvement for 5% cost relationship is reasonable. DOE at that time adopted this relationship in order to avoid projecting zero cost increase associated with EER increase.

Nevertheless, DOE has modified its approach to calculating improvement in compressor efficiency to consider the stakeholders' comments. The analysis calculates the cost associated with compressor EER improvement in two ways and uses the higher of these costs. The first approach is the 10% improvement for 5% cost used in the NOPR analysis. The second approach applies the 5% cost associated with the

2% improvement that the commenters cited, which DOE applied to the analysis as if the last 2% of compressor efficiency improvement is future efficiency improvement that would cost the cited 5%. For example, if the compressor efficiency improvement is 10%, this approach treated the first 8% of efficiency improvement to be associated with currently available compressors with no cost differences, and the last 2% (from 8% to 10% improvement) as being associated with future compressor improvement with a 5% cost premium.

Follett disputed the NOPR engineering result that showed a 20% decrease in energy use at a cost of $61 for the IMH–A–Large–C class. Follet noted that at an incremental cost of $60, they tested a unit utilizing an ECM motor and a compressor with a 5% increase in efficiency, but were only able to achieve a 9% decrease in energy use. (Follet, No. 84 at p. 8) AHRI also noted this work, indicating that Follett experienced less than half the efficiency gain predicted by DOE in the NOPR when switching from an SPM to an ECM motor and using a compressor with a 5% higher EER. AHRI further noted that, while DOE's analysis considered a 24% improvement in compressor EER, the best compressor that Follett was able to find improved the EER only 5%. (AHRI, No. 93 at p. 4)

DOE notes that these comments do not indicate the initial energy use of the tested unit, only that the 9 percent efficiency improvement was insufficient to attain the NOPR-proposed efficiency level. Further, the comments do not indicate the initial EER of the compressor used in the Follett product. Since the NOPR phase, DOE has adjusted both its energy modeling as well as its cost estimates, so as to mitigate this issue. Based on new data collected through the NODA and final rule phases, DOE has completed new cost efficiency curves, such that the MSP increase for the final rule analysis associated with a 20% decrease in energy use for the IMH–A–Large–C class is $488. The increase is so large because, for the final rule analysis, use of design options other than a permanent magnet gear motor to power the auger increase efficiency less than 20% (roughly 18%), and the estimated cost of the higher-efficiency auger motor is very high. While it is difficult to determine whether the analysis is fully consistent with Follett's test data, DOE believes that its revised analysis sufficiently addresses this issue (the cost per percent improvement for the analysis is now $24/% ($488/20%), whereas the cost per percent improvement for Follett's cited experience is $7/% ($60/9%)). DOE does note that this Follett example does show that continuous ice machines experience energy use reductions at least consistent with the compressor efficiency improvements—Follett did not indicate the reduction in motor input wattage when switching from the shaded pole to the ECM motor, but if the ice maker energy use reduction for the motor change was 5%, one would conclude that the energy use reduction for the compressor change was 4%, or 80% of the 5% improvement in compressor EER—this contrasts markedly with some of the information provided in stakeholder comments about the relationship between batch ice maker energy use and compressor EER improvement. (see, *e.g.,* AHRI, No. 93 at pp. 25–30)

Evaporator Costs

Hoshizaki and Manitowoc stated the DOE underestimated the cost of increasing the evaporator size in the NOPR analysis, for both batch and continuous ice makers. Specifically, regarding the 50% evaporator size increase considered for the IMH–A–Small–B analysis, Hoshizaki commented that a 50% increase in evaporator height would result in a 50% MPC increase. (Hoshizaki, No. 86 at p. 9) For this design option, DOE calculated a $48 cost increase to the initial evaporator cost of $88 in the NOPR analysis. Manitowoc stated that the cost presented in the NOPR for a 50% larger evaporator is half of what they would see as a manufacturer. Manitowoc noted that this is partially because they only make 4000–5000 models per year of a particular cabinet size and thus do not have as much purchasing power as an appliance manufacturer. (Manitowoc, Public Meeting Transcript, No. 70 at p. 171–174)

In the NODA and final rule analyses, DOE adjusted the costs related to increasing the size of the evaporator. DOE received information from manufacturers through non-disclosure agreements regarding the expected costs associated with increasing the size of the evaporator and has adjusted the analysis to reflect the new data. DOE's MPC increase projection for the same evaporator size increase for the IMH–A–Small–B class is now $101.

As noted in section IV.D.3.d, AHRI commented that a more realistic cost estimate is required for the evaporator increase design option for IMH–W–Small–C units as they often use the same chassis as their IMH–A–Small counterparts. Specifically, AHRI stated that manufacturers have conservatively estimated that a 17% increase in evaporator size should be 117% percent of the original evaporator's cost. (AHRI, No. 128 at p. 2) DOE believes this comment may apply to the IMH–A–Small–C class rather than IMH–W–Small–C, since the 17% evaporator growth was considered in the NOPR analysis for the air-cooled class. In the NOPR phase, DOE calculated an MPC increase of $153 for the evaporator size increase and a condenser size increase considered in the same step of the analysis. Seventeen percent of the $1,252 contribution to MPC of the initial evaporator is $213.

DOE acknowledges that the 17% evaporator growth would require chassis size increase for the specific model upon which the IMH–A–Small–C analysis is based, if implemented by increasing the length of the auger/evaporator. As noted previously, DOE modified the analysis and is no longer considering evaporator size increases as a design option for any continuous units, including IMH–W–Small–C.

In response to the NODA analysis, Hoshizaki, AHRI, Manitowoc, and NAFEM stated that increasing the evaporator by 18% with no chassis growth is not possible for 22-inch IMH–A–Small–B machines. (Hoshizaki, No. 124 at p. 2; AHRI, No. 128 at p. 2; Manitowoc, No. 126 at p. 2; NAFEM, No. 123 at p. 2) Hoshizaki added that such a change would require tooling, panel changes, and kits to fit on the machine. Hoshizaki and NAFEM noted that these changes would cost more than the $34 stated in the NODA. (Hoshizaki, No. 124 at p. 2; NAFEM, No. 123 at p. 2)

DOE reviewed the cabinet size of the representative 22-inch IMH–A–Small–B unit and found that it had space for an 18% evaporator increase. DOE notes that the final size of the 18% larger evaporator considered in the analysis is still smaller than evaporators found in some 22-inch units of the same equipment class. Hence, DOE believes that an 18% growth in evaporator size is possible and has maintained this design option in the final rule.

Condenser Costs

Commenting on the NODA analysis for the IMH–W–Small–B, Hoshizaki and NAFEM stated that increasing the water-cooled condenser length by 48% would require a larger cost increase than $40 stated in the NODA. (Hoshizaki, No. 124 at p. 2; NAFEM, No. 123 at p. 2) Hoshizaki noted that they currently are using the largest condenser offered by their supplier, and increasing its size would necessitate a special design. (Hoshizaki, No. 124 at p. 2)

In the NODA phase, DOE evaluated a 48% condenser size increase for the representative IMH–W–Small–B unit of 22-inch width—based on a review of typical coaxial water-cooled condenser offerings from typical suppliers of these units, DOE has concluded that this might be a non-standard size water-cooled condenser. In the final rule analysis for this unit, DOE has adjusted its water-cooled condenser options to be more consistent with standard condenser sizes, based on review of commercially available components. Therefore, for the IMH–W–Small–B, 22 inch wide unit, DOE adjusted the analysis to instead utilize a 59% larger condenser. The estimated MPC increase for this design option in the final rule analysis is $58.

Regarding the NODA analysis for the IMH–A–Small–C, Hoshizaki stated that cost of increasing the evaporator area by 17% and the condenser height by 4 inches would be much higher than the $150 presented in the NODA. Hoshizaki added that 22-inch wide machines could not accommodate 4 inches of height growth and would require a change in chassis. Hoshizaki noted that condensers are standard parts from the catalogs of suppliers and there are no condensers that would match this change. (Hoshizaki, No. 124 at p. 2)

DOE is no longer considering evaporator growth for continuous units. The representative unit for this equipment class has a condenser with core height of 10 inches, width of 12 inches and a depth of 3 inches. The chassis height is 21⅞ inches and the chassis width is 22 inches. The representative unit has space for the condenser size increases considered in the analysis. Based on discussions with manufacturers and heat exchanger suppliers, DOE has found that there is flexibility in the design of air-cooled condensers, as long as the design conforms to the use of standard tube pitch (distances between the tubes) patterns, fin style, and fin densities. The analysis considered no change in these design parameters that would make the condenser a non-standard design.

In response to the NODA analysis for the SCU–W–Large–B class, AHRI commented on the changes in condenser size and the associated efficiency improvement as compared to the NOPR analysis. AHRI noted that in the NOPR analysis, DOE considered a size increase of 39%, which was estimated to reduce energy us use 11.2%, while in the NODA a condenser size increase of 112% led to estimated energy savings of 16.7%. AHRI stated that such an increase in condenser size would cause issues with performance outside of rating conditions due to the large increase in refrigerant charge. AHRI recommended that DOE reconsider this design option. (AHRI, No. 128 at p. 3)

In response, DOE modified the analysis for the SCU–W–Large–B for the final rule analysis, in which DOE considers a condenser size increase of 50%, with associated energy savings of 5.5%.

Purchasing Power and Component Costs

Several commenters noted that the scale of the ice maker industry is too small to qualify for the price discounts seen by the appliance markets on specialized parts. (Hoshizaki, No. 86 at p. 7–8; Danfoss, Public Meeting Transcript, No. 70 at p. 175–176) Danfoss stated that the small scale of the industry is a barrier to implementing new technologies and that the investment necessary to produce high-efficiency compressors in these volumes is not feasible in the foreseeable future. (Danfoss, No. 72 at p. 3–4)

Scotsman commented that their vendors provide ECM motors at 200–300% over the cost of baseline motors and high-efficiency compressors at up to 30% over the cost of baseline compressors. Scotsman added that they have not successfully proven the performance and reliability of such components in different applications. (Scotsman, No. 85 at p. 2)

Joint Commenters urged DOE to determine whether fan, pump, and auger motors use ''off-the-shelf'' or custom motors if the former, this would suggest that permanent magnet motor availability should not be a concern. (Joint Commenters, No. 87 at p. 2–3)

In response to these comments DOE notes that it considers the purchasing power of manufacturers in its estimation of component cost pricing. DOE has significantly revised its component cost estimates for the engineering analysis for the NODA and ultimately final rule phase based on additional information obtained in discussions with manufacturers as well as in stakeholder comments. DOE used the detailed feedback to update its cost estimates for all ice maker components.

b. Energy Consumption Model

As part of the preliminary analysis, DOE worked with the developer of the FREEZE energy consumption model to adapt the model to updated correlations for refrigerant heat exchanger performance correlations and operation in a Windows computer environment. Analysis of ice maker performance during the preliminary analysis was primarily based on the model. During the course of the rulemaking, DOE has received numerous comments describing some of the shortcomings of the model. In response, DOE has modified its energy use analysis to rely less on the FREEZE model and more on direct calculation of energy use and energy reductions, based on test data and on assumptions about the efficiency of components such as motors. DOE requested that stakeholders provide information and data to guide the analysis, and also requested comments on the component efficiency assumptions. DOE received additional information through comments and confidential information exchange with DOE's contractor that helped guide adjustments to the analysis.

After the NOPR and NODA publications, stakeholders continued to express concerns about the FREEZE model. AHRI questioned the accuracy of the FREEZE model. (AHRI, No. 93 at p. 5–6, 16) Scotsman noted that the FREEZE simulation program may not be able to model performance of automatic commercial ice makers upon revision of the EPA SNAP initiative, which may result in use of different refrigerants than are currently used in ice makers. (Scotsman, No. 125 at p. 2)

Ice-O-Matic commented that the analysis is based on faulty assumptions from unrelated rulemakings such as commercial refrigeration, and that the cycles of ice machines do not resemble the cycles of commercial refrigeration products. (Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 32) Scotsman and Manitowoc stated that the energy model may yield unrealistic efficiency gains for some of the design options. (Manitowoc, Public Meeting Transcript, No. 70 at p. 154–156; Scotsman, No. 125 at p. 2). Specifically, Manitowoc noted that the energy use model significantly over-predicts the efficiency gains associated with design options, due to its inability to account for the harvest portion of the icemaking cycle. Manitowoc added that many design options that reduce freeze-cycle energy use increase harvest-cycle energy use. (Manitowoc, No. 92 at p. 1; Manitowoc, No. 126 at p. 1)

Ice-O-Matic noted that that the FREEZE model was designed for full-size ice cubes and does not work for half-size ice cube machines. (Ice-O-Matic, No. 121 at p. 2) Full-size cubes of the ice maker models primarily considered in the analysis generally are cubes with dimensions ⅞ x ⅞ x ⅞ inches. Half-size cubes have dimensions ⅞ x ⅞ x ⅜ inches.

Howe and Hoshizaki both stated that DOE should test its component design options in actual units in order to

validate the FREEZE model. (Howe, No. 88 at p. 2; Hoshizaki, No. 86 at p. 6) AHRI also expressed its concern that DOE has not conducted thorough testing to validate the efficiency gains associated with design options and requested that DOE prove the claims made in the engineering analysis. (AHRI, Public Meeting Transcript, No. 70 at p. 20–21)

DOE used the FREEZE energy model as a basis to estimate energy savings potential associated with design options in the early stages of the analysis when DOE had limited information. As more information was made available to DOE through public comments as well as non-disclosure agreements with manufacturers, DOE modified or replaced the results garnered from the FREEZE energy model to better reflect the new data collected.

In response to Scotsman's comment regarding the FREEZE model's ability to model the performance of automatic commercial ice makers which use alternative refrigerants, DOE notes that, as described in section IV.A.4, it has not conducted analysis on the use of alternative refrigerants in this rule.

In response to comments regarding the FREEZE model's ability to model the harvest cycle, DOE notes that while the FREEZE model does not simulate the harvest period analytically, the harvest energy is an input for the program that DOE adjusted consistent with test data. In short, the model's ability to accurately calculate the energy use associated with harvest is limited only by the availability of data showing the trends of harvest cycle energy use as different design options are considered. DOE requested information regarding this aspect of ice maker performance, received some information through comments and information exchange with manufacturers, and modified the energy use calculations accordingly.

DOE notes that the harvest cycle energy use issue associated with the calculation of energy use for batch ice makers does not apply to continuous ice makers, which do not have a harvest cycle. DOE concludes that the inability to measure harvest cycle energy use cannot be a reason to question the energy use calculations made for continuous ice makers. DOE notes that stakeholders have not identified similar aspects of continuous ice maker operation that could potentially be cited as reasons for inaccuracies in the energy use calculations associated with these ice makers.

In response to Ice-O-matic's comment regarding the FREEZE model's ability to model half cube ice machines, DOE notes that the FREEZE model is capable of modeling such units. However, as indicated in section IV.D.1 DOE has chosen to base the analysis on full-cube ice machines which, as explained in section IV.D.1, may have an efficiency disadvantage as compared to half- dice machines. Hence, focus on full-cube ice makers makes the analysis more conservative.

Expected Savings for Specific Design Options

Several commenters questioned the energy model's assumptions regarding the relationship between compressor EER improvement and ice maker efficiency improvement. AHRI stated that the assumed relationship should be verified with laboratory tests. (AHRI, No. 93 at p. 15)

Manitowoc and Hoshizaki each stated that they tested a compressor with 12% higher EER compared to baseline and that it yielded a 3% efficiency improvement. (Manitowoc, Public Meeting Transcript, No. 70 at p. 138–142; Hoshizaki, Public Meeting Transcript, No. 70 at p. 152) Ice-O-Matic commented that they tested a compressor with 10% higher EER and that it yielded only a 2% improvement in efficiency. Ice-O-Matic noted that this is due to the unique circumstances of the harvest cycle, which removes a lot of the improvements that are typically seen with compressor efficiency gains in other refrigeration equipment. (Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 148–149) Follett noted that they observed a 9% efficiency gain with a compressor that was 5% more efficient and an ECM fan in an IMH–A–Large–C ice maker. Follett indicated that these design options would increase cost $60, a cost for which the DOE NOPR analysis predicted 20% improvement. (Follet, No. 84 at p. 8)

AHRI stated that the FREEZE energy model results during the June 19th public meeting did not support the findings DOE published in the NOPR when swapping an upgraded compressor. Rather the model simulation predicted that the unit with the upgraded compressor would produce more ice and consume more energy. AHRI stated that they submitted actual test data for this unit which showed modest efficiency savings for upgrading the compressor. AHRI noted that this finding is contradictory to the significant energy savings DOE claimed would be possible in the NOPR. (AHRI, No. 128 at p. 6–7) DOE responds that accurate modeling with any analysis requires careful validation of the input data and that no conclusions can be drawn regarding the results that emerged during the meeting because there was no time to ensure consistency of the input and to review the output to understand whether there was a valid reason for any unexpected results. One could argue, contrary to the AHRI position, that the results showed that the FREEZE model predicts higher energy use than would actually be consumed—DOE realizes that such a conclusion would be meaningless. The only real conclusion is that the program is not easy to operate and requires careful review of both input and output in order to ensure that results are meaningful.

To address the stakeholder concerns that the FREEZE model cannot adequately model the effects of increased compressor efficiency on ACIM energy consumption, DOE modified the outputs of the energy model based on data received in the comments as well as from manufacturers under non-disclosure agreements. DOE also performed testing on several ice-making units and used the test data to further inform the relationship between increased compressor efficiency and ACIM efficiency.

Operating Conditions

NAFEM, Emerson, Manitowoc, Scotsman commented that DOE's engineering analysis is flawed because it only examines compressor ratings at AHRI conditions, rather than over the wide range of operating conditions experienced by ACIMs in the field. (NAFEM, No. 82 at p. 10, Emerson, Public Meeting Transcript, No. 70 at p. 144; Manitowoc, Public Meeting Transcript, No. 70 at p. 144–146; Scotsman, No. 85 at p. 2) Emerson noted that the AHRI rating point for compressors is not typically where an ice machine operates which may contribute to the issues with DOE's modeling. (Emerson, Public Meeting Transcript, No. 70 at p. 144) Manitowoc stated that they typically use a 10–105 condition for compressors, whereas the cost curves used a 15/95 condition,[29] which does not match operating conditions that occur in ice machines. Manitowoc also noted that the

[29] Compressor performance depends on suction (inlet) and discharge (outlet) pressures. These pressures are often represented as the saturated refrigerant temperatures that correspond to the pressures. For the 15/95 conditions, the saturated evaporator temperature is 15 °F and the saturated condensing temperature is 95 °F (to be technically correct, these are represented as dew point temperatures for the refrigerant in question, R–404A—because there is a range of temperatures at a given pressure over which the refrigerant can coexist in equilibrium in both liquid and vapor phases, the temperature at the high end of this range often used).

compressor maps cannot model what happens during the harvest event or the pre-chill time and that the coefficient models do not include these operating regions. (Manitowoc, Public Meeting Transcript, No. 70 at p. 144–146) Danfloss also stated that compressor maps are not useful in developing assumptions about ice maker compressor performance. (Danfoss, Public Meeting Transcript, No. 70 at p. 152–153)

AHRI noted that DOE did not take operation changes into account, such as different batch times or energy use, when upgrading to a more efficient compressor. (AHRI, No. 128 at p. 2)

In response to the comment that compressors operate under a wide range of conditions in the field, DOE requested information that could be used to guide the analysis with respect in regards to what compressors are not suitable for use in ice makers, and/or what other guidelines could be used to avoid consideration of ice maker designs that are not viable in the field. DOE did not receive from stakeholders specific guidelines that could be used to limit the degree to which a design option might be applied for a given ice maker model in its analysis. In response to Emerson's comment about compressor rating conditions not being the typical operating conditions during ice maker testing, DOE notes that the calculation of compressor performance during the test was done at more typical compressor operating conditions during ice maker testing, based on the full set of performance data for the compressor—not at the compressor rating conditions. In response to the comment regarding the 15/95 conditions associated with the cost curves, the performance calculations for the compressors had nothing to do with the 15/95 conditions—the 15/95 conditions were simply an intermediate step in assigning a representative cost for a given compressor. This assignment of cost involved converting the rated AHRI 20/120 capacity for the compressor into a 15/95 condition by multiplying the capacity by 1.29. DOE then used this result as described in Chapter 5 of the TSD to determine an initial nominal cost using the relationship described in the TSD. DOE further increased the cost based on feedback obtained about compressor costs from manufacturers throughout the rulemaking.

DOE received data showing the trends in ice maker energy use reduction with improved compressor EER, including data received as part of the AHRI NOPR comment, as well as additional data received by DOE's contractor under non-disclosure agreement. The data showed that for batch ice makers, the ice maker energy use reduction is a fraction of the expected energy use reduction when considering just the compressor EER improvement. DOE applied this reduction in efficiency improvement to its NODA and final rule analyses.

Analysis Calibration

DOE calibrated the engineering analysis by comparing the energy use predictions associated with given sets of design options with energy usage and design data collected from existing ice maker models. DOE revisited these calibrations in the final rule phase. In general, DOE's analysis for a given ice maker class is based on an existing ice maker model with an efficiency level at or near baseline. Hence, the analysis is calibrated to this particular ice maker model at its efficiency level, which is based on either its rating or a combination of its rating and the results of DOE testing. The analysis considers the energy use impact of adding design options to improve efficiency. In order to represent the baseline, the analysis may consider removing a design option (or more than one if necessary) to allow representation of a design that is at the baseline efficiency level.

DOE also calibrated its analysis using units at maximum available efficiency levels (or in some cases, efficiency levels less than the maximum available), specifically equipment without proprietary technologies, such as low-thermal-mass or tube-type evaporators for batch ice makers. DOE chose design options to reach the maximum available efficiency levels of existing equipment. Importantly design options involving electronically commutate motors and drain water heat exchangers were excluded from calibration, as these were not considered to be commonly used in current ice makers. In some cases, the set of design options chosen to represent the maximum efficiency level matched the designs of the maximum available efficiency level equipment. In other cases, the designs did not match exactly, and the design of the DOE analysis may have had more improvement in one component, while the maximum available ice maker had more improvement in another component. In order to ensure that DOE was not underestimating the costs associated with the overall design improvements, DOE estimated the cost differential between changing the major components of the analyzed max efficiency unit to match those of the maximum available equipment. Major components considered in this estimate were the compressor, evaporator, condenser, and condenser fan. Table IV.25 shows this calibration, listing: The maximum efficiency reached by each directly analyzed equipment class, without considering ECM or drain water heat exchanger (DWHX) design options; the efficiency of the maximum available unit; and the cost difference associated with modifying the major components of to match those in the maximum available. A negative cost differential indicates that the DOE analysis predicted a higher cost at that efficiency level compared with the maximum available unit. The computed cost differentials are zero or negative in all but one case, showing that the DOE analysis does not underestimate the cost of reaching these higher efficiency levels. For the one case in which the differential is positive, $4 for the IMH–A–Small–B 22-Inch ice maker, the maximum available efficiency level is 5% higher than the level predicted by DOE's energy use analysis for a comparable set of design options. The calibration is presented in more detail in Chapter 5 of the TSD.

TABLE IV.25—MAXIMUM AVAILABLE CALIBRATION

Equipment class	Representative capacity (lb ice/24 hours)	DOE Analysis maximum efficiency level (% below baseline)	Maximum available efficiency level (% below baseline)	Cost differential moving from analyzed to maximum available ($)
IMH–W–Small–B	300	19.2	19.2	−29
IMH–W–Small–B (22-inch wide)	300	16.9	16.9	−34
IMH–A–Small–B	300	19.3	19.3	−27
IMH–A–Small–B (22-inch wide)	300	11.6	16.6	+4

TABLE IV.25—MAXIMUM AVAILABLE CALIBRATION—Continued

Equipment class	Representative capacity (lb ice/24 hours)	DOE Analysis maximum efficiency level (% below baseline)	Maximum available efficiency level (% below baseline)	Cost differential moving from analyzed to maximum available ($)
IMH–A–Large–B–Medium	800	16.1	16.1	−74
IMH–A–Large–B (22-inch wide)	590	5.5	5.5	−13
IMH–A–Large–B–Large	1500	6.2	6.0	−130
IMH–W–Med–B	850	10.4	14.3	−240
IMH–W–Large–B–2	2600	2.5	2.5	0
RCU–NRC–Large–B–Med	1500	15.7	15.7	−62
RCU–NRC–Large–B–Large	2400	14.9	14.9	−329
SCU–A–Small–B	110	26.6	24.9	−61
SCU–A–Large–B	200	23.5	26.4	−28
SCU–W–Large–B	300	27.6	27.6	0
IMH–A–Small–C	310	19.8	28.0	−30
IMH–A–Large–C	820	17.0	35.7	−11
SCU–A–Small–C	220	21.8	30.1	−62
RCU–NRC–Small–C	610	17.9	18.4	−40

c. Revision of NOPR and NODA Engineering Analysis

DOE developed the final engineering analysis by updating the NOPR and NODA analyses. This included making adjustments to the manufacturing cost model as described in section IV.D.4.a. It also included adjustments to energy modeling as described in section IV.D.4.

DOE made several changes to the engineering analysis throughout the course of this rulemaking. Specifically, in response to the concerns raised by stakeholders, DOE adjusted its analysis to rely more on test data based on input received in manufacturers' public and confidential comments than on theoretically analysis. These changes included:

• Based on new data, DOE made changes to the energy use reductions associated with individual design options;

• Based on new cost data, DOE made changes to the costs associated with individual design options. Design options were changed as a result of new data obtained through non-disclosure agreements with DOE's engineering contractor and comments made during the NOPR comment period developing an approach based on test data to determine the condensing temperature reductions associated with use of larger water-cooled condensers;

• Based on comments made during the NOPR period, DOE added additional cost-efficiency curves for 22-inch width units in the IMH–A–Small–B, IMH–A–Large–B, and IMH–W–Small–B equipment classes, and an additional cost-efficiency curve for the RCU–Small–C equipment class.

DOE calibrated the results of its calculations with maximum available ice makers that are available in the market and which do not incorporate proprietary technologies. This calibration at the maximum available levels shows that the costs DOE assigned to the maximum available level is generally higher than suggested by the compared maximum available equipment.

DOE believes that these changes help ensure that analysis accurately reflect technology behavior in the market. Further details on the analyses are available in chapter 5 of the final rule TSD.

E. Markups Analysis

DOE applies multipliers called ''markups'' to the manufacturer selling price (MSP) to calculate the customer purchase price of the analyzed equipment. These markups are in addition to the manufacturer markup (discussed in section IV.J.2.b) and are intended to reflect the cost and profit margins associated with the distribution and sales of the equipment between the manufacturer and customer. DOE identified three major distribution channels for automatic commercial ice makers, and markup values were calculated for each distribution channel based on industry financial data. Table IV.26 shows the three distribution channels and the percentage of the shipments each is assumed to reflect. The overall markup values were then calculated by weighted-averaging the individual markups with market share values of the distribution channels. See chapter 6 of the TSD for more details on DOE's methodology for markups analysis.

TABLE IV.26—DISTRIBUTION CHANNEL MARKET SHARES

National account channel: Manufacturer direct to customer (1-party)	Wholesaler channel: Manufacturer to distributor to customer (2-party)	Contractor channel: Contractor purchase from distributor for installation (3-party)
0%	38%	62%

In general, DOE has found that markup values vary over a wide range based on general economic outlook, manufacturer brand value, inventory levels, manufacturer rebates to distributors based on sales volume, newer versions of the same equipment model introduced into the market by the manufacturers, and availability of cheaper or more technologically advanced alternatives. Based on market data, DOE divided distributor costs into

(1) direct cost of equipment sales; (2) labor expenses; (3) occupancy expenses; (4) other operating expenses (such as depreciation, advertising, and insurance); and (5) profit. DOE assumed that, for higher efficiency equipment only, the ''other operating costs'' and ''profit'' scale with MSP, while the remaining costs stay constant irrespective of equipment efficiency level. Thus, DOE applied a baseline markup through which all estimated distribution costs are collected as part of the total baseline equipment cost, and the baseline markups were applied as multipliers only to the baseline MSP. Incremental markups were applied as multipliers only to the MSP increments (of higher efficiency equipment compared to baseline) and not to the entire MSP. Taken together the two markups are consistent with economic behavior in a competitive market—the participants are only able to recover costs and a reasonable profit level.

DOE received a number of comments regarding markups after the publication of the NOPR.

In written comments, Manitowoc, Hoshizaki, NAFEM, Follett and AHRI commented that baseline and incremental markups should be equal, set at the level of the baseline markups. (Manitowoc, No. 92 at p. 2; Hoshizaki, No. 86 at p. 3; NAFEM, No. 82 at p. 5; Follett, No. 84 at p. 6; and AHRI, No. 93 at p. 6–7)

Some stakeholders at the NOPR public meeting commented that DOE should not use incremental markups for incremental equipment costs arising from the imposition of new standards and that DOE should instead use one set of markups, that corresponds to the baseline markups. Danfoss commented that wholesalers did not ask which part of prices were baseline and which were incremental. (Danfoss, Public Meeting Transcript, No. 70 at p. 197–198) Manitowoc stated that if they change list prices, their channel partners simply add a markup, and Manitowoc was not sure they would adopt another approach because a regulatory change drove up costs. (Manitowoc, Public Meeting Transcript, No. 70 at p. 192–193)

Danfoss suggested DOE go back and review the results of earlier rulemakings and identify how markups worked in those equipment markets. Doing so could add some credibility to the DOE markups methodology, maybe not in time for the ACIM rulemaking but in time for later rulemakings. (Danfoss, Public Meeting Transcript, No. 70 at p. 195) AHRI agreed that DOE should go back and try to verify the numbers at some point, maybe not for this rulemaking but for the next one. (AHRI, Public Meeting Transcript, No. 70 at p. 199–200) NAFEM and Manitowoc also suggested validation studies. (NAFEM, Public Meeting Transcript, No. 70 at p. 198; Manitowoc, Public Meeting Transcript, No. 70 at p. 190)

ASAP stated that DOE implemented markups where every dollar spent got the same markup in rulemakings before the year 2000. ASAP argued that the real world does not work that way because businesses cover fixed costs in a certain fashion, and variable costs in a certain fashion. ASAP has done some work examining the question of how good DOE's methods are at predicting prices. ASAP found that DOE's predicted prices tend to be higher than they should be, based on retrospective analysis. ASAP welcomes more retrospective analysis but notes that such analysis won't help this docket. (ASAP, Public Meeting Transcript, No. 70 at p. 195–197)

Scotsman provided suggestions for price estimation services, and commented that the cumulative impact on the supply chain of training, store design modifications, maintenance, costs associated with passing along manufacturer adjusted pricing, and retrofit of existing locations would add significantly to the costs of the standards. (Scotsman, No. 95 at page 5)

DOE acknowledges that a detailed review of results following compliance with prior rulemakings could provide information on wholesaler and contractor pricing practices, and agrees that such results would not be timely for this rulemaking. In the absence of such information, DOE has concluded that its approach, which is consistent with expected business behavior in competitive markets, is reasonable to apply. If the cost of goods sold increases due to efficiency standards, DOE continues to assume that markups would decline slightly, leaving profit unchanged, and, thus, it uses lower markups on the incremental costs of higher-efficiency products. This approach is consistent with behavior in competitive markets wherein market participants are expected to be able to recover costs and reasonable levels of profit. If the markup remains constant while the cost of goods sold increases, as Manitowoc, Hoshizaki, NAFEM, Follett, and AHRI suggest, the wholesalers' profits would also increase. While this might happen in the short run, DOE believes that the wholesale market is sufficiently competitive that there would be pressure on margins. DOE recognizes that attempting to capture the market response to changing cost conditions is difficult. However, DOE's approach is consistent with the mainstream understanding of firm behavior in a competitive market.

With respect to Manitowoc and Danfoss comments related to differential pricing based on efficiency improvements, DOE's approach for wholesaler markups does not imply that wholesalers differentiate markups based on the technologies inherently present in the equipment. Rather, it assumes that the average markup declines as the wholesalers' cost of goods sold increases due to the higher cost of more-efficient equipment for the reasons explained in the previous paragraph.

With respect to Scotsman's comments, DOE reviewed the suggested price quote services and, while appreciative of the information, found them to not provide the type of information needed for estimating markups on a national or state average basis. As for the costs mentioned, DOE believes costs such as passing along the manufacturer pricing and personnel training are already embodied in markups as such costs would be included in the data used to estimate markups and no evidence has been entered into the record to demonstrate that the costs caused by the proposed standards would be extraordinary. Other costs such as building renovation and retrofit costs were included in installation costs, as appropriate.

F. Energy Use Analysis

DOE estimated energy usage for use in the LCC and NIA models based on the kWh/100 lb ice and gal/100 lb ice values developed in the engineering analysis in combination with other assumptions. For the NOPR, DOE assumed that ice makers on average are used to produce one-half of the ice the machines could produce (*i.e.,* a 50 percent capacity factor). DOE also assumed that when not making ice, on average ice makers would draw 5 watts of power. DOE modeled condenser water usage as ''open-loop'' installations, or installations where water is used in the condenser one time (single pass) and released into the wastewater system.

Hoshizaki asked about the basis for the 50 percent usage factor. (Hoshizaki, Public Meeting Transcript, No. 70 at p. 204) NEEA referred to the usage factor as a best estimate, and noted that the 50 percent factor had not been improved upon in response to earlier rulemaking stages. (NEEA, Public Meeting Transcript, No. 70 at p. 204–205)

With its written comments, AHRI supplied monitored results collected by two manufacturers and recommended that DOE revise the utilization factor to 38%, based on the average of the data collected from stores, cafeterias, and

restaurants in a variety of states. (AHRI, No. 93 at p. 2–3) Follett commented that its data shows that ice makers run an average of 38% of the time and that DOE should modify its analysis accordingly. (Follett, No. 84 at p. 3) Manitowoc commented that a more accurate average duty cycle for ACIMs is 40% based on data it had collected. (Manitowoc, No. 92 at p. 3)

NEEA recommended that DOE adjust the energy use on a weighted sales average to reflect a higher duty cycle for ice makers that are replacements as compared to new units, where ice demand may not be accurately known. (NEEA, No. 91 at p. 2)

Based on the monitored results submitted by AHRI and similar monitored results found in a report posted online,[30] DOE utilized a 42 percent capacity factor to estimate energy usage for the LCC and NIA models. With respect to NEEA's comment, given that DOE has no information on new versus replacement units and that the sample of monitored results does not include all relevant business types, DOE used the factor based on monitored results for new and replacement shipments for all business types.

G. Life-Cycle Cost and Payback Period Analysis

In response to the requirements of EPCA in (42 U.S.C. 6295(o)(2)(B)(i) and 6313(d)(4)), DOE conducts a LCC and PBP analysis to evaluate the economic impacts of potential amended energy conservation standards on individual commercial customers—that is, buyers of the equipment. This section describes the analyses and the spreadsheet model DOE used. TSD chapter 8 details the model and all the inputs to the LCC and PBP analyses.

LCC is defined as the total customer cost over the lifetime of the equipment, and consists of installed cost (purchase and installation costs) and operating costs (maintenance, repair, water,[31] and energy costs). DOE discounts future operating costs to the time of purchase and sums them over the expected lifetime of the unit of equipment. PBP is defined as the estimated amount of time it takes customers to recover the higher installed costs of more-efficient equipment through savings in operating costs. DOE calculates the PBP by dividing the increase in installed costs by the savings in annual operating costs. DOE measures the changes in LCC and in PBP associated with a given energy and water use standard level relative to a base-case forecast of equipment energy and water use (or the ''baseline energy and water use''). The base-case forecast reflects the market in the absence of new or amended energy conservation standards.

The installed cost of equipment to a customer is the sum of the equipment purchase price and installation costs. The purchase price includes MPC, to which a manufacturer markup (which is assumed to include at least a first level of outbound freight cost) is applied to obtain the MSP. This value is calculated as part of the engineering analysis (chapter 5 of the TSD). DOE then applies additional markups to the equipment to account for the costs associated with the distribution channels for the particular type of equipment (chapter 6 of the TSD). Installation costs are varied by state depending on the prevailing labor rates.

Operating costs for automatic commercial ice makers are the sum of maintenance costs, repair costs, water, and energy costs. These costs are incurred over the life of the equipment and therefore are discounted to the base year (2018, which is the proposed effective date of the amended standards that will be established as part of this rulemaking). The sum of the installed cost and the operating cost, discounted to reflect the present value, is termed the life-cycle cost or LCC.

Generally, customers incur higher installed costs when they purchase higher-efficiency equipment, and these cost increments will be partially or wholly offset by savings in the operating costs over the lifetime of the equipment. Usually, the savings in operating costs are due to savings in energy costs because higher-efficiency equipment uses less energy over the lifetime of the equipment. Often, the LCC of higher-efficiency equipment is lower compared to lower-efficiency equipment.

The PBP of higher-efficiency equipment is obtained by dividing the increase in the installed cost by the decrease in annual operating cost. For this calculation, DOE uses the first-year operating cost decreases as the estimate of the decrease in operating cost, noting that some of the repair and maintenance costs used in the analysis are annualized estimates of costs. DOE calculates a PBP for each efficiency level of each equipment class. In addition to the energy costs (calculated using the electricity price forecast for the first year), the first-year operating costs also include annualized maintenance and repair costs.

Apart from MSP, installation costs, and maintenance and repair costs, other important inputs for the LCC analysis are markups and sales tax, equipment energy consumption, electricity prices and future price trends, expected equipment lifetime, and discount rates.

As part of the engineering analysis, design option levels were ordered based on increasing efficiency (decreased energy and water consumption) and increasing MSP values. DOE developed two to seven energy use levels for each equipment class, henceforth referred to as ''efficiency levels,'' through the analysis of engineering design options. For all equipment classes, efficiency levels were set at specific intervals—*e.g.,* 10 percent improvement over base energy usage, 15 percent improvement, 20 percent improvement. The max-tech efficiency level is the only exception. At the max-tech level, the efficiency improvement matched the specific levels identified in the engineering analysis.

The base efficiency level (level 1) in each equipment class is the least efficient and the least expensive equipment in that class. The higher efficiency levels (level 2 and higher) exhibit progressive increases in efficiency and cost with the highest efficiency level corresponding to the max-tech level. LCC savings and PBP are calculated for each selected efficiency level of each equipment class.

Many inputs for the LCC analysis are estimated from the best available data in the market, and in some cases the inputs are generally accepted values within the industry. In general, each input value has a range of values associated with it. While single representative values for each input may yield an output that is the most probable value for that output, such an analysis does not give the general range of values that can be attributed to a particular output value. Therefore, DOE carried out the LCC analysis in the form of Monte Carlo simulations[32] in which certain inputs were expressed as a range of values and probability distributions that account

[30] Karas, A. and D. Fisher. *A Field Study to Characterize Water and Energy Use of Commercial Ice-Cube Machines and Quantify Saving Potential.* December 2007. Fisher-Nickel, Inc. San Ramon, CA.

[31] Water costs are the total of water and wastewater costs. Wastewater utilities tend to not meter customer wastewater flows, and base billings on water commodity billings. For this reason, water usage is used as the basis for both water and wastewater costs, and the two are aggregated in the LCC and PBP analysis.

[32] Monte Carlo simulation is, generally, a computerized mathematical technique that allows for computation of the outputs from a mathematical model based on multiple simulations using different input values. The input values are varied based on the uncertainties inherent to those inputs. The combination of the input values of different inputs is carried out in a random fashion to simulate the different probable input combinations. The outputs of the Monte Carlo simulations reflect the various probable outputs that are possible due to the uncertainties in the inputs.

for the ranges of values that may be typically associated with the respective input values. The results or outputs of the LCC analysis are presented in the form of mean LCC savings, percentages of customers experiencing net savings, net cost and no impact in LCC, and median PBP. For each equipment class, 10,000 Monte Carlo simulations were carried out. The simulations were conducted using Microsoft Excel and Crystal Ball, a commercially available Excel add-in used to carry out Monte Carlo simulations.

LCC savings and PBP are calculated by comparing the installed costs and LCC values of standards-case scenarios against those of base-case scenarios. The base-case scenario is the scenario in which equipment is assumed to be purchased by customers in the absence of the proposed energy conservation standards. Standards-case scenarios are scenarios in which equipment is assumed to be purchased by customers after the amended energy conservation standards, determined as part of the current rulemaking, go into effect. The number of standards-case scenarios for an equipment class is equal to one less than the total number of efficiency levels in that equipment class because each efficiency level above efficiency level 1 represents a potential amended standard. Usually, the equipment available in the market will have a distribution of efficiencies. Therefore, for both base-case and standards-case scenarios, in the LCC analysis, DOE assumed a distribution of efficiencies in the market, and the distribution was assumed to be spread across all efficiency levels in the LCC analysis (see TSD chapter 10).

Recognizing that different types of businesses and industries that use automatic commercial ice makers face different energy prices and apply different discount rates to purchase decisions, DOE analyzed variability and uncertainty in the LCC and PBP results by performing the LCC and PBP calculations for seven types of businesses: (1) Health care; (2) lodging; (3) foodservice; (4) retail; (5) education; (6) food sales; and (7) offices. Different types of businesses face different energy prices and also exhibit differing discount rates that they apply to purchase decisions.

Expected equipment lifetime is another input for which it is inappropriate to use a single value for each equipment class. Therefore, DOE assumed a distribution of equipment lifetimes that are defined by Weibull survival functions.[33]

Equipment lifetime is a key input for the LCC and PBP analysis. For automatic commercial ice maker equipment, there is a general consensus among industry stakeholders that the typical equipment lifetime is approximately 7 to 10 years with an average of 8.5 years. There was no data or comment to suggest that lifetimes are unique to each equipment class. Therefore, DOE assumed a distribution of equipment lifetimes that is defined by Weibull survival functions, with an average value of 8.5 years.

Using monitored data on the percentage of potential ice-making capacity that is actually used in real world installations (referred herein as utilization factor, but also referred to as duty cycle), the electricity and water usage of ice makers were also varied in the LCC analysis.

Another factor influencing the LCC analysis is the physical location in which the automatic commercial ice maker is installed. Location is captured by using state-level inputs, including installation costs, water and energy prices, and sales tax (plus the associated distribution chain markups). At the national level, the spreadsheets explicitly modeled variability in the model inputs for water price, electricity price, and markups using probability distributions based on the relative populations in all states.

Detailed descriptions of the methodology used for the LCC analysis, along with a discussion of inputs and results, are presented in chapter 8 and appendices 8A and 8B of the TSD.

1. Equipment Cost

To calculate customer equipment costs, DOE multiplied the MSPs developed in the engineering analysis by the distribution channel markups, described in section IV.E. DOE applied baseline markups to baseline MSPs and incremental markups to the MSP increments associated with higher efficiency levels.

In the NOPR analysis, DOE developed a projection of price trends for automatic commercial ice maker equipment, indicating that based on historical price trends the MSP would be projected to decline by 0.4 percent from the 2012 estimation of MSP values through the 2018 assumed start date of new or amended standards. The NOPR analysis also indicated an approximately 1.7 percent decline from the MSP values estimated in 2012 to the end of the 30-year NIA analysis period used in the NOPR.

AHRI questioned where the price trend data came from and asked how confident DOE was of the numbers. (AHRI, Public Meeting Transcript, No. 70 at p. 216) In written comments, AHRI expressed concern with the experiential learning analysis and use of a producer price index and urged DOE to assume the MSP remain constant. (AHRI, No. 93 at p. 16–17)

PG&E and SDG&E expressed their support of DOE's use of experiential price learning in life-cycle cost analysis. (PG&E and SDG&E, No. 89 at p. 4)

DOE acknowledges the PG&E and SDG&G comment. In response to the AHRI comments that the data do not support the price trends, DOE agrees that it would be better to have data very specific to automatic commercial ice maker price trends. However, such is not available. The PPI used in the analysis of price trends embodies the price trends of automatic commercial ice makers as well as related technologies, including those used as inputs to the manufacturing process. DOE would also note that a sensitivity analysis was performed with price trends held constant, and doing such would not have impacted the selection of efficiency levels for TSLs. (See appendix 10B of the final rule TSD.) Because DOE believes there is evidence that price learning exists, DOE continued to use price learning for the final rule.

As is customary between phases of a rulemaking, DOE re-examined the data available and updated the price trend analysis. DOE continued to use a subset of the air-conditioning, refrigeration, and forced air heating equipment Producer Price Index (PPI) that includes only commercial refrigeration and related equipment, and excludes unrelated equipment. Using this PPI for the automatic commercial ice maker price trends analysis yields a price decline of roughly 2.4 percent over the period of 2013 (the year for which MSP was estimated) through 2047. For the LCC model, between 2013 and 2018, the price decline is 0.5 percent.

2. Installation, Maintenance, and Repair Costs

a. Installation Costs

Installation cost includes labor, overhead, and any miscellaneous materials and parts needed to install the equipment. Most automatic commercial ice makers are installed in fairly standard configurations. For the NOPR,

[33] A Weibull survival function is a continuous probability distribution function that is commonly used to approximate the distribution of equipment lifetimes.

DOE assumed that the installation costs vary from one equipment class to another, but not by efficiency level within an equipment class. For the NOPR, DOE tentatively concluded that the engineering design options did not impact the installation cost within an equipment class. DOE therefore assumed that the installation cost for automatic commercial ice makers did not vary among efficiency levels within an equipment class. Costs that do not vary with efficiency levels do not impact the LCC, PBP, or NIA results.

During the public meeting manufacturers commented that not all customers can accommodate increased unit sizes, and that DOE must consider additional costs incurred from modifying facilities to accommodate ice makers with potential changes including plumbing and/or electrical work, relocating existing equipment, and/or building renovations. (Scotsman, Public Meeting Transcript, No. 70 at p. 126–127; Manitowoc, Public Meeting Transcript, No. 70 at p. 133 and p. 209; Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 208 and p. 210)

In written comments, AHRI stated it was incorrect to assume installation cost would not increase with the efficiency improvement. (AHRI, No. 93 at p. 4) AHRI and Follett stated that larger ice makers will require installation space modification and would result in higher installation costs. (AHRI, No. 93 at p. 7–8; Follett, No. 84 at p. 6) Hoshizaki stated that the current installation cost range considerations may be correct for ice makers without size increases but agreed with AHRI and Follett that the installation cost would increase if the cabinet size went up, and that drain water heat exchangers would further increase installation costs. (Hoshizaki, No. 86 at p. 3–4) Manitowoc provided written comments, adding that remote condenser and remote condenser with compressor units that have larger condenser coils will require larger roof curbs or stronger mounting, depending on whether footprint or height is affected. (Manitowoc, No. 92 at p. 3) Scotsman stated in response to the NOPR and to the NODA that customers with space constraints could incur costs including but not limited to building renovation, water and wastewater service relocation, and electric service and countertop renovations. (Scotsman, No. 85 at p. 5b–6b; No. 125 at p. 2) Scotsman also stated that any efficiency improvement greater than 5 percent would cause cabinet size increases. (Scotsman, No. 125 at p. 2) Policy Analyst stated that DOE should assess whether commercial ice maker installation costs are affected by its proposed standards. (Policy Analyst, No. 75, p. 10)

Joint Commenters commented that DOE appropriately considered design options that increased package sizes, noting the options consumers have for purchases and noting the opportunity consumers might have to select smaller units given the low utilization factors used in the analysis. (Joint Commenters, No. 87, p. 3) NEEA similarly stated that DOE appropriately considered all the factors related to chassis size increase (NEEA, No. 91, pp. 1–2) PG&E and SDG&E, and CA IOU noted that it is unclear that insufficient space exists to increase chassis sizes in all situations. (PG&E and SDG&E, No. 89, p. 3, and CA IOU, No. 129, p. 4)

As suggested by Policy Analyst and manufacturers, DOE investigated further the question of installation costs varying by efficiency levels. In particular, DOE investigated the issue around increased cabinet sizes for ice makers and modified the installation cost calculation methodology to reflect increased installation costs for equipment classes that are size constrained. In response to stakeholder comments and data supplied by stakeholders, DOE revised the analysis for three equipment classes with significant shipment volumes of 22-inch-wide units and where height increases in the cabinets were considered in DOE's engineering analysis. In the engineering analysis for the final rule, DOE examined design options and efficiency level improvements for 22-inch units for three equipment classes under a scenario where no increase in equipment size was considered, resulting in two separate cost-efficiency curves (space constrained and non-space constrained) for each of these three classes (IMH–A–Small–B, IMH–A–Large–B, and IMH–W–Small–B). Each of these equipment classes is designed for mounting on bins, ice dispensers, or fountain dispensers, and in the case of dispensers, generally the combination is mounted on a counter or table. For the LCC/PBP analysis and the NIA, DOE integrated the two curves for these equipment classes. To do so, at the efficiency level where the 22-inch engineering cost curves end, DOE researched the additional installation costs customers would incur in order to raise ceilings or move walls to make it possible for the customers to install the larger, non-22-inch units. As PG&E, SDG&E and CA IOU stated, not all installations lack sufficient space to accommodate increased chassis sizes. Based on the research performed for the final rule, DOE identified percentages of customers of the non-space constrained equipment who also face size constraints, and estimated additional installation costs imposed by the need to raise ceilings or address other height constraints to facilitate cabinet size increases. Chapter 8 of the final rule TSD describes the process for including building renovation costs in the ACIM installation costs, and the inputs used in the analysis.

In response to Hoshizaki and Manitowoc comments, DOE researched DWHX installation costs, and the cost to install larger remote condensers. In both cases, DOE identified incremental installation costs for these design options and added such to the installation costs at the efficiency levels that include these options.

In response to Scotsman and Ice-O-Matic comments that the design options might cause customers to need to increase the size of electrical or water services, the specific technologies underlying the design options studied by DOE would not require increased electrical or water services. In performing the engineering analyses, DOE analyzed design options for each equipment class at the same voltage levels as existing typical units. As such, there is no reason to believe that meeting the energy conservation standard for any specific equipment class would require an increased electrical service. Similarly, there is reason to believe meeting the energy conservation standard would require greater water service, because no design options were analyzed which would increase water usage. Water or wastewater services relocations or countertop renovations would be required if customers move ice makers, but DOE's belief is that moving ice makers would not be a requirement imposed by the small cabinet size increases envisioned in this rulemaking.

Additional information regarding the estimation of installation costs is presented in TSD chapter 8.

b. Repair and Maintenance Costs

The repair cost is the average annual cost to the customer for replacing or repairing components in the automatic commercial ice maker that have failed. For the NOPR, DOE approximated repair costs based on an assessment of the components likely to fail within the lifetime of an automatic commercial ice maker in combination with the estimated cost of these components developed in the engineering analysis. Under this methodology, repair and replacement costs are based on the original equipment costs, so the more expensive the components are, the

greater the expected repair or replacement cost. For design options modeled in the engineering analysis, DOE estimated repair costs, and if they were different than the baseline cost, the repair costs were either increased or decreased accordingly.

Maintenance costs are associated with maintaining the proper operation of the equipment. The maintenance cost does not include the costs associated with the replacement or repair of components that have failed, which are included as repair costs. In the NOPR analyses, DOE estimated material and labor costs for preventative maintenance based on RS Means cost estimation data and on telephone conservations with contractors. DOE assumed maintenance cost would remain constant for all efficiency levels within an equipment class.

AHRI commented that it is incorrect to assume that changes in maintenance and repair will be negligible for more efficient equipment, and that DOE should contact parts distributors to find the price difference between permanent split-capacitor (PSC) and ECM motors and between 2-stage and 1-stage compressors. AHRI noted that dealers usually double their costs when invoicing equipment owners. (AHRI, No. 93 at p. 4) Similarly, Scotsman commented that the supply-chain cost impact of the standards would be nearly equal in percentage to the manufactured product cost increase. (Scotsman, No. 85 at p. 5b)

Scotsman commented that the expedited product development timeline would affect manufacturers by impeding the traditional product development process, resulting in a higher product failure rate, additional training burden, and increased repair costs and that this cost should be included in the analysis (Scotsman, Public Meeting Transcript, No. 70 at p. 212, p. 218, p. 219–220).

In the final rule analysis released for the NODA, DOE added a ''repair labor cost'' to the original repair cost, reflective of the cost of replacing individual components. DOE's research did not identify studies or data indicating that the failure rates, and in turn maintenance and repair costs, of energy-efficient equipment is significantly higher than traditional equipment. In response to AHRI's comments about contacting distributors about motors and compressors, DOE did collect labor information directly from service companies upon which to base the estimated labor hours. In response to AHRI's note about the doubling of costs, the total repair chain markup underlying DOE's estimated repair costs is 250 percent of direct equipment costs.

In response to AHRI's comment about compressors, DOE did not include 2-stage compressors in the engineering analysis, and so the comment does not apply.

In response to the Scotsman comment about warranty costs, DOE has no information indicating whether or how much failure rates will change as a result of standards implementation. To the extent that training and warranty costs are born by manufacturers and identified in the data collection efforts, such costs are included in the manufacturer impact analysis.

3. Annual Energy and Water Consumption

Chapter 7 of the final rule TSD details DOE's analysis of annual energy and water usage at various efficiency levels of automatic commercial ice makers. Annual energy and water consumption inputs by automatic commercial ice maker equipment class are based on the engineering analysis estimates of kilowatt-hours of electricity per 100 lb ice and gallons of water per 100 lb ice, translated to annual kilowatt-hours and gallons in the energy and water use analysis (chapter 7 of the final rule TSD). The development of energy and water usage inputs is discussed in section IV.F along with public input and DOE's response to the public input.

4. Energy Prices

DOE calculated average commercial electricity prices using the EIA Form EIA–826 data obtained online from the ''Database: Sales (consumption), revenue, prices & customers'' Web page.[34] The EIA data are the average commercial sector retail prices calculated as total revenues from commercial sales divided by total commercial energy sales in kilowatt-hours, by state and for the nation. DOE received no recommendations or suggestions regarding this set of assumptions at the April 2014 NOPR public meeting or in written comments.

5. Energy Price Projections

To estimate energy prices in future years for the NOPR and for the final rule, DOE multiplied the average state-level energy prices described in the previous paragraph by the forecast of annual average commercial energy price indices developed in the Reference Case from *AEO2014*.[35] *AEO2014* forecasted prices through 2040. To estimate the price trends after 2040, DOE assumed the same average annual rate of change in prices as exhibited by the forecast over the 2031 to 2040 period. DOE received no recommendations or suggestions regarding this set of assumptions at the April 2014 public meeting or in written comments.

6. Water Prices

To estimate water prices in future years for the NOPR, DOE used price data from the 2008,[36] 2010,[37] and 2012 American Water Works Association (AWWA) Water and Wastewater Surveys.[38] The AWWA 2012 survey was the primary data set. No data exists to disaggregate water prices for individual business types, so DOE varied prices by state only and not by business type within a state. For each state, DOE combined all individual utility observations within the state to develop one value for each state for water and wastewater service. Since water and wastewater billings are frequently tied to the same metered commodity values, DOE combined the prices for water and wastewater into one total dollars per 1,000 gallons figure. DOE used the Consumer Price Index (CPI) data for water-related consumption (1973–2012)[39] in developing a real growth rate for water and wastewater price forecasts.

In written comments, the Alliance stated that DOE looked only at energy savings for air-cooled and water-cooled ACIM equipment, and that DOE should include water and wastewater cost in the LCC analysis. The Alliance notes that when such costs are included, air-cooled equipment is more cost-effective than water-cooled equipment. (Alliance, No. 73 at p. 3) The Alliance further recommended that DOE should reflect the rising costs water and wastewater cost in its life cycle analysis. (Alliance, No. 73 at p. 3) The Alliance also

[34] U.S. Energy Information Administration. *Sales and revenue data by state, monthly back to 1990 (Form EIA–826).* (Last accessed May 19, 2014). *www.eia.gov/electricity/data.cfm#sales.*

[35] The spreadsheet tool that DOE used to conduct the LCC and PBP analyses allows users to select price forecasts from either *AEO*'s High Economic Growth or Low Economic Growth Cases. Users can thereby estimate the sensitivity of the LCC and PBP results to different energy price forecasts.

[36] American Water Works Association. *2008 Water and Wastewater Rate Survey.* 2009. Denver, CO. Report No. 54004.

[37] American Water Works Association. *2010 Water and Wastewater Rate Survey.* 2011. Denver, CO. Report No. 54006.

[38] American Water Works Association. *2012 Water and Wastewater Rate Survey.* 2013. Denver, CO. Report No. 54008.

[39] The Bureau of Labor Statistics defines CPI as a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. For more information see *www.bls.gov/cpi/home.htm.*

commented that DOE did not take into account the embedded energy needed to pump, tread and distribute water and to collect and treat wastewater, noting that the end user does not pay this cost and that it is paid by the water and wastewater user. (Alliance, No. 73 at p. 3, 18–19)

DOE includes water and wastewater cost in the LCC analysis and notes that real electric prices (2013$) escalate at roughly 0.4 percent between 2013 and 2047, while real water and wastewater prices escalate at roughly 2.0 percent over the same time period. DOE disagrees with the Alliance's comment that the end user of ice does not pay for the cost of energy embedded in the water used to make ice. This statement implies that the hotels, restaurants and other entities that use automatic commercial ice makers and pay the water and wastewater bills charge prices that do not fully recover all of their costs of doing business. DOE would agree that the end user of ice does not perceive the cost of the ice or any of the factors of production that went into the provision of the ice or the beverage served with the ice. However, DOE included water and wastewater costs in the LCC analyses, thereby capturing the cost of embedded energy in the analysis.

In response to the Alliance's comparison of equipment types, DOE's final rule and final rule TSD present LCC results for all equipment classes. As discussed in section II.A of this preamble, DOE's rulemaking authority required DOE to promulgate standards that do not eliminate features or reduce customer utility. Because the existing standards established by Congress made water-cooled equipment separate equipment classes differentiated by the use of water in the condenser, DOE considers the use of water in the condenser to be a feature. For these reasons, DOE has no reason to make determinations that one equipment type is more cost-effective than another type.

For the final rule, DOE updated the calculation of State-level water prices with the inclusion of 2013 consumer price index values.

7. Discount Rates

The discount rate is the rate at which future expenditures are discounted to establish their present value. DOE determined the discount rate by estimating the cost of capital for purchasers of automatic commercial ice makers. Most purchasers use both debt and equity capital to fund investments. Therefore, for most purchasers, the discount rate is the weighted average cost of debt and equity financing, or the weighted average cost of capital (WACC), less the expected inflation.

DOE received no comments at the April 2014 public meeting or in written form related to discount rates.

To estimate the WACC of automatic commercial ice maker purchasers for the final rule, DOE used a sample of over 1,400 companies grouped to be representative of operators of each of the commercial business types (health care, lodging, foodservice, retail, education, food sales, and offices) drawn from a database of 7,765 U.S. companies presented on the Damodaran Online Web site.[40] This database includes most of the publicly traded companies in the United States. The WACC approach for determining discount rates accounts for the current tax status of individual firms on an overall corporate basis. DOE did not evaluate the marginal effects of increased costs and the increased depreciation due to more expensive equipment, on the overall tax status.

DOE used the final sample of companies to represent purchasers of automatic commercial ice makers. DOE combined company-specific information from the Damodaran Online Web site, long-term returns on the Standard & Poor's 500 stock market index from the Damodaran Online Web site, nominal long-term Federal government bond rates, and long-term inflation to estimate a WACC for each firm in the sample.

For most educational buildings and a portion of the office buildings and cafeterias occupied and/or operated by public schools, universities, and state and local government agencies, DOE estimated the cost of capital based on a 40-year geometric mean of an index of long-term (>20 years) tax-exempt municipal bonds.[41] [42] Federal office space was assumed to use the Federal bond rate, derived as the 40-year geometric average of long-term (>10 years) U.S. government securities.[43]

DOE recognizes that within the business types purchasing automatic commercial ice makers there will be small businesses with limited access to capital markets. Such businesses tend to be viewed as higher risk by lenders and face higher capital costs as a result. To account for this, DOE included an additional risk premium for small businesses. The premium, 1.9 percent, was developed from information found on the Small Business Administration Web site.[44]

Chapter 8 of the final rule TSD provides more information on the derivation of discount rates. The average discount rate by business type is shown on Table IV.27.

TABLE IV.27—AVERAGE DISCOUNT RATE BY BUSINESS TYPE

Business type	Average discount rate (real) (%)
Health Care	3.4
Lodging	7.9
Foodservice	7.1
Retail	5.8
Education	4.0
Food Sales	6.9
Office	6.2

8. Lifetime

DOE defines lifetime as the age at which typical automatic commercial ice maker equipment is retired from service. DOE estimated equipment lifetime based on its discussion with industry experts and concluded a typical lifetime of 8.5 years. For the NOPR analyses, DOE elected to use an 8.5-year average life for all equipment classes.

DOE received written comments on the typical lifetime. Scotsman stated continuous units might have a shorter typical lifetime than batch type units but did not provide estimates of the difference. (Scotsman, No. 85 at p. 5b) Hoshizaki commented that 8.5 years is a good average lifetime assumption. (Hoshizaki, No. 86 at p. 3) AHRI commented that the average lifespan of continuous type ice makers is 7 years based on warranty data. (AHRI, No. 93 at p. 7) NAFEM commented that DOE did not use adequate data to justify its assumed lifetime of 8.5 years and that DOE should study the difference in lifetimes between batch type and continuous type ice makers. (NAFEM, No. 82 at p. 4)

AHRI and NAFEM both commented that the proposed rule will increase the size and the cost of automatic commercial ice makers, and both pointed to the example of air

[40] Damodaran financial data is available at *http://pages.stern.nyu.edu/~adamodar/* (Last accessed June 6, 2014).

[41] Federal Reserve Bank of St. Louis, *State and Local Bonds—Bond Buyer Go 20-Bond Municipal Bond Index.* (Last accessed April 6, 2012). Annual 1974–2011 data were available at *http://research.stlouisfed.org/fred2/series/MSLB20/downloaddata?cid=32995.*

[42] Rates for 2012 and 2013 calculated from monthly data. Data source: U.S. Federal Reserve (Last accessed July 10, 2014.) Available at *http://www.federalreserve.gov/releases/h15/data.htm.*

[43] Rate calculated with 1974–2013 data. Data source: U.S. Federal Reserve (Last accessed July 10, 2014.) Available at *http://www.federalreserve.gov/releases/h15/data.htm.*

[44] Small Business Administration data on loans between $10,000 and $99,000 compared to AAA Corporate Rates. (Last accessed on June 10, 2013.) Available at *http://www.sba.gov/advocacy/7540/6282.*

conditioners, where efficiency standards led to larger and more expensive units. The two stakeholders went on to state that annual air conditioner industry sales dropped about 18% while repair parts sales sharply increased. (NAFEM, No. 82 at p. 6 and p. 10; AHRI, No. 93 at p. 8) Follett commented that the proposed rule is so stringent that it would create significant hardship for manufacturers and could require compromises to reliability and serviceability, adding that the rule could incent end-users to repair rather than replace their machines. (Follett, No. 84, at p. 1)

With respect to NAFEM's comment about the adequacy of data, in the framework and preliminary analysis phases of this rulemaking, DOE surveyed the available literature and found a range of estimates of 7 to 10 years, with 8.5 being the average. Literature cited on Table IV.28 suggested lifetimes of up to 20 years or more for automatic commercial ice makers, and this range was supported by discussion with experts.

TABLE IV.28—ESTIMATES FOR AUTOMATIC COMMERCIAL ICE MAKER LIFETIMES

Life	Reference
7 to 10 years	Arthur D. Little, 1996.[45]
8.5 years	California Energy Commission, 2004.[46]
8.5 years	Fernstrom, G., 2004.[47]
8.5 years	Koeller J., and H. Hoffman, 2008.[48]
7 to 10 years	Navigant Consulting, Inc. 2009.[49]

With regard to the Scotsman's suggestion that continuous type ice makers might have shorter life spans, DOE found the comment lacking sufficient specific information to act on the comment. With respect to the AHRI comment that continuous equipment has a 7-year life, DOE notes that the phrase ''based on warranty data'' provided no information that DOE could analyze to determine whether to revise the assumed equipment lifetime. In addition, warranty claims do not necessarily correlate with product lifetime. For this reason, DOE decided based on the previous, generally high level of agreement with the 8.5-year lifetime to retain that lifetime as the basic assumption, and to use the 7-year continuous product life for sensitivity analyses.

With respect to the AHRI, NAFEM, and Follett comments about refurbishment, DOE acknowledges that the increased size and prices of automatic commercial ice makers arising from new and amended standards could lead to equipment refurbishing or the purchase of used equipment. DOE lacks sufficient information to explicitly model the extent of such refurbishment but believes that it would not be significant enough to change the rankings of TSLs. When DOE performed additional and recent research on repair costs before issuance of the NODA, contractors provided estimates of the hours to replace failed components such as compressors, but some also stated that they recommended replacing the ice maker instead of repairing it. In some cases the contractor recommendations were based on relative repair or replacement costs and warranties while in other cases they were based on the time it would take to get the required, specific ice maker components. DOE also notes that, given the engineering cost curves prepared for the final rule, when the baseline efficiency distribution of current shipments is taken into account, the average total cost increase faced by customers at TSL 3 is less than 3 percent. For these reasons, DOE believes that the degree of refurbishing would not be significant enough to change the rankings of the TSLs considered in this rule.

9. Compliance Date of Standards

EPCA prescribes that DOE must review and determine whether to amend performance-based standards for cube type automatic commercial ice makers by January 1, 2015. (42 U.S.C. 6313(d)(3)(A)) In addition, EPCA requires that the amended standards established in this rulemaking must apply to equipment that is manufactured on or after 3 years after the final rule is published in the **Federal Register** unless DOE determines, by rule, that a 3-year period is inadequate, in which case DOE may extend the compliance date for that standard by an additional 2 years. (42 U.S.C. 6313(d)(3)(C)) For the NOPR analyses, based on the January 1, 2015 statutory deadline and giving manufacturers 3 years to meet the new and amended standards, DOE assumed that the most likely compliance date for the standards set by this rulemaking would be January 1, 2018. As discussed in section IV.A.2, DOE received comments about the compliance date, including requests to provide manufacturers 5 years to meet the new and amended standards. As stated in section IV.A.2, DOE believes that the modifications it made in the final rule analysis, relative to the NOPR, will reduce the burden on manufacturers to meet requirements established by this rule. Therefore, DOE has determined that the 3-year period is adequate and is not extending the compliance date for ACIMs. For the final rule, a compliance date of January 1, 2018 was used for the LCC and PBP analysis.

10. Base-Case and Standards-Case Efficiency Distributions

To estimate the share of affected customers who would likely be impacted by a standard at a particular efficiency level, DOE's LCC analysis considers the projected distribution of efficiencies of equipment that customers purchase under the base case (that is, the case without new energy efficiency standards). DOE refers to this distribution of equipment efficiencies as a base-case efficiency distribution.

For the NOPR, DOE estimated market shares of each efficiency level within each equipment class based on an analysis of the automatic commercial ice makers available for purchase by customers. DOE analyzed all models available as of November 2012, calculated the percentage difference between the baseline energy usage embodied in the ice maker rulemaking analyses, and organized the available units by the efficiency levels. DOE then calculated the percentage of available models falling within each efficiency level bin. This efficiency distribution was used in the LCC and other downstream analyses as the baseline efficiency distribution.

At the NOPR public meeting ASAP noted that the efficiency distribution used by DOE showed manufacturers can manufacture machines meeting the efficiency levels proposed in the NOPR.

[45] Arthur D. Little, Inc. Energy Savings for Commercial Refrigeration. Final Report. June, 1996. Submitted to the U.S. Department of Energy's Energy Efficiency and Renewable Energy Building Technologies Program. Washington, DC.

[46] California Energy Commission. *Update of Appliance Efficiency Regulations.* 2004. Sacramento, CA.

[47] Fernstrom, G. B. Analysis of Standards Options For Commercial Packaged Refrigerators, Freezers, Refrigerator-Freezers and Ice Makers: Codes and Standards Enhancement Initiative For PY2004: Title 20 Standards Development. 2004. Prepared by the American Council for an Energy-Efficient Economy for Pacific Gas & Electric Company, San Francisco, CA.

[48] Koeller J., and H. Hoffman. A report on Potential Best Management Practices. 2008. Prepared by Koeller and Company for the California Urban Water Conservation Council, Sacramento, CA.

[49] Navigant Consulting, Inc. Energy Savings Potential and R&D Opportunities for Commercial Refrigeration. Final Report. 2009. Submitted to the U.S. Department of Energy's Energy Efficiency and Renewable Energy Building Technologies Program, Washington, DC.

(ASAP, Public Meeting Transcript, No. 70 at p. 256–257) Ice-O-Matic and Manitowoc stated that the distribution showed available equipment, but the equipment at the higher efficiencies might have small shipments relative to other efficiency levels. (Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 260; Manitowoc, Public Meeting Transcript, No. 70 at p. 261–263) Hoshizaki commented that DOE's shipments analysis would be more accurate if DOE requested actual shipment data under NDA from manufacturers each year. (Hoshizaki, No. 86 at p. 4) At the public meeting, manufacturers and AHRI agreed to compile shipments information by efficiency level.

In written comments, AHRI supplied such information for batch type equipment. AHRI also stated that DOE should not use available models in the AHRI database to estimate shipment-weighted market shares by efficiency levels for batch type units, because by doing so, DOE overestimates potential energy savings by 11.3% or more. (AHRI, No. 93 at p. 8–9)

For the final rule, DOE used the efficiency distribution for batch type equipment provided by AHRI. While DOE did not analyze AHRI's statement of the overestimate of savings, DOE does consider the shipment-based distribution superior to the available-unit-based distribution. Lacking a similar shipment-based distribution for continuous equipment classes, DOE used an available-unit-based distribution for continuous equipment classes for the final rule.

11. Inputs to Payback Period Analysis

Payback period is the amount of time it takes the customer to recover the higher purchase cost of more energy-efficient equipment as a result of lower operating costs. Numerically, the PBP is the ratio of the increase in purchase cost to the decrease in annual operating expenditures. This type of calculation is known as a ''simple'' PBP because it does not take into account changes in operating cost over time (*i.e.,* as a result of changing cost of electricity) or the time value of money; that is, the calculation is done at an effective discount rate of zero percent. PBPs are expressed in years. PBPs greater than the life of the equipment mean that the increased total installed cost of the more-efficient equipment is not recovered in reduced operating costs over the life of the equipment, given the conditions specified within the analysis, such as electricity prices.

The inputs to the PBP calculation are the total installed cost to the customer of the equipment for each efficiency level and the average annual operating expenditures for each efficiency level in the first year. The PBP calculation uses the same inputs as the LCC analysis, except that discount rates are not used.

In written comments, Earthjustice stated that DOE inappropriately used a 3-year payback period as an upper limit for an acceptable customer impact without providing a justification for such, and that DOE should revise its approach for using payback period. (Earthjustice, No. 81, pp. 1–2) DOE acknowledges the comment and notes that, for the NOPR, DOE intended the use of the payback period as an illustration of the relatively significant differences between the impacts of TSLs.

12. Rebuttable Presumption Payback Period

EPCA (42 U.S.C. 6295(o)(2)(B)(iii) and 6313(d)(4)) established a rebuttable presumption that new or amended standards are economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings that the consumer will receive during the first year as a result of the standard, as calculated under the applicable test procedure.

While DOE examined the rebuttable presumption criterion, it considered whether the standard levels considered are economically justified through a more detailed analysis of the economic impacts of these levels pursuant to 42 U.S.C. 6295(o)(2)(B)(iii) and 6313(d)(4). The results of this analysis served as the basis for DOE to evaluate the economic justification for a potential standard level definitively (thereby supporting or rebutting the results of any preliminary determination of economic justification).

H. National Impact Analysis—National Energy Savings and Net Present Value

The NIA assesses the NES and the NPV of total customer costs and savings that would be expected as a result of the amended energy conservation standards. The NES and NPV are analyzed at specific efficiency levels (*i.e.,* TSL) for each equipment class of automatic commercial ice makers. DOE calculates the NES and NPV based on projections of annual equipment shipments, along with the annual energy consumption and total installed cost data from the LCC analysis. For the NOPR analysis, DOE forecasted the energy savings, operating cost savings, equipment costs, and NPV of customer benefits for equipment sold from 2018 through 2047—the year in which the last standards-compliant equipment is shipped during the 30-year analysis.

DOE evaluates the impacts of the new and amended standards 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 any new or amended energy conservation standards. DOE compares these base-case projections with projections characterizing the market for each equipment class if DOE adopted the amended standards at each TSL. For the standards cases, DOE assumed a ''roll-up'' scenario in which equipment at efficiency levels that do not meet the standard level under consideration would ''roll up'' to the efficiency level that just meets the proposed standard level, and equipment already being purchased at efficiency levels at or above the proposed standard level would remain unaffected.

DOE uses a Microsoft Excel spreadsheet model to calculate the energy savings and the national customer costs and savings from each TSL. Final rule TSD chapter 10 and appendix 10A explain the models and how to use them, and interested parties can review DOE's analyses by interacting with these spreadsheets. The models and documentation are available at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/29*.

The NIA spreadsheet model uses average values as inputs (rather than probability distributions of key input parameters from a set of possible values). For the current analysis, the NIA used projections of energy prices and commercial building starts from the *AEO2014* Reference Case. In addition, DOE analyzed scenarios that used inputs from the *AEO2014* Low Economic Growth and High Economic Growth Cases. These cases have lower and higher energy price trends, respectively, compared to the Reference Case. NIA results based on these cases are presented in chapter 10 of the final rule TSD.

A detailed description of the procedure to calculate NES and NPV and inputs for this analysis are provided in chapter 10 of the final rule TSD.

1. Shipments

Comments related to the shipment analysis received at the April 2014 public meeting were all questions for clarification. The following description of the shipments projection presents the shipments analysis for the final rule. The process described in this section

was documented and released for comments in the NODA.

DOE obtained data from AHRI, ENERGY STAR, and U.S. Census Bureau's Current Industrial Reports (CIR) to estimate historical shipments for automatic commercial ice makers. AHRI provided DOE with automatic commercial ice maker shipment data for 2010 describing the distribution of shipments by equipment class and by harvest capacity. AHRI data provided to DOE also included an 11-year history of total shipments from 2000 to 2010. DOE also collected total automatic commercial ice maker shipment data for the period of 1973 to 2009 from the CIR. Additionally, DOE collected 2008–2012 data on ACIM shipments under the ENERGY STAR program. The ENERGY STAR data consisted of numbers of units meeting ENERGY STAR efficiency levels and the percent of the total market represented, from which the total market could be estimated. ENERGY STAR shipments only pertained to air-cooled batch equipment.

In the preliminary analysis phase, DOE relied extensively on the CIR shipments data for the shipments projection. Subsequent to receiving comments on the preliminary analysis shipments, DOE relied more heavily on AHRI data for the NOPR and for the final rule shipments projections. After the NOPR analyses were completed, analysis of ENERGY STAR data led DOE to conclude that the AHRI data understates shipments by approximately 9 percent and that the difference was likely due to a greater number of manufacturers represented in the ENERGY STAR results. However, the AHRI data gives significantly greater detail than the ENERGY STAR data. Therefore, the final rule and the NOPR methodologies are identical except for an upward adjustment of the historical AHRI data by 9 percent to correct for the presumed under-reporting of non-AHRI-members.

To determine the percentage of shipments going to replace existing stock and the percentage represented by new installations, DOE used the CIR data to create a series of estimates of total existing stock by aggregating historical shipments across 8.5-year historical periods. DOE used the CIR data to estimate a time series of shipments and total stock for 1994 to 2006—at the time of the analysis, the last year of data available without significant gaps in the data due to disclosure limitations. For each year, using shipments, stock, and the 8.5-year life of the equipment, DOE estimated that, on average, 14 percent of shipments were for new installations and the remainder for replacement of existing stock.

DOE then used the historical AHRI shipments to create a 2010 stock estimate. The 2010 stock and 2010 shipments from AHRI, disaggregated between new installations and shipments for existing stock replacement, were combined with projections of new construction activity from *AEO2014* to generate a forecast of shipments for new installations. Stock and shipments were first disaggregated to individual business types based on data developed for DOE on commercial ice maker stocks.[50] The business types and share of stock represented by each type are shown in Table IV.29. Using a Weibull distribution assuming that equipment has an average life of 8.5 years and lasts from 5 to 11 years, DOE developed a 30-year series of replacement ice maker shipments using the AHRI historical series. Using the estimated 2010 shipments to new installations, and year-to-year changes in new commercial sector floor space additions from *AEO2014,* DOE estimated future shipments for new installations. (For the NOPR, DOE used *AEO2013* projections of floor space additions.) The *AEO2014* floor space additions by building type are shown in Table IV.30. The combination of the replacement and new installation shipments yields total shipments. The final step was to distribute total sales to equipment classes by multiplying the total shipments by percentage shares by class. Table IV.31 shows the percentages represented by all equipment classes, both the primary classes modeled explicitly in all NOPR analyses as well as the secondary classes.

TABLE IV.29—BUSINESS TYPES INCLUDED IN SHIPMENTS ANALYSIS

Building type	Building type as percent of stock (%)
Health Care	9
Lodging	33
Foodservice	22
Retail	8
Education	7
Food Sales	16
Office	4
Total	100

TABLE IV.30—AEO2014 FORECAST OF NEW BUILDING SQUARE FOOTAGE

Year	New construction						
	million ft^2						
	Health Care	Lodging	Foodservice	Retail	Education	Food sales	Office
2013	66	147	31	279	247	21	174
2018	67	164	51	428	209	36	411
2020	65	176	47	404	197	33	451
2025	63	181	48	444	169	34	392
2030	71	150	55	515	190	39	276
2035	72	207	57	527	228	40	415
2040	76	188	56	565	252	40	403
Annual Growth Factor, 2031–2040	2.4%	2.5%	2.4%	2.5%	1.7%	2.3%	2.1%

[50] Navigant Consulting, Inc. *Energy Savings Potential and R&D Opportunities for Commercial Refrigeration.* Final Report, submitted to the U.S. Department of Energy. September 23, 2009. p. 41.

TABLE IV.31—PERCENT OF SHIPPED UNITS OF AUTOMATIC COMMERCIAL ICE MAKERS

Equipment class	Percentage of shipments (%)
IMH–W–Small–B	4.54
IMH–W–Med–B	2.90
IMH–W–Large–B	0.48
IMH–A–Small–B	27.08
IMH–A–Large–B	16.14
RCU–Small–B	5.43
RCU–RC/NC–Large–B	6.08
SCU–W–Small–B	0.68
SCU–W–Large–B	0.22
SCU–A–Small–B	13.85
SCU–A–Large–B	6.56
IMH–W–Small–C	0.68
IMH–W–Large–C	0.17
IMH–A–Small–C	3.53
IMH–A–Large–C	1.07
RCU–Small–C	0.83
RCU–Large–C	0.87
SCU–W–Small–C	0.15
SCU–W–Large–C	0.00
SCU–A–Small–C	8.75
SCU–A–Large–C	0.00
Total	100.00

Source: AHRI, 2010 Shipments data submitted to DOE as part of this rulemaking.

2. Forecasted Efficiency in the Base Case and Standards Cases

The method for estimating the market share distribution of efficiency levels is presented in section IV.G.10, and a detailed description can be found in chapter 10 of the final rule TSD. To estimate efficiency trends in the standards cases, DOE uses a ''roll-up'' scenario in its standards rulemakings. Under the ''roll-up'' scenario, DOE assumes that equipment efficiencies in the base case that do not meet the standard level under consideration would ''roll up'' to the efficiency level that just meets the proposed standard level, and equipment already being purchased at efficiencies at or above the standard level under consideration would be unaffected. Table IV.32 shows the shipment-weighted market shares by efficiency level in the base-case scenario.

TABLE IV.32—SHIPMENT-WEIGHTED MARKET SHARES BY EFFICIENCY LEVEL, BASE CASE

Equipment class	Market share by efficiency level Percent								
	Level 1	Level 2	Level 3	Level 3A	Level 4	Level 4A	Level 5	Level 6	Level 7
IMH–W–Small–B	37.1	15.6	44.8		2.5	0.0	0.0		
IMH–W–Med–B	55.8	20.0	15.3		8.9				
IMH–W–Large–B									
IMH–W–Large–B–1	87.2	12.8							
IMH–W–Large–B–2	87.2	12.8							
IMH–A–Small–B	23.7	29.5	46.8	0.0	0.0		0.0	0.0	
IMH–A–Large–B									
IMH–A–Large–B–1	34.1	27.8	35.1	0.3	2.7				
IMH–A–Large–B–2	16.8	22.5	60.8						
RCU–Large–B									
RCU–Large–B–1	43.9	36.4	18.8		1.0				
RCU–Large–B–2	43.9	36.4	18.8		1.0				
SCU–W–Large–B	71.6	0.6	0.0		22.5		5.4	0.0	
SCU–A–Small–B	51.8	15.3	12.9		8.0		12.0	0.0	0.0
SCU–A–Large–B	62.6	14.8	21.5		0.0		1.1	0.0	
IMH–A–Small–C	30.6	11.1	19.4		5.6		19.4	13.9	
IMH–A–Large–C	43.5	21.7	17.4		8.7		8.7		
RCU–Small–C	27.8	27.8	33.3		5.6		0.0	5.6	
SCU–A–Small–C	44.1	8.8	14.7		17.6		14.7	0.0	

3. National Energy Savings

For each year in the forecast period, DOE calculates the NES for each TSL by multiplying the stock of equipment affected by the energy conservation standards by the estimated per-unit annual energy savings. DOE typically considers the impact of a rebound effect, introduced in the energy use analysis, in its calculation of NES for a given product. A rebound effect occurs when users operate higher-efficiency equipment more frequently and/or for longer durations, thus offsetting estimated energy savings. When a rebound effect occurs, it is generally because the users of the equipment perceive it as less costly to use the equipment and elect to use it more intensively. In the case of automatic commercial ice makers, users of the equipment include restaurant wait staff, hotel guests, cafeteria patrons, or hospital staff using ice in the treatment of patients. Users of automatic commercial ice makers tend to have little or no perception of or personal stake in the cost of the ice and rather are using the ice to serve a specific need. Given this, DOE believes there is very little or no potential for a rebound effect. For the NIA, DOE used a rebound factor of 1, or no effect, for automatic commercial ice makers.

At the NOPR phase, the only comment regarding rebound effect was from the Policy Analyst. Policy Analyst stated that DOE should evaluate whether there was a rebound effect caused by the previous standard. (Policy Analyst, No. 75 at p. 10) As stated above, DOE believes that the users of ACIM equipment would not perceive the price effects, so DOE believes rebound effect should not be present for this equipment and does not believe further analysis is necessary.

Inputs to the calculation of NES are annual unit energy consumption, shipments, equipment stock, and a site-to-source conversion factor.

The annual unit energy consumption is the site energy consumed by an automatic commercial ice maker unit in a given year. Using the efficiency of units at each efficiency level and the baseline efficiency distribution, DOE determined annual forecasted shipment-weighted average equipment efficiencies

that, in turn, enabled determination of shipment-weighted annual energy consumption values.

The automatic commercial ice makers stock in a given year is the total number of automatic commercial ice makers shipped from earlier years (up to 12 years earlier) that remain in use in that year. The NES spreadsheet model keeps track of the total units shipped each year. For purposes of the NES and NPV analyses in the NOPR analysis, DOE assumed that, based on an 8.5-year average equipment lifetimes, approximately 12 percent of the existing automatic commercial ice makers are retired and replaced in each year. DOE assumes that, for units shipped in 2047, any units still remaining at the end of 2055 will be replaced.

DOE uses a multiplicative factor called ''site-to-source conversion factor'' to convert site energy consumption (at the commercial building) into primary or source energy consumption (the energy input at the energy generation station required to convert and deliver the energy required at the site of consumption). These site-to-source conversion factors account for the energy used at power plants to generate electricity and for the losses in transmission and distribution, as well as for natural gas losses from pipeline leakage and energy used for pumping. For electricity, the conversion factors vary over time due to projected changes in generation sources (that is, the power plant types projected to provide electricity to the country). The factors that DOE developed are marginal values, which represent the response of the system to an incremental decrease in consumption associated with amended energy conservation standards.

For this final rule, DOE used conversion factors based on the U.S. energy sector modeling using the National Energy Modeling System (NEMS) Building Technologies (NEMS–BT) version that corresponds to *AEO2014* and which provides national energy forecasts through 2040. Within the results of NEMS–BT model runs performed by DOE, a site-to-source ratio for commercial refrigeration was developed. The site-to-source ratio was held constant beyond 2040 through the end of the analysis period (30 years plus the life of equipment).

DOE has historically presented NES in terms of primary energy savings. In response to the recommendations of a committee on ''Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards'' appointed by the National Academy of Science, DOE announced its intention to use full-fuel-cycle (FFC) measures of energy use and greenhouse gas and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (August 18, 2011) After evaluating 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 its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (August 17, 2012). DOE received one comment, which was supportive of the use of NEMS for DOE's FFC analysis.[51]

The approach used for this final rule, and the FFC multipliers that were applied are described in appendix 10D of the final rule TSD. NES results are presented in both primary and in terms of FFC savings. The savings by TSL are summarized in terms of FFC savings in section I.C.

4. Net Present Value of Customer Benefit

The inputs for determining the NPV of the total costs and benefits experienced by customers of the automatic commercial ice makers are (1) total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor. DOE calculated net national customer savings for each year as the difference in installation and operating costs between the base-case scenario and standards-case scenarios. DOE calculated operating cost savings over the life of each piece of equipment shipped in the forecast period.

DOE multiplied monetary values in future years by the discount factor to determine the present value of costs and savings. DOE estimated national impacts with both a 3-percent and a 7-percent real discount rate as the average real rate of return on private investment in the U.S. economy. These discount rates are used in accordance with the Office of Management and Budget (OMB) guidance to Federal agencies on the development of regulatory analysis (OMB Circular A–4, September 17, 2003), and section E, ''Identifying and Measuring Benefits and Costs,'' therein. DOE defined the present year as 2013 for the NOPR analysis. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. DOE used the 3-percent rate to capture the potential effects of the new and amended standards on private consumption. This rate represents the ''societal rate of time preference,'' which is the rate at which society discounts future consumption flows to their present.

DOE received one comment from Ice-O-Matic stating that the 7-percent discount rate was too high when the current prime rate is 3.25 percent and the current Treasury bill rate is 3.67 percent. (Ice-O-Matic, No. 120, p. 1; Ice-O-Matic, No. 121, p. 1) Ice-O-Matic also indicated that the use of 7-percent discount rate inflated the rate of return experienced by customers. (Ice-O-Matic, No. 120, p. 1)

As Ice-O-Matic noted, the discount rate is high relative to current interest rates. However, DOE suspects that the comments misinterpreted the use of the discount rate. In this case, the discount rate is used to express a given number of future dollars as an equivalent number of dollars today, whereas the comments seemed to assume the discount rate was used as an interest rate to express a given number of dollars today as a future value equivalent. Since the 7-percent discount rate that DOE used in the NIA is used in accordance with OMB guidelines, DOE will continue using it in the NIA.

As discussed in section IV.G.1, DOE included a projection of price trends in the preliminary analysis NIA. For the NOPR, DOE reviewed and updated the analysis with the result that the projected reference case downward trend in prices is quite modest. For the NOPR, DOE also developed high and low case price trend projections, as discussed in final rule TSD appendix 10B.

I. Customer Subgroup Analysis

In analyzing the potential impact of new or amended standards on commercial customers, DOE evaluates the impact on identifiable groups (*i.e.,* subgroups) of customers, such as different types of businesses that may be disproportionately affected. Small businesses typically face a higher cost of capital. In general, the lower the cost of electricity and higher the cost of capital, the more likely it is that an entity would be disadvantaged by the requirement to purchase higher efficiency equipment. Based on the data available to DOE, automatic commercial ice maker ownership in three building types represent over 70 percent of the market: Food sales, foodservice, and hotels. Based on data from the 2007 U.S. Economic Census and size standards set by the U.S. Small Business Administration (SBA), DOE determined that a majority of food sales, foodservice and lodging firms fall under the definition of small businesses. Chapter

[51] Docket ID: EERE–2010–BT–NOA–0028, comment by Kirk Lundblade.

8 of the TSD presents the electricity price by business type and discount rates by building types, respectively, while chapter 11 discusses these topics as they specifically relate to small businesses.

Comparing the foodservice, food sales, and lodging categories, foodservice faces the highest energy price, with food sales and lodging facing lower and nearly the same energy prices. Lodging faces the highest cost of capital. Foodservice faces a higher cost of capital than food sales. Given the cost of capital disparity, lodging was selected for LCC subgroup analysis. With foodservice facing a higher cost of capital, it was selected for LCC subgroup analysis because the higher cost of capital should lead foodservice customers to value first cost more and future electricity savings less than would be the case for food sales customers.

Three written comments specifically focused on the customer subgroups, all three specifically focusing on the food service industry. U.S. Senator Toomey commented that the proposed rule will negatively impact employment in the food services industry, which is dominated by small businesses, and that restaurant owners would already purchase efficient products if they were going to be able to recoup the higher prices through savings. (U.S. Senator Toomey, No. 79 at p. 1) NRA commented that the cost of new standards could be greater for small businesses, due to increased capital, maintenance, repair, and installation costs, thus affecting their payback period. (NRA, No. 69 at p. 2–3) NAFEM commented that the proposed rule will affect the food service industry, which is also dominated by small businesses, because they will not be able to afford equipment upgrades and will choose to extend the life of used equipment. (NAFEM, No. 82 at p. 5)

With respect to the issue of negative employment impacts, if the standard has a positive LCC benefit to the food service customer, such an impact should not reduce employment. DOE notes that the LCC analysis looks strictly at the net economic impact of a hypothetical purchase of equipment and does not look specifically at employment. However, if the analysis shows a net LCC benefit, the food service customer should be better off and presumably such result should not negatively impact employment. DOE agrees with the NRA comment that the cost of new standards could be greater for small businesses and notes the analysis of the impacts is precisely the point of the customer subgroup analysis.

With respect to NAFEM's comment regarding small business's inability to afford the equipment upgrades, if the results indicate positive LCC benefits the presumption is that the customer's financial situation is improved with the more efficient equipment when compared to less efficient equipment. DOE lacks information with which to estimate the extent to which customers might choose to extend the life of equipment, but believes that given the relatively modest average price increase of the proposed standard (approximately 3 percent) in combination with the customer energy savings, the proportion of customers who would choose life extension is small.

DOE estimated the impact on the identified customer subgroups using the LCC spreadsheet model. The standard LCC and PBP analyses (described in section IV.F) include various types of businesses that use automatic commercial ice makers. For the LCC subgroup analysis, it was assumed that the subgroups analyzed do not have access to national purchasing accounts or to major capital markets thereby making the discount rates higher for these subgroups. Details of the data used for LCC subgroup analysis and results are presented in chapter 11 of the TSD.

J. Manufacturer Impact Analysis

1. Overview

DOE performed an MIA to estimate the impacts of new and amended energy conservation standards on manufacturers of automatic commercial ice makers. The MIA has both quantitative and qualitative aspects and includes analyses of forecasted industry cash flows, the INPV, investments in research and development (R&D) and manufacturing capital, and domestic manufacturing employment. Additionally, the MIA seeks to determine how amended energy conservation standards might affect manufacturing employment, capacity, and competition, as well as how standards contribute to overall regulatory burden. Finally, the MIA serves to identify any disproportionate impacts on manufacturer subgroups, in particular, small businesses.

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 include data on the industry cost structure, unit production costs, product shipments, manufacturer markups, and investments in R&D and manufacturing capital required to produce compliant products. A key GRIM output is the INPV, which is the sum of industry annual cash flows over the analysis period, discounted using the industry weighted average cost of capital. Another key output is the impact to domestic manufacturing employment. The model estimates the impacts of more-stringent energy conservation standards on a given industry by comparing changes in INPV and domestic manufacturing employment between a base case and the various TSLs in the standards case. To capture the uncertainty relating to manufacturer pricing strategy following amended standards, the GRIM estimates a range of possible impacts under different markup scenarios.

The qualitative part of the MIA addresses manufacturer characteristics and market trends. Specifically, the MIA considers such factors as manufacturing capacity, competition within the industry, the cumulative impact of other DOE and non-DOE regulations, and impacts on small business manufacturers. The complete MIA is outlined in chapter 12 of the final rule TSD.

DOE conducted the MIA for this rulemaking in three phases. In Phase 1 of the MIA, DOE prepared a profile of the automatic commercial ice maker industry. This included a top-down cost analysis of automatic commercial ice maker manufacturers that DOE used to derive preliminary financial inputs for the GRIM (*e.g.,* revenues; materials, labor, overhead, and depreciation expenses; selling, general, and administrative expenses (SG&A); and R&D expenses). DOE also used public sources of information to further calibrate its initial characterization of the automatic commercial ice maker industry, including company Securities and Exchange Commission (SEC) 10–K filings,[52] corporate annual reports, the U.S. Census Bureau's Economic Census,[53] and Hoover's reports.[54]

In Phase 2 of the MIA, DOE prepared a framework industry cash flow analysis to quantify the impacts of new and amended energy conservation standards. The GRIM uses several factors to determine a series of annual cash flows starting with the announcement of the standard and extending over a 30-year period

[52] U.S. Securities and Exchange Commission. Annual 10–K Reports. Various Years. *http://sec.gov.*

[53] 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.*

[54] Hoovers Inc. Company Profiles. Various Companies. *http://www.hoovers.com.*

following the effective date of the standard. These factors include annual expected revenues, costs of sales, SG&A and R&D expenses, taxes, and capital expenditures. In general, energy conservation standards can affect manufacturer cash flow in three distinct ways: (1) Create a need for increased investment; (2) raise production costs per unit; and (3) alter revenue due to higher per-unit prices and changes in sales volumes.

In addition, during Phase 2, DOE developed interview guides to distribute to manufacturers of automatic commercial ice makers in order to develop other key GRIM inputs, including product and capital conversion costs, and to gather additional information on the anticipated effects of energy conservation standards on revenues, direct employment, capital assets, industry competitiveness, and subgroup impacts.

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. As part of Phase 3, DOE also evaluated subgroups of manufacturers that may be disproportionately impacted by amended standards or that may not be accurately represented by the average cost assumptions used to develop the industry cash flow analysis. Such manufacturer subgroups may include small manufacturers, low volume manufacturers, niche players, and/or manufacturers exhibiting a cost structure that largely differs from the industry average.

DOE identified one subgroup, small manufacturers, for which average cost assumptions may not hold. DOE applied the small business size standards published by the SBA to determine whether a company is considered a small business. 65 FR 30836 (May 15, 2000), as amended by 65 FR 53533 (Sept. 5, 2000) and 67 FR 52597 (Aug. 13, 2002), as codified at 13 CFR part 121. The Small Business Administration (SBA) defines a small business for North American Industry Classification System (NAICS) 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing,'' which includes commercial ice maker manufacturing, as having 750 or fewer employees. The 750-employee threshold includes all employees in a business's parent company and any other subsidiaries. Based on this classification, DOE identified seven manufacturers of automatic commercial ice makers that qualify as small businesses. The automatic commercial ice maker small manufacturer subgroup is discussed in chapter 12 of the final rule TSD and in section VI.B.1 of this rulemaking.

2. Government Regulatory Impact Model

DOE uses the GRIM to quantify the changes in industry cash flows resulting from new or amended energy conservation standards. The GRIM uses manufacturer costs, markups, shipments, and industry financial information to arrive at a series of base-case annual cash flows absent new or amended standards, beginning in 2015 and continuing through 2047. The GRIM then models changes in costs, investments, shipments, and manufacturer margins that may result from new or amended energy conservation standards and compares these results against those in the base-case forecast of annual cash flows. The primary quantitative output of the GRIM is the INPV, which DOE calculates by summing the stream of annual discounted cash flows over the full analysis period. For manufacturers of automatic commercial ice makers, DOE used a real discount rate of 9.2 percent, based on the weighted average cost of capital as derived from industry financials and feedback received during confidential interviews with manufacturers.

The GRIM calculates cash flows using standard accounting principles and compares changes in INPV between the base case and each TSL. The difference in INPV between the base case and a standards case represents the financial impact of the amended standard on manufacturers at that particular TSL. As discussed previously, DOE collected the necessary information to develop key GRIM inputs from a number of sources, including publicly available data and interviews with manufacturers (described in the next section). The GRIM results are shown in section V.B.2.a. Additional details about the GRIM can be found in chapter 12 of the final rule 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, and typically more costly, components. The changes in the MPCs of the analyzed equipment can affect the revenues, gross margins, and cash flow of the industry, making production cost data key GRIM inputs for DOE's analysis.

For each efficiency level of each equipment class that was directly analyzed, DOE used the MPCs developed in the engineering analysis, as described in section IV.B and further detailed in chapter 5 of the final rule TSD. For equipment classes that were indirectly analyzed, DOE used a composite of MPCs from similar equipment classes, substitute component costs, and design options to develop an MPC for each efficiency level. For equipment classes that had multiple units analyzed, DOE used a weighted average MPC based on the relative shipments of products at each efficiency level as the input for the GRIM. Additionally, DOE used information from its reverse engineering analysis, described in section IV.D.4, to disaggregate the MPCs into material and labor costs. These cost breakdowns and equipment markups were validated with manufacturers during manufacturer interviews.

Base-Case Shipments Forecast

The GRIM estimates manufacturer revenues based on total unit shipment forecasts and the distribution of shipments by efficiency level. Changes in sales volumes and efficiency mix over time can significantly affect manufacturer finances. For the base-case analysis, the GRIM uses the NIA's annual shipment forecasts from 2015, the base year, to 2047, the end of the analysis period. See chapter 9 of the final rule TSD for additional details.

Product Conversion Costs, Capital Conversion Costs, and Stranded Assets

New and amended energy conservation standards will cause manufacturers to incur conversion costs to bring their production facilities and product designs into compliance. For the MIA, DOE classified these conversion costs into two major groups: (1) Product conversion costs and (2) capital conversion costs. Product conversion costs include investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with new or amended energy conservation standards. Capital conversion costs include investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new product designs can be fabricated and assembled.

If new or amended energy conservation standards require

investment in new manufacturing capital, there also exists the possibility that they will render existing manufacturing capital obsolete. In the case that this obsolete manufacturing capital is not fully depreciated at the time new or amended standards go into effect, this would result in the stranding of these assets, and would necessitate the write-down of their residual un-depreciated value.

DOE used multiple sources of data to evaluate the level of product and capital conversion costs and stranded assets manufacturers would likely face to comply with new or amended energy conservation standards. DOE used manufacturer interviews to gather data on the level of investment anticipated at each proposed efficiency level and validated these assumptions using estimates of capital requirements derived from the product teardown analysis and engineering model described in section IV.D.4. These estimates were then aggregated and scaled using information gained from industry product databases to derive total industry estimates of product and capital conversion costs and to protect confidential information.

In general, DOE assumes that all conversion-related investments occur between the year the final rule is published and the year by which manufacturers must comply with the new or amended standards. The investment figures used in the GRIM can be found in section V.B.2.a of this preamble. For additional information on the estimated product conversion and capital conversion costs, see chapter 12 of the final rule TSD.

b. Government Regulatory Impact Model Scenarios

Markup Scenarios

As discussed in section IV.J.2.b MSPs include direct manufacturing production costs (*i.e.*, labor, material, overhead, and depreciation estimated in DOE's MPCs) and all non-production costs (*i.e.*, SG&A, R&D, and interest), along with profit. To calculate the MSPs in the GRIM, DOE applied manufacturer markups to the MPCs estimated in the engineering analysis. Modifying these markups in the standards case yields different sets of impacts on manufacturers. For the MIA, DOE modeled two standards-case markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of amended energy conservation standards: (1) A preservation of gross margin percentage markup scenario; and (2) a preservation of earnings before interest and taxes (EBIT) markup scenario. These scenarios lead to different markups values that, when applied to the MPCs, result in varying revenue and cash flow impacts.

Under the preservation of gross margin percentage scenario, DOE applied a single, uniform ''gross margin percentage'' markup across all efficiency levels. As production costs increase with efficiency, this scenario implies that the absolute dollar markup will increase as well. Based on publicly available financial information for manufacturers of automatic commercial ice makers and comments from manufacturer interviews, DOE assumed the industry average markup on production costs to be 1.25. Because this markup scenario assumes that manufacturers would be able to maintain their gross margin percentage as production costs increase in response to new and amended energy conservation standards, it represents a lower bound of industry impacts (higher industry profitability) under new and amended energy conservation standards.

In the preservation of EBIT markup scenario, manufacturer markups are calibrated so that EBIT in the year after the compliance date of the amended energy conservation standard is the same as in the base case. Under this scenario, as the cost of production goes up, manufacturers are generally required to reduce the markups on their minimally compliant products to maintain a cost-competitive offering. The implicit assumption behind this scenario is that the industry can only maintain EBIT in absolute dollars after compliance with the amended standard is required. Therefore, operating margin (as a percentage) shrinks in the standards cases. This markup scenario represents an upper bound of industry impacts (lower profitability) under an amended energy conservation standard.

3. Discussion of Comments

During the NOPR public meeting, interested parties commented on the assumptions and results of the analyses in the NOPR TSD. In addition, interested parties submitted written comments on the assumptions and results of the NOPR TSD and NODA. DOE summarizes the MIA related comments below:

a. Conversion Costs

At the NOPR Stage, several stakeholders pointed out high capital costs and intense redesign efforts would be required by the proposed standards. Hoshizaki commented that many of the design options suggested in this rulemaking would require manufacturers to modify or buy new tooling and grow packaging, pallets, and conveyor belts to accommodate larger machines. Hoshizaki noted that these costs would compound to over $20 million in the first year. (Hoshizaki, No. 86 at p. 7–8) Ice-O-Matic commented that DOE should directly consider the capital expenditures associated with tooling changes as it is a discrete expense that is not planned from year to year. (Ice-O-Matic, Public Meeting Transcript, No. 70 at p. 88)

As suggested by Ice-O-Matic, DOE does consider conversion expenses to be one-time expenditures that are not planned from year-to-year. DOE models conversion investments, including capital expenditures, as occurring between the announcement year and standards year. These investments result in decreases in operating profit, free cash flow, and INPV. DOE's conversion cost estimates account for all production line modifications associated with the design options considered in the engineering analysis including changes in conveyor, equipment, and tooling. For the final rule, DOE made changes to the considered design options based on feedback from the industry. DOE believes the changes in design options will reduce the capital requirements on industry.

Several manufacturers noted that a significant portion of their product lines would require redesign in order to meet the standard levels proposed in the NOPR. Specifically, Manitowoc commented that 90% of its models would require a major redesign to meet the proposed standards. (Manitowoc, No. 92 at p. 2–3) Similarly, Hoshizaki commented that about 80% of their continuous type units would not be able to meet the proposed standards. (Hoshizaki, Public Meeting Transcript, No. 70 at p. 74) Hoshizaki noted in a written comment that over 75% of units on the market will be unable to meet the proposed standard. (Hoshizaki, No. 86 at p. 1) Scotsman commented that 97% of their product line would need to be replaced in order to achieve the proposed efficiency levels. (Scotsman, No. 85 at p. 2b) Emerson estimated 70% of the batch ice machines would need some amount of redesign in order to meet the proposed minimum efficiency levels at the NOPR stage. (Emerson, No. 122 at p. 1) AHRI commented that 99% of the existing batch type market would be eliminated if the proposed TSL 3 became effective and that the impact of NOPR TSL 3 would lead to industry consolidation, loss of jobs, and loss of

international sales. (AHRI, No. 93 at p. 10–12) NAFEM noted general concerns about product obsolescence at the NOPR levels. (NAFEM, No. 82 at p. 2)

Between the NOPR and the Final Rule, DOE revised and updated its analysis based on stakeholders comments received at the NOPR public meeting, in additional manufacturer interviews, and in written responses to the NOPR and NODA. These updates included changes in its approach to calculating the energy use associated with groups of design options, changes in inputs for calculations of energy use and equipment manufacturing cost, and consideration of space-constrained applications. In response to the NOPR and NODA comments, DOE adjusted the design options it considered to reduce impacts on the industry. A discussion of these changes can be found in section IV.D.3. After applying the change to the analyses, the efficiency levels that DOE determined to be cost-effective changed considerably. These revised TSLs are presented in section V.A.

When compared to the NOPR levels, DOE believes the revised levels proposed in section V.A will reduce the burdens on industry. Table IV.33 below presents the portion of model that DOE estimates would require redesign at the various final rule TSLs.

TABLE IV.33—PORTION OF INDUSTRY MODELS REQUIRING REDESIGN AT FINAL RULE TSLS

	Percent of models failing at each TSL					
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5	Total
Batch	27%	39%	51%	66%	84%	100%
Continuous	29	41	55	55	78	100
Total	28	40	52	63	82	100

b. Cumulative Regulatory Burden

NRA and NAFEM both commented that DOE should consider the impacts of the cumulative regulatory burden of rulemakings, including energy conservation standards for CRE and walk-in units as well as EPA rulemakings on refrigerants, and standards imposed nearly simultaneously on equipment manufacturers. (NRA, No. 69 at pp. 3–4) (NAFEM, No. 82 at pp. 6–7)

DOE is instructed to consider all Federal, product-specific burdens that go into effect within 3 years of the compliance date of this final rule. The list of other standards considered in the cumulative regulatory burden analysis can be found in section V.B.2.g. DOE has included the energy conservation standard final rules for walk-in coolers and freezers final rule and the commercial refrigeration equipment final rule. DOE has not included the EPA SNAP rulemaking in this analysis. Because that rulemaking is in the NOPR stage and is not finalized at this time, any estimation of the impact or effective dates would be speculative.

c. SNAP and Compliance Date Considerations

AHRI stated that the burden imposed by a potential changes in refrigerants is significant and will require major redesign just to maintain current efficiency levels. (AHRI, No. 168 at p. 5) AHRI urged DOE to extend the compliance period to five years or put a hold on the ACIM standards rulemaking until the SNAP refrigerants are finalized in order to avoid another redesign during the compliance period of the amended ACIM energy conservation standard. (AHRI, No. 70 at p. 16) Emerson also supported the idea of DOE starting the three-year compliance period after EPA finalizes a decision on refrigerants, allowing manufactures of components and equipment to re-design for both energy efficiency and low-GWP refrigerants in one design cycle. (Emerson, No. 122 at p.1) Ice-O-Matic proposed either a five year compliance period for the NODA TSL 3 or that DOE chose a lower standard level. (Ice-O-Matic, No. 121 at p. 2) Manitowoc stated that commercial ice makers are not within the current scope of the SNAP NOPR, however it believes that ice makers could be affected by a subsequent rulemaking. Furthermore, Manitowoc noted that even if there is no action on ice makers, the component suppliers to the ice maker industry (including suppliers of compressors, expansion valves, and heat exchangers) will be focusing their efforts on supporting the transition to SNAP refrigerants. Consequently, the commercial ice maker industry will be affected even if it is not directly covered by EPA rules. Manitowoc also supported a course of action to reduce the risk of multiple redesigns due to the refrigerant changes and an amended energy conservation standard. (Manitowoc, No. 126 at p. 3) NEEA expressed their support for DOE's current refrigerant-neutral position. (NEEA, No. 91 at p. 2)

Since the SNAP rulemaking is in the NOPR stage and not finalized at this time, any estimation of the impact or effectives dates would be speculative, however in its August 6, 2014 proposal, EPA did not list ACIM as a product that would be impacted by forthcoming regulations (82 FR 46126). DOE cannot speculate on the outcome of a rulemaking in progress and can only consider in its rulemakings regulations that are currently in effect. Therefore, DOE has not included possible outcomes of a potential EPA SNAP rulemaking.

In response to the request that DOE extend the compliance date period for automatic commercial ice makers beyond the 3 years specified by the NOPR, as stated in section IV.A.2, DOE has determined that the 3 year compliance period is adequate and is not extending the compliance date for ACIMs. In response to AHRI's comment that DOE should put a hold on the ACIM standards rulemaking until the SNAP refrigerants are finalized, EPCA prescribes that DOE must issue a final rule establishing energy conservation standards for automatic commercial ice makers not later than January 1, 2015 and DOE does not have the authority to alter this statutory mandate. (42 U.S.C. 6313(d)(3))

d. ENERGY STAR

Manitowoc and Hoshizaki noted that the proposed standard bypasses the ENERGY STAR level (Manitowoc, Public Meeting Transcript, No. 70 at p. 74; Hoshizaki, No. 86 at p. 1) Manitowoc expressed concern that, if efficiency standards were raised to the level proposed in the NOPR, there would be no more room for an ENERGY STAR category, which would be disruptive to the industry. (Manitowoc, Public Meeting Transcript, No. 70 at p. 74)

DOE acknowledges the importance of the ENERGY STAR program and of understanding its interaction with

energy efficiency standards. However, EPCA requires DOE to establish energy conservation standards at the maximum level that is technologically feasible and economically justified. The standard level considered in this final rule is estimated to reduce cumulative source energy usage by 8% percent over the baseline, for products purchased in 2018–2047. Comparatively, the max-tech level is estimated to reduce cumulative source energy usage by 14% percent over the baseline for the same time period (refer to section V.B.3 for a complete discussion of energy savings). As such, the standard level continues to leave room for ENERGY STAR rebate programs, and therefore new ENERGY STAR levels could be reestablished once compliance with these standards is required.

e. Request for DOE and EPA Collaboration

Hoshizaki commented that during a previous round of refrigerant changeovers, it took over five years to make the appropriate changes to their product line and that it would take even longer this time due to the highly flammable refrigerant alternatives under consideration that would require additional redesign work. Hoshizaki requested that DOE and EPA work together to ensure that manufacturers are not unduly burdened with standards from both agencies. (Hoshizaki, No. 86 at p. 6–7)

DOE recognizes that the combined effects of recent or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. As such, DOE conducts an analysis of the cumulative regulatory burden as part of its rulemakings pertaining to equipment efficiency. As stated previously, however, DOE cannot speculate on the outcome of a rulemaking in progress and can only consider in its rulemakings regulations that are currently in effect. If a manufacturer believes that its design is subjected to undue hardship by regulations, the manufacturer may petition DOE's Office of Hearing and Appeals (OHA) for exception relief or exemption from the standard pursuant to OHA's authority under section 504 of the DOE Organization Act (42 U.S.C. 7194), as implemented at subpart B of 10 CFR part 1003. OHA has the authority to grant such relief on a case-by-case basis if it determines that a manufacturer has demonstrated that meeting the standard would cause hardship, inequity, or unfair distribution of burdens.

f. Compliance With Refrigerant Changes Could Be Difficult

NAFEM commented that municipal and state regulations and codes may make it difficult to comply with proposed EPA refrigerant regulations in some localities and could create hardship for manufacturers. (NAFEM, No. 82 at p. 7)

This comment relates to proposed EPA refrigerant regulations, and is beyond the scope of this rulemaking. DOE has forwarded the comment to EPA's Stratospheric Protection Division.

g. Small Manufacturers

NAFEM notes that the proposed rule has a disparate impact on small businesses because commercial ice makers are largely manufactured by small businesses. (NAFEM, No. 82 at p. 5) AHRI agreed that this rulemaking has impacts on small businesses and requested DOE account for all small ACIM manufacturers. (AHRI, No. 93 at p. 12)

DOE recognizes the potential for this rule to affect small businesses. As a result, DOE presented a small business manufacturer sub-group analysis in the NOPR stage and in this final rule notice. DOE used industry trade association membership directories, public product databases, individual company Web sites, and other market research tools to establish a draft list of covered small manufacturers. DOE presented its draft list of covered small manufacturers to stakeholders and industry representatives and asked if they were aware of any other small manufacturers that should be added to the list during manufacturer interviews and at DOE public meetings. DOE identified seven small manufacturers at the NOPR stage. Stakeholders did not provide any information in interviews or comments that identified additional small manufacturers of automatic commercial ice makers. As discussed in section VI.B, DOE applied the small business size standards published by the SBA to determine whether a company is considered a small manufacturer. The SBA defines a small business for NAICS 333415 ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing'' as having 750 or fewer employees. The 750-employee threshold includes all employees in a business's parent company and any other subsidiaries. Given the lack of additional new information, DOE maintains that there are seven small business manufacturers of the covered product in the Final Regulatory Flexibility Analysis, found in section VI.B.

NAFEM did not provide any data supporting the suggestion that the majority of domestic ice maker sales are from small manufacturers. Based on a 2008 study by Koeller & Company,[55] DOE understands that the ACIM market is dominated by four manufacturers who produce approximately 90 percent of the automatic commercial ice makers for sale in the United States. The four major manufacturers with the largest market share are Manitowoc, Scotsman, Hoshizaki, and Ice-O-Matic; none of which are consider small business manufacturers. The remaining 12 large and small manufacturers account for ten percent of domestic sales. Thus, DOE disagrees with NAFEM's statement that a majority of sales are from small manufacturers.

h. Large Manufacturers

Scotsman commented that DOE's INPV analysis ignores manufacturers' current financial stability and noted that the impacts on large manufacturers could be significantly more severe than the average. (Scotsman, No. 85 at p.6b)

The MIA does not forecast the financial stability of individual manufacturers. The MIA is an industry-level analysis. Inherent to this analysis is that fact that not all industry participants will perform equally.

i. Negative Impact on Market Growth

Follett and Hoshizaki commented that more stringent standards have an adverse impact on innovation and development of new products. Follett commented that DOE's analysis must account for the lost opportunity to initiate growth projects that would expand the market. (Follett, No. 84 at p.10) (Hoshizaki, No.86 at p.4) NRA commented that the cost of R&D would be passed on to end-users, causing them to delay purchasing new equipment and thus negatively affecting the ice machine industry. (NRA, No. 69 at p. 4)

The MIA uses the annual shipments forecast from the Shipment's Analysis as an input in the GRIM. The Shipments Analysis provides the base case shipments as well as standards case shipments. The analysis uses data from AHRI, ENERGY STAR, and U.S. Census Bureau's Current Industrial Reports (CIR) to estimate historical shipments for automatic commercial ice makers. Future shipments are broken down into replacement units based on a stock accounting model; new sales based on

[55] Koeller, John, P.E., and Herman Hoffman, P.E. A Report on Potential Best Management Practices. Rep. The California Urban Water Conservation Council, n.d. Web. 19 May 2014.

projections of new construction activity from AEO2014. More detail on this methodology can be found in section IV.H.1. DOE's analysis does not speculate on additional shipments that are the result of ''growth projects.'' Manufacturers did not provide estimations of these growth levels or justification for such growth levels. Thus, DOE was not able to include such growth factors in its models.

j. Negative Impact on Non-U.S. Sales

Follett added that the additional cost of efficient components would impact non-U.S. sales. (Follett, No. 84 at p.7) Ice-O-Matic commented that they can't afford designs that can only be sold in North America and that they will lose global busines. (Ice-O-Matic, No. 70 at p.308) Scotsman stated it will be a challenge to meet DOE efficiency thresholds, the EPA SNAP regulations and EU regulations with common equipment platforms. Scotsman continued that the regulations will make it difficult for domestic manufacturers to compete in the global market, where the customers' primary decision criterion is sales price. (Scotsman, No.125 at p. 2–3) Scotsman requested DOE's analysis account for the impact that regulations will have on manufacturers' ability to compete in a global market against cheaper products not governed by DOE standards. (Scotsman, No.70 at p.43–44)

The standards in this final rule only cover equipment placed into commerce in the domestic market, and as such, do not restrict manufacturers from selling products below the new and amended standards in foreign markets. DOE notes that manufacturers make products today that meet the standard set by the 2005 energy conservation standard for automatic commercial ice makers and are able to compete against manufacturers with production lines in lower cost countries. In their comments, manufacturers did not provide any information as to which product models or which efficiencies are sold into international markets. If the models sold internationally have efficiencies that exceed the amended standard, then manufacturers will likely see a production cost decrease as sales roll-up to the new standard and production volumes increase. It is also possible that manufacturer production costs could increase marginally due to small production runs. However, stakeholders did not provide enough information for DOE to model the price-sensitivity of the foreign market.

k. Employment

Ice-O-Matic commented that, if the market loses net present value, companies are not going to accept less profit, and so there's no way they can employ the same number of people unless they reduce their pay. (Ice-O-Matic, No. 70 at p.313) In the NOPR public meeting, AHRI, Scotsman, and Ice-o-matic noted concerns about DOE direct employment estimates being too low. (No. 70 at p.320–330)

DOE analyzes the potential impacts of the energy conservation standard on direct production labor in section V.B.2.d. This analysis estimates the production head count, including production workers up to the line-supervisor level who are directly involved in fabricating and assembling a product within an original equipment manufacturer (OEM) facility. It does not account for sales, engineering, management, and all other workers who are not directly producing and assembling product. DOE presents an upper and lower bound for direct employment. DOE does not assert that employment will remain steady throughout the analysis period.

In the NOPR, DOE clearly stated the assumptions that contributed to its estimate of direct production employment. These assumptions included: Unit sales, labor content per unit sold, average hourly wages for production workers, and annual hours worked by production workers. The calculation of production employment is discussed in detail in chapter 12 of the TSD, section 12.7. In the NOPR and NODA comments, DOE did not receive any comments on these key production employment assumptions. However, DOE updated its final rule analysis based on a revised engineering analysis, shipments analysis, and trial standard levels.

l. Compliance With 12866 and 13563

NAFEM commented that DOE is in violation of Executive Orders 12866 and 13563. (NAFEM, No. 82 at p.8) DOE has fulfilled the obligations required by Executive Orders 12866 and 13563. Additional information can be found in section VI of this preamble.

m. Warranty Claims

Scotsman noted concern that the MIA results had not ''accurately accounted for warranty increases''. (Scotsman, No.125 at p.3) Specifically, it noted that an ECM condenser fan motor would cost significantly more than its current component.

DOE did not explicitly factor in changes in warranty set-asides or payments. In interviews, DOE requested manufacturers highlight key concerns related to the rulemaking. Warranty concerns were not cited as a key issue. In order for DOE to account for changes in warranty costs, manufacturers would need to provide data on current product failure rates, causes of failure and related repair costs, expected future warranty rates, and changes in expected repair costs. Insufficient information was provided to model a change in warranty reserve and warranty pay out. Aside from the Scotsman data point on the cost of ECM fan motors, no other manufacturer supplied hard data related to warranty expenses. As a result, DOE did not incorporate a change in warranty rate in its analysis.

n. Impact to Suppliers, Distributors, Dealers, and Contractors

AHRI commented that DOE must perform analyses to assess the impacts of the final rule on component suppliers, distributors, dealers, and contractors. Policy Analyst also suggested that DOE assess whether suppliers are affected by the proposed standard. (Policy Analyst, No. 75 at p. 10) The MIA assesses the impact of amended energy conservation standards on manufacturers of automatic commercial ice makers. Analysis of the impacts on distributors, dealers, and contractors as a result of energy conservation standards on manufacturers of automatic commercial ice makers falls outside the scope of this analysis.

Impacts on component suppliers might arise if manufacturers switched to more-efficient components, or if there was a substantial reduction in sales orders following new or amended standards. In public comments and in confidential interviews, manufacturers expressed that given their low production volumes, the automatic commercial ice maker manufacturing industry has little influence over component suppliers relative to other commercial refrigeration equipment industries. (Manitowoc, Preliminary Analysis Public Meeting Transcript, No. 42 at pp. 14–15). It follows that energy conservation standards for automatic commercial ice makers would have little impact on component suppliers given their marginal contribution to overall commercial refrigeration component demand.

K. Emissions Analysis

In the emissions analysis, DOE estimated the reduction in power sector emissions of CO_2, NO_X, SO_2, and Hg from potential energy conservation standards for automatic commercial ice

makers. 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), 77 FR 49701 (Aug. 17, 2012)) the FFC analysis includes impacts on emissions of CH_4 and N_2O, both of which are recognized as greenhouse gases (GHGs).

DOE primarily conducted the emissions analysis using emissions factors for CO_2 and most of the other gases derived from data in the *AEO2014.* Combustion emissions of CH_4 and N_2O were estimated using emissions intensity factors published by the Environmental Protection Agency (EPA), GHG Emissions Factors Hub.[56] DOE developed separate emissions factors for power sector emissions and upstream emissions. The method that DOE used to derive emissions factors is described in chapter 13 of the final rule TSD.

For CH_4 and N_2O, DOE calculated emissions reduction in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying the physical units by the gases' global warming potential (GWP) over a 100-year time horizon. Based on the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,[57] DOE used GWP values of 28 for CH_4 and 265 for N_2O.

EIA prepares the *AEO* using NEMS. Each annual version of NEMS incorporates the projected impacts of existing air quality regulations on emissions. *AEO2014* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of October 31, 2013.

SO_2 emissions from affected electric generating units (EGUs) are subject to nationwide and regional emissions cap-and-trade programs. Title IV of the Clean Air Act sets an annual emissions cap on SO_2 for affected EGUs in the 48 contiguous states and the District of Columbia (DC). SO_2 emissions from 28 eastern States and DC 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 U.S. Environmental Protection Agency (EPA) by the U.S. Court of Appeals for the District of Columbia Circuit but it remained in effect.[58] In 2011 EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (August 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR.[59] The court ordered EPA to continue administering CAIR. The emissions factors used for this final rule, which are based on *AEO2014,* assume that CAIR remains a binding regulation through 2040.[60]

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 2016, however, SO_2 emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants. 77 FR 9304 (Feb. 16, 2012). In the final MATS rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (HAP) and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions will be reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. *AEO2014* assumes that, in order to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed by 2016. Both technologies are used to reduce acid gas emissions, and also reduce SO_2 emissions. Under the MATS, 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 2016 and beyond.

CAIR established a cap on NO_X emissions in 28 eastern States and the District of Columbia.[61] 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 final rule for these States.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO2014,* which incorporates the MATS.

In response to the NOPR, DOE received one comment specifically about measuring environmental benefits. Policy Analyst stated that DOE should commit to measuring environmental benefits and reductions in energy usage as a result of these standards. (Policy Analyst, No. 75 at p. 10) DOE has invested a great deal of time and effort in quantifying the energy reductions and environmental benefits of this rule, as described in this section and as described in the discussion of the

[56] *http://www.epa.gov/climateleadership/inventory/ghg-emissions.html.*

[57] Intergovernmental Panel on Climate Change. *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change.* 2013. Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.). Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Chapter 8.

[58] 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).

[59] See *EME Homer City Generation, LP* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012).

[60] On April 29, 2014, the U.S. Supreme Court reversed the judgment of the D.C. Circuit and remanded the case for further proceedings consistent with the Supreme Court's opinion. The Supreme Court held in part that EPA's methodology for quantifying emissions that must be eliminated in certain states due to their impacts in other downwind states was based on a permissible, workable, and equitable interpretation of the Clean Air Act provision that provides statutory authority for CSAPR. See *EPA* v. *EME Homer City Generation,* No 12–1182, slip op. at 32 (U.S. April 29, 2014). Because DOE is using emissions factors based on *AEO2014* for today's final rule, the analysis assumes that CAIR, not CSAPR, is the regulation in force. The difference between CAIR and CSAPR is not relevant for the purpose of DOE's analysis of SO_2 emissions.

[61] CSAPR also applies to NO_X and it would supersede the regulation of NO_X under CAIR. As stated previously, the current analysis assumes that CAIR, not CSAPR, is the regulation in force. The difference between CAIR and CSAPR with regard to DOE's analysis of NO_X emissions is slight.

NIA (IV.H). Given the dispersed nature of automatic commercial ice makers on customer premises across the country, actual physical measurement of the energy savings and environmental benefits would be a large and costly undertaking which would likely not yield useful results. However, DOE is committed to working with other governmental agencies to continue developing tools for quantifying the environmental benefits of proceedings such as this ACIM rulemaking. The discussion that follows of the development of the social cost of carbon (SCC) is the prime example of these efforts.

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of the standards in this final rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation similar to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of equipment shipped in the forecast period for each TSL. This section summarizes the basis for the monetary values used for each of these emissions and presents the values considered in this rulemaking.

For this final rule, DOE is relying on a set of values for the social cost of carbon (SCC) that was developed by an interagency process. The basis for these values is summarized below, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the final rule TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of CO_2. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in CO_2 emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b) of Executive Order 12866, agencies must, to the extent permitted by law, ''assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.'' The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions. The estimates are presented with an acknowledgement of the many uncertainties involved and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed these SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of CO_2 emissions, the analyst faces a number of serious challenges. A report from the National Research Council [62] points out that any assessment will suffer from uncertainty, speculation, and lack of information about (1) future emissions of greenhouse gases, (2) the effects of past and future emissions on the climate system, (3) the impact of changes in climate on the physical and biological environment, and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise serious questions of science, economics, and ethics and should be viewed as provisional.

Despite the limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing CO_2 emissions. The agency can estimate the benefits from reduced (or costs from increased) emissions in any future year by multiplying the change in emissions in that year by the SCC value appropriate for that year. The net present value of the benefits can then be calculated by multiplying each of these future benefits by an appropriate discount factor and summing across all affected years.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

b. Development of Social Cost of Carbon Values

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing CO_2 emissions. To ensure consistency in how benefits are evaluated across agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced CO_2 emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim values: global SCC estimates for 2007 (in 2006$) of $55, $33, $19, $10, and $5 per metric ton of CO_2. These interim values represented the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules.

c. Current Approach and Key Assumptions

Since the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specifically, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: the FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change. Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in

[62] National Research Council. *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use.* National Academies Press: Washington, DC (2009).

emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The values 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.34 presents the values in the 2010 interagency group report,[63] which is reproduced in appendix 14A of the TSD.

TABLE IV.34—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[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 rulemaking were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[64] (See appendix 14–B of the final rule TSD for further information.) Table IV.35 shows the updated sets of SCC estimates in 5-year increments from 2010 to 2050. The full set of annual SCC estimates between 2010 and 2050 is reported in appendix 14–B of the final rule TSD. The central value that emerges is the average SCC across models at the 3-percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE IV.35—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050

[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

[63] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government, February 2010. *www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf.*

[64] *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. *www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf*

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 in section IV.L.1.a points out that there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of analytic challenges that are being addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC. The interagency group intends to periodically review and reconsider those estimates to reflect increasing knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions, DOE used the values from the 2013 interagency report adjusted to 2013$ using the Gross Domestic Product price deflator. For each of the four cases of SCC values, the values for emissions in 2015 were $12.0, $40.5, $62.4, and $119 per metric ton of CO_2 avoided. DOE derived values after 2050 using the relevant growth rates for the 2040–2050 period in the interagency update.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SCC value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

In responding to the NOPR, many commenters questioned why DOE quantified the emissions. Commenters also questioned the scientific and economic basis of the SCC values.

Scotsman stated they did not understand the logic of predicting emissions reductions associated with a product with such a limited population relative to national average energy consumption. (Scotsman, No. 95 at page 7) As stated earlier in the SCC discussion, DOE quantifies emissions reductions as one of the societal impacts of all standards in accordance with section 1(b) of Executive Order 12866.

A number of stakeholders stated that DOE should not use SCC values to establish monetary figures for emissions reductions until the SCC undergoes a more rigorous notice, review, and comment process. (AHRI, No. 93 at pp. 13–14; The Associations, No. 77 at p. 4) The Cato Institute commented that SCC should be barred from use until its deficiencies are rectified. (Cato Institute, No. 74 at p. 1) Similarly, IER stated that SCC should no longer be used in Federal regulatory analysis and rulemakings. (IER, No. 83 at p. 2) In contrast, IPI et al. affirmed that current SCC values are sufficiently robust and accurate for continued use in regulatory analyses. (IPI, No. 78 at p. 1)

In conducting the interagency process that developed the SCC values, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. Key uncertainties and model differences transparently and consistently inform the range of SCC estimates. These uncertainties and model differences are discussed in the interagency working group's reports, which are reproduced in appendix 14A and 14B of the TSD, as are the major assumptions. The 2010 SCC values have been used in a number of Federal rulemakings upon which the public had opportunity to comment. In November 2013, the OMB announced a new opportunity for public comment on the TSD underlying the revised SCC estimates. *See* 78 FR 70586 (Nov. 26, 2013). OMB is currently reviewing comments and considering whether further revisions to the 2013 SCC estimates are warranted. DOE stands ready to work with OMB and the other members of the interagency working group on further review and revision of the SCC estimates as appropriate.

IER commented that the SCC is inappropriate for use in federal rulemakings because it is based on subjective modeling decisions rather than objective observations and because it violates OMB guidelines for accuracy, reliability, and freedom from bias. (IER, No. 83 at p. 2) The General Accounting Office (GAO) was asked to review the Interagency Working Group's (IWG) development of SCC estimates,[65] and noted that OMB and EPA participants reported that the IWG documented all major issues consistent with Federal standards for internal control. The GAO also found, according to its document review and interviews, that the IWG's development process followed three principles: (1) It used consensus-based decision making; (2) it relied on existing academic literature and models; and (3) it took steps to disclose limitations and incorporate new information. Further, DOE has sought to ensure that the data and research used to support its policy decisions—including the SCC values—are of high scientific and technical quality and objectivity, as called for by the Secretarial Policy Statement on Scientific Integrity.[66] See section VI.L for DOE's evaluation of this final rule and supporting analyses under the DOE and OMB information quality guidelines.

The Cato Institute stated that the determination of the SCC is discordant with the best scientific literature on the equilibrium climate sensitivity and the fertilization effect of CO_2—two critically important parameters for establishing the net externality of CO_2 emissions. (Cato Institute, No. 74 at pp. 1, 12–15) The revised estimates that were issued in November 2013 are based on the best available scientific information on the impacts of climate change. The issue of equilibrium climate sensitivity is addressed in section 14A.4 of appendix 14A in the TSD. The EPA, in collaboration with other Federal agencies, continues to investigate potential improvements to the way in which economic damages associated with changes in CO_2 emissions are quantified.

AHRI commented that the GHG emissions reductions benefits may be overestimated because the DOE's analysis does not take into consideration EPA's planned regulation of GHG emissions from power plants, which would affect the estimated carbon emissions. AHRI suggested DOE conduct additional research on the impact of EPA's regulations on SCC values. (AHRI, No. 93 at p. 14) As noted in section IV.L.1, DOE participates in the IWG process. DOE believes that if necessary and appropriate the IWG will perform research as suggested by AHRI, but notes that results from any such research will not be timely for inclusion in this rulemaking. With respect to AHRI's comment about accounting for EPA's planned regulations, DOE cannot account for regulations that are not currently in effect because whether such regulations will be adopted and their final form are matters of speculation at this time.

The Cato Institute commented that the IWG appears to violate the directive in OMB Circular A–4, which states, ''Your analysis should focus on benefits and costs that accrue to citizens and residents of the United States. Where you choose to evaluate a regulation that

[65] *www.directives.doe.gov/directives-documents/400-series/0411.2-APolicy.*

[66] *www.gao.gov/products/GAO-14-663.*

is likely to have effects beyond the borders of the United States, these effects should be reported separately.'' The Cato Institute stated that instead of focusing on domestic benefits and separately reporting any international effects, the IWG only reports the global costs and makes no determination of the domestic costs. (Cato Institute, No. 74 at pp. 2–3) IER expressed similar concerns about the IWG's use of a global perspective in reporting SCC estimates. (IER, No. 83 at pp. 16–17) AHRI commented that either domestic or global costs and benefits should be considered, but not both. (AHRI, No. 93 at p. 14)

Although the relevant analyses address both domestic and global impacts, the interagency group has determined that it is appropriate to focus on a global measure of SCC because of the distinctive nature of the climate change problem, which is highly unusual in at least two respects. First, it involves a global externality: Emissions of most greenhouse gases contribute to damages around the world when they are emitted in the United States. Second, climate change presents a problem that the United States alone cannot solve. The issue of global versus domestic measures of the SCC is further discussed in appendix 14A of the TSD.

AHRI stated that the costs of the proposed rule are calculated over the course of a 30-year period, while avoided SCC benefit is calculated over a 300-year period. AHRI further commented that longer-term (*i.e.,* 30–300 years) impacts of regulations on businesses are unknown, and should be studied. (AHRI, No. 93 at p. 14) For the analysis of national impacts of standards, DOE considers the lifetime impacts of equipment shipped in a 30-year period, with energy and cost savings impacts aggregated until all of the equipment shipped in the 30-year period is retired. With respect to the valuation of CO_2 emissions reductions, the SCC estimates developed by the IWG are meant to represent the full discounted value (using an appropriate range of discount rates) of emissions reductions occurring in a given year. Thus, DOE multiplies the SCC values for achieving the emissions reductions in each year of the analysis by the carbon reductions estimated for each of those same years. Neither the costs nor the benefits of emissions reductions outside the analytic time frame are included in the analysis.

2. Valuation of Other Emissions Reductions

As noted in section IV.K, DOE has taken into account how new or amended energy conservation standards would reduce NO_X emissions in those 22 States not affected by emissions caps. DOE estimated the monetized value of NO_X emissions reductions resulting from each of the TSLs considered for this final rule based on estimates found in the relevant scientific literature. Estimates of monetary value for reducing NO_X from stationary sources range from $476 to $4,893 per ton (2013$).[67] DOE calculated monetary benefits using a medium value for NO_X emissions of $2,684 per short ton (in 2013$), 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 such monetization in the current analysis.

M. Utility Impact Analysis

The utility impact analysis estimates several effects on the power generation industry that would result from the adoption of new or amended energy conservation standards. In the utility impact analysis, DOE analyzes the changes in electric installed capacity and generation that result for each TSL. The utility impact analysis uses a variant of NEMS,[68] 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,[69] to account for selected utility impacts of new or amended energy conservation standards. DOE's analysis consists of a comparison between model results for the most recent *AEO* Reference Case and for cases in which energy use is decremented to reflect the impact of potential standards. The energy savings inputs associated with each TSL come from the NIA. Chapter 15 of the final rule TSD describes the utility impact analysis.

DOE received one comment about the utility impact analysis. Policy Analyst commented that DOE should commit to measuring the effects of these energy savings on the security, reliability, and costs of maintaining the nation's energy system. (Policy Analyst, No. 75 at p. 10) As discussed in Chapter 15 of the TSD, DOE does quantify the effects of the energy savings on the nation's energy system. Given the widely dispersed nature of automatic commercial ice makers on customer premises across the country, physically measuring the impacts would be time-consuming and costly and would likely not result in useful measurements of the effects. DOE has over the course of many energy conservation standards rulemakings developed the tools and processes used in this rulemaking to estimate the impacts on the electric utility system, and those impacts are discussed in Chapter 15 of the TSD.

N. Employment Impact Analysis

Employment impacts from new or amended energy conservation standards include direct and indirect impacts. Direct employment impacts, which are addressed in the MIA, are any changes in the number of employees of manufacturers of the equipment subject to standards. Indirect employment impacts, which are assessed as part of the employment impact analysis, 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 due to (1) reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased customer 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

[67] 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. Available at: *www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/2006_cb/2006_cb_final_report.pdf.*

[68] 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.

[69] 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).

economy.[70] 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 customer utility bills. Because reduced customer 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 energy conservation standards for automatic commercial ice makers.

For the standard levels considered in this final rule, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies version 3.1.1 (ImSET).[71] 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 overestimate actual job impacts over the long run. For the final rule, DOE used ImSET only to estimate short-term (through 2022) employment impacts.

DOE received no comments specifically on the indirect employment impacts. Comments received were related to manufacturing employment impacts, and DOE reiterates that the indirect employment impacts estimated with ImSET for the entire economy differ from the direct employment impacts in the ACIM manufacturing sector estimated using the GRIM in the MIA, as described at the beginning of this section. The methodologies used and the sectors analyzed in the ImSET and GRIM models are different.

For more details on the employment impact analysis and its results, see chapter 16 of the TSD and section V.B.3.d of this preamble.

O. Regulatory Impact Analysis

DOE prepared a regulatory impact analysis (RIA) for this rulemaking, which is described in chapter 17 of the final rule TSD. The RIA is subject to review by the Office of Information and Regulatory Affairs (OIRA) in the OMB. The RIA consists of (1) a statement of the problem addressed by this regulation and the mandate for government action; (2) a description and analysis of policy alternatives to this regulation; (3) a qualitative review of the potential impacts of the alternatives; and (4) the national economic impacts of the proposed standard.

The RIA assesses the effects of feasible policy alternatives to amended automatic commercial ice makers standards and provides a comparison of the impacts of the alternatives. DOE evaluated the alternatives in terms of their ability to achieve significant energy savings at reasonable cost and compared them to the effectiveness of the proposed rule.

DOE identified the following major policy alternatives for achieving increased automatic commercial ice makers efficiency:

- No new regulatory action
- Commercial customer tax credits
- Commercial customer rebates
- Voluntary energy efficiency targets
- Bulk government purchases
- Early replacement.

DOE qualitatively evaluated each alternative's ability to achieve significant energy savings at reasonable cost and compared it to the effectiveness of the proposed rule. See chapter 17 of the final rule TSD for further details.

In response to the NOPR, DOE received comments from NAFEM stating that NAFEM commented that DOE failed to consider the positive role of ENERGY STAR in the marketplace, that the Federal Energy Management Program (FEMP) already encourages manufacturers to innovate and create energy savings, the effects of local and state initiatives, and the effects of voluntary building standards that require high efficiency products in the marketplace. (NAFEM, No. 82 at pp. 8–9)

In response to the NAFEM comment, DOE notes first that FEMP and other voluntary programs tend to use ENERGY STAR as the efficiency target levels for equipment classes covered by ENERGY STAR. DOE recognizes that the market has achieved a roughly 60-percent success rate in reaching the ENERGY STAR criteria for the time that ENERGY STAR has covered automatic commercial ice makers. The market-driven accomplishments are reflected in the distribution of shipments by efficiency level for the base conditions, and very much influence the results of the analysis. The selected TSL 3 yields a shipments-weighted average efficiency improvement of approximately 8 percent. If all customers purchased efficiency level 1 equipment (*i.e.,* baseline equipment), the shipments-weighted average efficiency improvement would be over 18 percent. The difference is attributable to the combination of ENERGY STAR, FEMP, utility incentive programs, incentive programs operated by governmental entities and others, and customer economic decision making.

In deciding what efficiency targets to model in the RIA, DOE noted that modeling the new ENERGY STAR criteria would show modest energy savings and NPV results because, as noted above, the baseline already reflects the market-driven accomplishments. Further, ENERGY STAR changes their criteria periodically. The first set of automatic commercial ice maker criteria was in effect for approximately 5 years, and the second set became effective February 1, 2013. If the ENERGY STAR criteria are updated again after a 5-year period, the criteria will be revised by the compliance date of this rule. Because future ENERGY STAR criteria are unknown, DOE performed the regulatory impact analysis using TSL 3 efficiency levels matched with the 60-percent ENERGY STAR success rate. DOE believes that in performing the analysis in this fashion, DOE was acknowledging the ability of the ENERGY STAR program to reach customers and impact their decision-making.

V. Analytical Results

A. Trial Standard Levels

1. Trial Standard Level Formulation Process and Criteria

DOE selected between two and seven efficiency levels for all equipment

[70] *See* U.S. Department of Commerce—Bureau of Economic Analysis. *Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II).* 1992.

[71] Scott, M.J., O.V. Livingston, P.J. Balducci, J.M. Roop, and R.W. Schultz. *ImSET 3.1: Impact of Sector Energy Technologies.* 2009. Pacific Northwest National Laboratory, Richland, WA. Report No. PNNL–18412. *www.pnl.gov/main/publications/external/technical_reports/PNNL-18412.pdf.*

classes for analysis. For all equipment classes, the first efficiency level is the baseline efficiency level. Based on the results of the NIA and other analyses, DOE selected five TSLs above the baseline level for each equipment class for the NOPR stage of this rulemaking. Table V.1 shows the mapping between TSLs and efficiency levels.

TSL 5 was selected as the max-tech level for all equipment classes. At this level, DOE's analysis considered that equipment would require use of design options that generally are not used by ice makers, but that are currently commercially available; specifically drain water heat exchangers for batch ice makers and ECM motors for all ice maker classes. The range of energy use reduction at the max-tech level varies widely with the equipment class, from 7% for IMH–W–Large–B to 33% for SCU–A–Small–B.

TSL 4 was chosen as an intermediate level between the max-tech level and the maximum customer NPV level, subject to the requirement that the TSL 4 NPV must be positive. ''Customer NPV'' is the NPV of future savings obtained from the NIA. It provides a measure of the benefits only to the customers of the automatic commercial ice makers and does not account for the net benefits to the nation. The net benefits to the nation also include monetized values of emissions reductions in addition to the customer NPV. Where a sufficient number of efficiency levels allow it, TSL 4 is set at least one level below max-tech and one level above the efficiency level with the highest NPV. In one case, the TSL 4 efficiency level is the maximum NPV level because the next higher level had a negative NPV. In cases where the maximum NPV efficiency level is the penultimate efficiency level and the max-tech level showed a positive NPV, the TSL 4 efficiency level is also the max-tech level.

TSL 3 was chosen to represent the group of efficiency levels with the highest customer NPV at a 7-percent discount rate.

TSL 2 was selected to provide intermediate efficiency levels between the TSLs 1 and 3. Note that with the number of efficiency levels available for each equipment class, there is often overlap between TSL levels. Thus, TSL 2 includes efficiency levels that overlap with both TSLs 1 and 3. The intent of TSL 2 is to provide an intermediate level that examines in efficiency options between TSLs 1 and 3.

TSL 1 was set equal to efficiency level 2. In the NOPR analysis, DOE set efficiency level 2 to be equivalent to ENERGY STAR in effect at the time DOE started the analysis for products rated by ENERGY STAR and to an equivalent efficiency improvement for other equipment classes. However, the ENERGY STAR level for automatic commercial ice makers has since been revised.[72] Therefore, in the NODA and final rule analysis DOE has instead used a more consistent 10-percent level for efficiency level 2, representing energy use 10 percent lower than the baseline energy use. This level reflects but is not fully consistent with the former ENERGY STAR level for those classes covered by ENERGY STAR. The new ENERGY STAR level, defined for all air-cooled equipment classes (i.s. IMH–A, RCU, and SCU–A classes for both batch and continuous ice makers) does not consistently align with any of the TSLs selected by DOE. For example, for IMH–A batch classes, the current ENERGY STAR level corresponds roughly to TSL 1 at 300 lb ice/24 hours, TSL 3 at 800 lb ice/24 hours, and is more stringent than TSL 5 at 1,500 lb ice/24 hours. Graphical comparison of the TSLs, ENERGY STAR, and existing products is providing in Chapter 3 of the TSL.

TABLE V.1—MAPPING BETWEEN TSLS AND EFFICIENCY LEVELS *

Equipment class	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	Level 2	Level 2	Level 3	Level 3	Level 5.
IMH–W–Med–B	Level 2	Level 2	Level 2	Level 3	Level 4.
IMH–W–Large–B †					
IMH–W–Large–B–1	Level 1	Level 1	Level 1	Level 1	Level 2.
IMH–W–Large–B–2	Level 1	Level 1	Level 1	Level 1	Level 2.
IMH–A–Small–B	Level 2	Level 3	Level 3A	Level 3A	Level 6.
IMH–A–Large–B †					
IMH–A–Large–B1	Level 2	Level 3	Level 3A	Level 4	Level 5.
IMH–A–Large–B2	Level 2	Level 2	Level 3	Level 3	Level 3.
RCU–Large–B†					
RCU–Large–B1	Level 2	Level 2	Level 2	Level 3	Level 4.
RCU–Large–B2	Level 2	Level 2	Level 2	Level 2	Level 3.
SCU–W–Large–B	Level 2	Level 4	Level 5	Level 6	Level 6.
SCU–A–Small–B	Level 2	Level 4	Level 5	Level 6	Level 7.
SCU–A–Large–B	Level 2	Level 4	Level 5	Level 6	Level 6.
IMH–A–Small–C	Level 2	Level 3	Level 4	Level 4	Level 6.
IMH–A–Large–C	Level 2	Level 2	Level 3	Level 3	Level 5.
RCU–Small–C	Level 2	Level 3	Level 4	Level 4	Level 6.
SCU–A–Small–C	Level 2	Level 3	Level 4	Level 4	Level 6.

* For three large equipment classes—IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B—because the harvest capacity range is so wide, DOE analyzed two typical models to model the low and the high portions of the applicable range with greater accuracy. The smaller of the two is noted as B1 and the larger as B2.

† DOE analyzed impacts for the B1 and B2 typical units and aggregated impacts to the equipment class level.

[72] ENERGY STAR Version 2.0 for Automatic Commercial Ice Makers became effective on February 1, 2013.

Table V.2 illustrates the efficiency improvements incorporated in all TSLs.

TABLE V.2—PERCENTAGE EFFICIENCY IMPROVEMENT FROM BASELINE BY TSL *

Equipment class	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	10.0%	10.0%	15.0%	15.0%	23.9%
IMH–W–Med–B	10.0	10.0	10.0	15.0	18.1
IMH–W–Large–B	0.0	0.0	0.0	0.0	8.1
IMH–W–Large–B1	0.0	0.0	0.0	0.0	8.3
IMH–W–Large–B2	0.0	0.0	0.0	0.0	7.4
IMH–A–Small–B	10.0	15.0	18.1	18.1	25.5
IMH–A–Large–B	10.0	14.2	15.2	18.7	21.6
IMH–A–Large–B1	10.0	15.0	15.8	20.0	23.4
IMH–A–Large–B2	10.0	10.0	11.8	11.8	11.8
RCU–Large–B	10.0	10.0	10.0	14.7	17.1
RCU–Large–B1	10.0	10.0	10.0	15.0	17.3
RCU–Large–B2	10.0	10.0	10.0	10.0	13.9
SCU–W–Large–B	10.0	20.0	25.0	29.8	29.8
SCU–A–Small–B	10.0	20.0	25.0	30.0	32.7
SCU–A–Large–B	10.0	20.0	25.0	29.1	29.1
IMH–A–Small–C	10.0	15.0	20.0	20.0	25.7
IMH–A–Large–C	10.0	10.0	15.0	15.0	23.3
RCU–Small–C	10.0	15.0	20.0	20.0	26.6
SCU–A–Small–C	10.0	15.0	20.0	20.0	26.6

* Percentage improvements for IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B are a weighted average of the B1 and B2 units, using weights provided in TSD chapter 7.

Table V.3 illustrates the design options associated with each TSL level, for each analyzed product class. The design options are discussed in section IV.D.3 of this final rule and in chapter 5 of the TSD.

TABLE V.3—DESIGN OPTIONS FOR ANALYZED PRODUCTS CLASSES AT EACH TSL

Equipment class	Baseline	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Design Options for Each TSL (options are cumulative—TSL 5 includes all preceding options)						
IMH–W–Small–B	No BW Fill SPM PM	+ Comp EER + Cond	Same EL as TSL 1.	+ Cond	Same EL as TSL 3.	BW Fill + Evap ECM PM DWHX.
IMH–W–Small–B (22 inch wide).	No BW Fill SPM PM	+ Comp EER + Cond	Same EL as TSL 1.	+ Cond BW Fill	Same EL as TSL 3.	N/A for 22-inch.
IMH–W–Med–B	BW Fill SPM PM	+ Comp EER ECM PM	Same EL as TSL 1.	Same EL as TSL 1.	+ Cond	DWHX.
IMH–W–Large–B1	BW Fill SPM PM	Same EL as Baseline.	Same EL as Baseline.	Same EL as Baseline.	Same EL as Baseline.	+ Comp EER + Cond ECM PM DWHX.
IMH–W–Large–B2	BW Fill SPM PM	Same EL as Baseline.	Same EL as Baseline.	Same EL as Baseline.	Same EL as Baseline.	+ Comp EER + Cond ECM PM DWHX.
IMH–A–Small–B	BW Fill SPM PM SPM FM	+ Comp EER + Cond + Evap ECM FM	+ Evap	+ Evap	Same EL as TSL 3.	+ Evap ECM PM DWHX.
IMH–A–Small–B (22 inch wide).	BW Fill SPM PM SPM FM	+ Comp EER + Cond + Evap ECM FM	+ Evap	ECM PM DWHX	Same EL as TSL 3.	N/A for 22-inch.
IMH–A–Large–B1	No BW Fill SPM PM SPM FM	+ Comp EER PSC FM	ECM FM BW Fill	BW Fill	BW Fill ECM PM + Cond	DWHX.
IMH–A–Large–B1 (22 inch wide).	No BW Fill SPM PM SPM FM	+ Comp EER ECM FM BW Fill	BW Fill ECM PM DWHX	DWHX	N/A for 22-inch	N/A for 22-inch.
IMH–A–Large–B2	BW Fill SPM PM SPM FM	+ Comp EER ECM FM ECM PM + Cond DWHX	Same EL as TSL 1.	DWHX	Same EL as TSL 3.	Same EL as TSL 3.

TABLE V.3—DESIGN OPTIONS FOR ANALYZED PRODUCTS CLASSES AT EACH TSL—Continued

Equipment class	Baseline	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
RCU–Large–B1	BW Fill SPM PM PSC FM	+ Cond + Comp EER	Same EL as TSL 1.	Same EL as TSL 1.	ECM FM ECM PM + Cond DWHX	DWHX.
RCU–Large–B2	BW Fill SPM PM PSC FM	+ Comp EER ECM FM + Cond ECM PM	Same EL as TSL 1.	Same EL as TSL 1.	Same EL as TSL 1.	DWHX.
SCU–W–Large–B	No BW Fill SPM PM	BW Fill + Evap	+Evap + Cond	+ Cond	+ Cond	DWHX.
SCU–A–Small–B	No BW Fill SPM PM SPM FM	+ Cond + Comp EER	+ Comp EER	PSC FM BW Fill	BW Fill ECM PM ECM FM	ECM FM DWHX.
SCU–A–Large–B	No BW Fill SPM PM SPM FM	+Cond + Comp EER	+ Comp EER BW Fill	BW Fill ECM FM	ECM PM DWHX	Same EL as TSL 4.
RCU–Small–C	PSC AM SPM FM	+ Comp EER PSC FM	ECM FM	ECM FM + Cond	Same EL as TSL3.	+ Cond ECM AM.
IMH–A–Small–C	PSC AM SPM FM	+ Comp EER + Cond	+ Cond ECM FM	ECM FM + Cond	Same EL as TSL 3.	ECM AM.
IMH–A–Large–C	PSC AM SPM FM	+ Comp EER	Same EL as TSL 1.	+ Comp EER + Cond	Same EL as TSL 3.	+ Cond ECM FM ECM AM.
SCU–A–Small–C	PSC AM SPM FM	+ Cond + Comp EER	+ Comp EER	+ Comp EER ECM FM	Same EL as TSL 3.	ECM FM ECM AM.

EL = Efficiency Level
SPM = Shaded Pole Motor
PSC = Permanent Split Capacitor Motor
ECM = Electronically Commutated Motor
FM = Fan Motor (Air-Cooled Units)
AM = Auger Motor (Continuous Units)
BW Fill = Batch Water Fill Option Included
+ Cond = Increase in Condenser Size
+ Evap = Increase in Evaporator Size
+ Comp EER = Increase in Compressor EER
DWHX = Addition of Drain Water Heat Exchanger

Chapter 5 of the TSD contains full descriptions of the design options, DOE's analyses for the equipment size increase associated with the design options selected, and DOE's analyses of the efficiency gains for each design option considered.

2. Trial Standard Level Equations

Table V.4 and Table V.5 translate the TSLs into potential standards. In Table V.4, the TSLs are translated into energy consumption standards for the batch classes, while Table V.5 provides the potential energy consumption standards for the continuous classes. Note that the size nomenclature for the classes (Small, Medium, Large, and Extended) in many cases designate different capacity ranges than the current class sizes. However, the discussion throughout this preamble is based primarily on the current class capacity ranges—the alternative designation is made in Table V.4 and Table V.5 for future use when the new energy conservation standards take effect.

TABLE V.4—EQUATIONS REPRESENTING THE TSLS FOR BATCH EQUIPMENT CLASSES

[Maximum energy use in kWh/100 lb ice]

Batch equipment class	Capacity range lb ice/24 hours	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	<300	7.19–0.0055H	7.19–0.0055H	6.88–0.0055H	6.88–0.0055H	6.32–0.0055H
IMH–W–Med–B	≥300 and <850	6.28–0.00247H	6.28–0.00247H	5.8–0.00191H	5.9–0.00224H	5.17–0.00165H
IMH–W–Large–B	≥850 and <1500	4.42–0.00028H	4.42–0.00028H	4.0	4.0	3.86–0.00012H
IMH–W–Extended–B	≥1,500 and <2,600	4.0	4.0	4.0	4.0	3.62 + 0.00004H
	≥2,600	4.0	4.0	4.0	4.0	3.72
IMH–A–Small–B	<300	10.09–0.0106H	10.05–0.01173H	10–0.01233H	10–0.01233H	9.38–0.01233H
IMH–A–Medium–B	≥300 and <800	7.81–0.003H	7.38–0.00284H	7.05–0.0025H	7.19–0.00298H	6.31–0.0021H
IMH–A–Large–B	≥800 and <1,500	6.21–0.00099H	5.56–0.00056H	5.55–0.00063H	5.04–0.00029H	4.65–0.00003H

TABLE V.4—EQUATIONS REPRESENTING THE TSLS FOR BATCH EQUIPMENT CLASSES—Continued

[Maximum energy use in kWh/100 lb ice]

Batch equipment class	Capacity range lb ice/24 hours	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–A–Extended–B	>1,500	4.73	4.72	4.61	4.61	4.61
RCU–NRC–Small–B	<988 *	7.97–0.00342H	7.97–0.00342H	7.97–0.00342H	7.52–0.00323H	7.35–0.00312H
RCU–NRC–Large–B	≥988 * and <1,500	4.59	4.59	4.59	4.34	4.23
RCU–NRC–Extended–B	≥1,500 and <2,400	4.59	4.59	4.59	3.92 + 0.00028H	3.96 + 0.00018H
	≥2,400	4.59	4.59	4.59	4.59	4.39
RCU–RC–Small–B	<930 **	7.97–0.00342H	7.97–0.00342H	7.97–0.00342H	7.52–0.00323H	7.35–0.00312H
RCU–RC–Large–B	≥930 ** and <1,500	4.79	4.79	4.79	4.54	4.43
RCU–RC–Extended–B	≥1,500 and < 2,400	4.79	4.79	4.79	4.12 + 0.00028H	4.16 + 0.00018H
	≥2,400	4.79	4.79	4.79	4.79	4.59
SCU–W–Small–B	<200	10.64–0.019H	9.88–0.019H	9.5–0.019H	9.14–0.019H	9.14–0.019H
SCU–W–Large–B	≥200	6.84	6.08	5.7	5.34	5.34
SCU–A–Small–B	<110	16.72–0.0469H	15.43–0.0469H	14.79–0.0469H	14.15–0.0469H	13.76–0.0469H
SCU–A–Large–B	≥110 and <200	14.91–0.03044H	13.24–0.027H	12.42–0.02533H	11.47–0.02256H	10.6–0.02
SCU–A–Extended–B	≥200	8.82	7.84	7.35	6.96	6.96

* 985 for TSL4, 1,000 for TSL5
** 923 for TSL4, 936 for TSL5

TABLE V.5—EQUATIONS REPRESENTING THE TSLS FOR CONTINUOUS EQUIPMENT CLASSES

[Maximum energy use in kWh/100 lb ice]

Continuous equipment class	Capacity range lb ice/24 hours	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–C	<801	7.29–0.003H	6.89–0.00283H	6.48–0.00267H	6.48–0.00267H	5.75–0.00237H
IMH–W–Large–C	≥801	4.59	4.59	4.34	4.34	3.93
IMH–A–Small–C	<310	10.1–0.00629H	9.64–0.00629H	9.19–0.00629H	9.19–0.00629H	8.38–0.00629H
IMH–A–Large–C	≥310 and <820	9.49–0.00433H	8.75–0.00343H	8.23–0.0032H	8.23–0.0032H	7.25–0.00265H
IMH–A–Extended–C	≥820	5.94	5.94	5.61	5.61	5.08
RCU–NRC–Small–C	<800	9.85–0.00519H	9.78–0.0055H	9.7–0.0058H	9.7–0.0058H	9.26–0.0058H
RCU–NRC–Large–C	≥800	5.7	5.38	5.06	5.06	4.62
RCU–RC–Small–C	<800	10.05–0.00519H	9.98–0.0055H	9.9–0.0058H	9.9–0.0058H	9.46–0.0058H
RCU–RC–Large–C	≥800	5.9	5.58	5.26	5.26	4.82
SCU–W–Small–C	<900	8.55–0.0034H	8.08 0.0032H	7.6–0.00302H	7.6–0.00302H	6.84–0.00272H
SCU–W–Large–C	≥900	5.49	5.19	4.88	4.88	4.39
SCU–A–Small–C	<200	15.26–0.03	14.73–0.03H	14.22–0.03H	14.22–0.03H	13.4–0.03H
SCU–A–Large–C	≥200 and 700	10.66–0.00702H	10.06–0.00663H	9.47–0.00624H	9.47–0.00624H	8.52–0.00562H
SCU–A–Extended–C	≥700	5.75	5.42	5.1	5.1	4.59

In developing TSLs, DOE analyzed representative units for each equipment class group, defined for the purposes of this discussion by the ''Type of Ice Maker,'' ''Equipment Type,'' and ''Type of Condenser Cooling'' (see Table IV.2—within each class group, further segregation into equipment classes involves only specification of harvest capacity rate). DOE first established a percentage reduction in energy use associated with each TSL for the representative units. DOE calculated the energy use (in kWh/100 lb ice) associated with this reduction for the harvest capacity rates associated with the representative units (called representative capacities). This provided one or more points with which to define a TSL curve for the entire equipment class group as a function of harvest capacity rate. DOE selected the TSL curve to (a) pass through the points defining energy use for the TSL at the representative capacities; (b) be continuous, with no gaps at the representative capacities or at any other capacities; and (c) be consistent with the energy and capacity trends for

commercialized products of the equipment class group.

For the IMH–A–B equipment classes, DOE sought to set efficiency levels that do not vary with harvest capacity for the largest-capacity equipment, but doing so would have violated EPCA's anti-backsliding provisions. As a result, the efficiency levels for large-capacity equipment for this class in the range up to 2,500 lb ice/24 hours were set using multiple segments. This is discussed in section IV.D.2.c.

For the RCU–RC–Large–B, RCU–RC–Small–C, and RCU–RC–Large–C equipment classes, the efficiency levels are 0.2 kWh/100 lb of ice higher than those of the RCU–NRC–Large–B, RCU–NRC–Small–C, and RCU–NRC–Large–C equipment classes, respectively, as discussed in section IV.D.2.a. The RCU–RC–Small–B and RCU–NRC–Small–B efficiency levels are equal, and the harvest capacity break points for the RCU–NRC classes have been set to avoid gaps in allowable energy usage at the breakpoints.

The TSL energy use levels calculated for the representative capacities of the directly-analyzed equipment classes are presented Table V.6.

TABLE V.6—ENERGY CONSUMPTION BY TSL FOR THE REPRESENTATIVE AUTOMATIC COMMERCIAL ICE MAKER UNITS

Equipment class	Representative harvest rate lb ice/24 hours	Representative automatic commercial ice maker unit kWh/100 lb				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	300	5.54	5.54	5.23	5.23	4.67
IMH–W–Med–B	850	4.18	4.18	4.18	4.00	3.76
IMH–W–Large–B–1	1,500	4.00	4.00	4.00	4.00	3.68
IMH–W–Large–B–2	2,600	4.00	4.00	4.00	4.00	3.72
IMH–A–Small–B	300	6.91	6.53	6.30	6.30	5.68
IMH–A–Large–B–1	800	5.41	5.11	5.05	4.81	4.63
IMH–A–Large–B–2	1,500	4.72	4.72	4.61	4.61	4.61
RCU–NRC–Large–B–1	1,500	4.59	4.59	4.59	4.34	4.23
RCU–NRC–Large–B–2	2,400	4.59	4.59	4.59	4.59	4.39
SCU–W–Large–B	300	6.84	6.08	5.70	5.34	5.34
SCU–A–Small–B	110	11.56	10.27	9.63	8.99	8.60
SCU–A–Large–B	200	8.82	7.84	7.35	6.96	6.96
IMH–A–Small–C	310	8.15	7.69	7.24	7.24	6.43
IMH–A–Large–C	820	5.94	5.94	5.61	5.61	5.08
RCU–Small–C	800	5.70	5.38	5.06	5.06	4.62
SCU–A–Small–C	220	9.11	8.61	8.10	8.10	7.29

B. Economic Justification and Energy Savings

1. Economic Impacts on Commercial Customers

a. Life-Cycle Cost and Payback Period

Customers affected by new or amended standards usually incur higher purchase prices and lower operating costs. DOE evaluates these impacts on individual customers by calculating changes in LCC and the PBP associated with the TSLs. The results of the LCC analysis for each TSL were obtained by comparing the installed and operating costs of the equipment in the base-case scenario (scenario with no amended energy conservation standards) against the standards-case scenarios at each TSL. The energy consumption values for both the base-case and standards-case scenarios were calculated based on the DOE test procedure conditions specified in the 2012 test procedure final rule, which adopts an industry-accepted test method. Using the approach described in section IV.F, DOE calculated the LCC savings and PBPs for the TSLs considered in this final rule. The LCC analysis is carried out in the form of Monte Carlo simulations, and the results of LCC analysis are distributed over a range of values. DOE presents the mean or median values, as appropriate, calculated from the distributions of results.

Table V.7 through Table V.25 show the results of the LCC analysis for each equipment class. Each table presents the results of the LCC analysis, including mean LCC, mean LCC savings, median PBP, and distribution of customer impacts in the form of percentages of customers who experience net cost, no impact, or net benefit.

Only five equipment classes have positive LCC savings values at TSL 5, while the remaining classes have negative LCC savings. Negative average LCC savings imply that, on average, customers experience an increase in LCC of the equipment as a consequence of buying equipment associated with that particular TSL. In four of the five classes, the TSL 5 level is not negative, but the LCC savings are less than one-third the TSL 3 savings. All of these results indicate that the cost increments associated with the max-tech design option are high, and the increase in LCC (and corresponding decrease in LCC savings) indicates that the design options embodied in TSL 5 result in negative customer impacts. TSL 5 is associated with the max-tech level for all the equipment classes. Drain water heat exchanger technology is the design option associated with the max-tech efficiency levels for batch equipment classes. For continuous equipment classes, the max-tech design options are auger motors using permanent magnets.

The mean LCC savings associated with TSL 4 are all positive values for all equipment classes. The mean LCC savings at all lower TSL levels are also positive. The trend is generally an increase in LCC savings for TSL 1 through 3, with LCC savings either remaining constant or declining at TSL 4. In two cases, the highest LCC savings are at TSL 2: IMH–A–Large–B1 and SCU–W–Large–B. In one case, IMH–A–Small–B, the highest LCC savings occur at TSL1. Two of the three classes with LCC savings maximums below TSL 3 have high one-time installation cost adders for building renovations expected to take place when existing units are replaced, causing the TSL3 LCC savings to be depressed relative to the lower levels. The drop-off in LCC savings at TSL 4 is generally associated with the relatively large cost for the max-tech design options, the savings for which frequently span the last two efficiency levels.

As described in section IV.H.2, DOE used a ''roll-up'' scenario in this rulemaking. Under the roll-up scenario, DOE assumes that the market shares of

the efficiency levels (in the base case) that do not meet the standard level under consideration would be ''rolled up'' into (meaning ''added to'') the market share of the efficiency level at the standard level under consideration, and the market shares of efficiency levels that are above the standard level under consideration would remain unaffected. Customers, in the base-case scenario, who buy the equipment at or above the TSL under consideration, would be unaffected if the amended standard were to be set at that TSL. Customers, in the base-case scenario, who buy equipment below the considered TSL, would be affected if the amended standard were to be set at that TSL. Among these affected customers, some may benefit from lower LCC of the equipment and some may incur a net cost due to higher LCC, depending on the inputs to LCC analysis, such as electricity prices, discount rates, installation costs, and markups. DOE's results indicate that, with two exceptions, nearly all customers either benefit or are unaffected by setting standards at TSLs 1, 2, or 3, with 0 to 2 percent of customers experiencing a net cost in all but two classes. Some customers purchasing IMH–A–Small–B (21 percent) and IMH–A–Large–B2 (10 percent) equipment will experience net costs at TSL3. In almost all cases, a portion of the market would experience net costs starting with TSL 4, although in several equipment classes the percentage is below 10 percent. At TSL 5, only in IMH–A–Large–B2 (10 percent) and SCU–W–Large–B (44 percent) do less than 50 percent of customers show a net cost, while in the other classes the percentage of customers with a net cost ranges as high as 96 percent.

The median PBP values for TSLs 1 through 3 are generally less than 3 years, except for IMH–A–Small–B where the TSL 3 PBP is 4.7 years and IMH–A–Large–B2 with a PBP of 6.9 years. The median PBP values for TSL 4 range from 0.7 years to 6.9 years.

PBP values for TSL 5 range from 4.9 years to nearly 12 years. In eight cases, the the PBP exceeds the expected 8.5-year equipment life.

TABLE V.7—SUMMARY LCC AND PBP RESULTS FOR IMH–W–SMALL–B EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	2,551	2,476	9,533	12,009	175	0	63	37	2.5
2	2,551	2,476	9,533	12,009	175	0	63	37	2.5
3	2,411	2,537	9,381	11,918	214	1	47	52	2.7
4	2,411	2,537	9,381	11,918	214	1	47	52	2.7
5	2,162	3,371	9,200	12,571	(534)	96	0	4	13.4

TABLE V.8—SUMMARY LCC AND PBP RESULTS FOR IMH–W–MED–B EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	5,439	4,325	21,470	25,795	308	0	44	56	2.1
2	5,439	4,325	21,470	25,795	308	0	44	56	2.1
3	5,439	4,325	21,470	25,795	308	0	44	56	2.1
4	5,138	4,607	21,251	25,857	165	28	24	47	5.0
5	4,951	4,943	21,115	26,058	(63)	65	9	26	7.6

TABLE V.9—SUMMARY LCC AND PBP RESULTS FOR IMH–W–LARGE–B EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	10,750	6,129	42,992	49,121	0	NA	NA	NA	NA
2	10,750	6,129	42,992	49,121	0	NA	NA	NA	NA
3	10,750	6,129	42,992	49,121	0	NA	NA	NA	NA
4	10,750	6,129	42,992	49,121	0	NA	NA	NA	NA
5	9,891	6,913	42,381	49,294	(172)	67	13	20	10.6

TABLE V.10—SUMMARY LCC AND PBP RESULTS FOR IMH–W–LARGE–B1 EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	9,166	5,004	37,051	42,055	0	NA	NA	NA	NA
2	9,166	5,004	37,051	42,055	0	NA	NA	NA	NA

TABLE V.10—SUMMARY LCC AND PBP RESULTS FOR IMH–W–LARGE–B1 EQUIPMENT CLASS—Continued

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
3	9,166	5,004	37,051	42,055	0	NA	NA	NA	NA
4	9,166	5,004	37,051	42,055	0	NA	NA	NA	NA
5	8,405	5,747	36,509	42,256	(200)	70	13	17	11.1

TABLE V.11—SUMMARY LCC AND PBP RESULTS FOR IMH–W–LARGE–B2 EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	15,868	9,763	62,182	71,945	0	NA	NA	NA	NA
2	15,868	9,763	62,182	71,945	0	NA	NA	NA	NA
3	15,868	9,763	62,182	71,945	0	NA	NA	NA	NA
4	15,868	9,763	62,182	71,945	0	NA	NA	NA	NA
5	14,693	10,681	61,346	72,027	(80)	59	13	29	8.9

TABLE V.12—SUMMARY LCC AND PBP RESULTS FOR IMH–A–SMALL–B EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	3,184	2,539	8,420	10,959	136	1	76	22	3.4
2	3,009	2,655	8,293	10,948	72	21	47	32	4.8
3	2,901	2,695	8,214	10,909	77	21	0	79	4.7
4	2,901	2,695	8,214	10,909	77	21	0	79	4.7
5	2,640	3,331	8,048	11,379	(393)	95	0	5	11.9

TABLE V.13—SUMMARY LCC AND PBP RESULTS FOR IMH–A–LARGE–B EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	7,272	4,337	14,598	18,935	382	1	69	30	2.2
2	6,964	4,418	14,230	18,648	501	1	45	53	2.4
3	6,881	4,435	14,170	18,605	361	2	12	86	2.3
4	6,622	4,711	13,988	18,699	265	31	12	57	3.9
5	6,411	5,068	13,834	18,902	55	53	10	37	5.6

TABLE V.14—SUMMARY LCC AND PBP RESULTS FOR IMH–A–LARGE–B1 EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	6,617	4,172	13,943	18,115	439	0	66	34	1.2
2	6,251	4,269	13,506	17,775	580	0	38	62	1.5
3	6,192	4,275	13,464	17,738	407	0	3	97	1.5
4	5,885	4,602	13,247	17,850	294	35	3	63	3.4
5	5,636	5,025	13,066	18,091	45	61	0	39	5.4

TABLE V.15—SUMMARY LCC AND PBP RESULTS FOR IMH–A–LARGE–B2 EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	10,802	5,222	18,129	23,350	76	9	83	8	7.4
2	10,802	5,222	18,129	23,350	76	9	83	8	7.4
3	10,591	5,298	17,975	23,273	110	10	61	29	6.9
4	10,591	5,298	17,975	23,273	110	10	61	29	6.9
5	10,591	5,298	17,975	23,273	110	10	61	29	6.9

TABLE V.16—SUMMARY LCC AND PBP RESULTS FOR RCU–LARGE–B EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	10,908	6,423	14,588	21,012	748	0	56	44	1.1
2	10,908	6,423	14,588	21,012	748	0	56	44	1.1
3	10,908	6,423	14,588	21,012	748	0	56	44	1.1
4	10,362	6,813	14,213	21,026	418	23	22	55	3.3
5	10,066	7,207	14,000	21,206	144	55	2	42	5.0

TABLE V.17—SUMMARY LCC AND PBP RESULTS FOR RCU–LARGE–B1 EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	10,514	6,220	14,190	20,410	743	0	56	44	0.9
2	10,514	6,220	14,190	20,410	743	0	56	44	0.9
3	10,514	6,220	14,190	20,410	743	0	56	44	0.9
4	9,931	6,635	13,790	20,425	391	25	20	55	3.4
5	9,664	6,985	13,595	20,580	161	55	1	44	4.9

TABLE V.18—SUMMARY LCC AND PBP RESULTS FOR RCU–LARGE–B2 EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	16,807	9,465	20,540	30,005	820	1	56	43	3.0
2	16,807	9,465	20,540	30,005	820	1	56	43	3.0
3	16,807	9,465	20,540	30,005	820	1	56	43	3.0
4	16,807	9,465	20,540	30,005	820	1	56	43	3.0
5	16,077	10,516	20,046	30,562	(109)	57	20	23	7.0

TABLE V.19—SUMMARY LCC AND PBP RESULTS FOR SCU–W–LARGE–B EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	3,151	3,540	10,617	14,158	444	0	28	72	1.1
2	2,804	3,620	10,364	13,984	613	0	28	72	1.6
3	2,630	3,664	10,238	13,902	550	0	5	94	1.8
4	2,464	4,114	10,117	14,231	192	44	0	56	5.1
5	2,464	4,114	10,117	14,231	192	44	0	56	5.1

TABLE V.20—SUMMARY LCC AND PBP RESULTS FOR SCU–A–SMALL–B EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	1,962	2,799	7,193	9,992	110	0	48	52	2.2
2	1,747	2,845	7,051	9,896	161	1	20	79	2.4
3	1,639	2,918	6,843	9,761	281	1	12	87	2.6
4	1,532	3,000	6,778	9,778	230	16	0	84	3.5
5	1,473	3,416	6,737	10,153	(145)	77	0	23	8.9

TABLE V.21—SUMMARY LCC AND PBP RESULTS FOR SCU–A–LARGE–B EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	2,713	3,275	10,070	13,344	163	0	37	63	1.8
2	2,414	3,345	9,685	13,030	400	0	1	99	1.6
3	2,265	3,402	9,590	12,992	439	0	1	99	2.1
4	2,141	3,854	9,500	13,355	71	54	0	46	6.5
5	2,141	3,854	9,500	13,355	71	54	0	46	6.5

TABLE V.22—SUMMARY LCC AND PBP RESULTS FOR IMH–A–SMALL–C EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	3,872	6,674	8,869	15,543	245	0	69	31	1.5
2	3,658	6,709	8,723	15,432	292	0	58	42	1.6
3	3,445	6,745	8,572	15,317	313	0	39	61	1.7
4	3,445	6,745	8,572	15,317	313	0	39	61	1.7
5	3,201	7,264	8,552	15,816	(165)	68	14	18	8.8

* Values in parentheses are negative values.

TABLE V.23—SUMMARY LCC AND PBP RESULTS FOR IMH–A–LARGE–C EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	7,445	5,538	14,275	19,813	539	0	57	43	0.7
2	7,445	5,538	14,275	19,813	539	0	57	43	0.7
3	7,033	5,568	13,979	19,547	626	0	35	65	0.7
4	7,033	5,568	13,979	19,547	626	0	35	65	0.7
5	6,348	6,310	13,705	20,015	28	54	9	37	5.9

TABLE V.24—SUMMARY LCC AND PBP RESULTS FOR RCU–SMALL–C EQUIPMENT CLASS

TSL	Energy usage kWh/yr	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	6,966	5,690	8,588	14,278	498	0	72	28	0.7
2	6,580	5,758	8,319	14,078	448	0	44	55	1.2
3	6,195	5,808	8,046	13,854	505	0	11	89	1.2
4	6,195	5,808	8,046	13,854	505	0	11	89	1.2
5	5,688	6,523	7,878	14,402	(73)	64	6	31	5.8

* Values in parentheses are negative values.

TABLE V.25—SUMMARY LCC AND PBP RESULTS FOR SCU–A–SMALL–C EQUIPMENT CLASS

TSL	Energy usage *kWh/yr*	Life-cycle cost, all customers 2013$			Life-cycle cost savings				Payback period, median years
		Installed cost	Discounted operating cost	LCC	Affected customers' average savings 2013$	% of customers that experience			
						Net cost %	No impact %	Net benefit %	
1	3,077	3,622	8,175	11,797	224	0	56	44	0.8
2	2,907	3,646	8,059	11,705	278	0	47	53	1.1
3	2,738	3,685	7,948	11,633	290	1	32	67	1.5
4	2,738	3,685	7,948	11,633	290	1	32	67	1.5
5	2,515	4,224	7,950	12,174	(268)	86	0	14	11.4

* Values in parentheses are negative values.

b. Life-Cycle Cost Subgroup Analysis

As described in section IV.I, DOE estimated the impact of amended energy conservation standards for automatic commercial ice makers, at each TSL, on two customer subgroups—the foodservice sector and the lodging sector. For the automatic commercial ice makers, DOE has not distinguished between subsectors of the foodservice industry. In other words, DOE has been treating it as one sector as opposed to modeling limited or full service restaurants and other types of foodservice firms separately. Foodservice was chosen as one representative subgroup because of the large percentage of the industry represented by family-owned or locally owned restaurants. Likewise, lodging was chosen due to the large percentage of the industry represented by locally owned or franchisee-owned hotels. DOE carried out two LCC subgroup analyses, one each for restaurants and lodging, by using the LCC spreadsheet described in chapter 8 of the final rule TSD, but with certain modifications. This included fixing the input for business type to the identified subgroup, which ensured that the discount rates and electricity price rates associated with only that subgroup were selected in the Monte Carlo simulations (see chapter 8 of the TSD). Another major change from the LCC analysis was an added assumption that the subgroups do not have access to national capital markets, which results in higher discount rates for the subgroups. The higher discount rates lead the subgroups to place a lower value on future savings and a higher value on the upfront equipment purchase costs. The LCC subgroup analysis is described in chapter 11 of the TSD.

Table V.26 presents the comparison of mean LCC savings for the small business subgroup in foodservice sector with the national average values (LCC savings results from chapter 8 of the TSD). For TSLs 1–3, in most equipment classes, the LCC savings for the small business subgroup are only slightly different from the average, with some slightly higher and others slightly lower. Table V.27 presents the percentage change in LCC savings compared to national average values. DOE modeled all equipment classes in this analysis, although DOE believes it is likely that the very large equipment classes are not commonly used in foodservice establishments. For TSLs 1–3, the differences range from −7 percent for IMH–A–Large–B2 at TSLs 1 and 2, to +3 percent for the same class at TSL 3 and IMH–A–Small–B at TSL 2. For most equipment classes in Table V.27, the percentage change ranges from a decrease in LCC savings of less than 2 percent to an increase of 2 percent. In summary, the differences are minor at TSLs 1–3.

Table V.28 presents the comparison of median PBPs for the small business subgroup in the foodservice sector with national median values (median PBPs from chapter 8 of the TSD). The PBP values are the same as or shorter than the small business subgroup in all cases. This arises because the first-year operating cost savings—which are used for payback period—are higher, leading to a shorter payback. However, given their higher discount rates, these customers value future savings less, leading to lower LCC savings. First-year savings are higher because the foodservice electricity prices are higher than the average of all classes.

Table V.29 presents the comparison of mean LCC savings for the small business subgroup in the lodging sector (hotels and casinos) with the national average values (LCC savings results from chapter 8 of the TSD). Table V.30 presents the percentage difference between LCC savings of the lodging sector customer subgroup and national average values. For lodging sector small business, LCC savings are lower across the board. For TSLs 1–3, the lodging subgroup LCC savings range from 9 to 13 percent lower. The reason for this is that the energy price for lodging is slightly lower than the average of all commercial business types (97 percent of the average). This, combined with a higher discount rate, reduces the value of future operating and maintenance benefits as well as the present value of the benefits, thus resulting in lower LCC savings. For IMH–A–Small–B the difference exceeds 20 percent, which is likely due to the higher installation cost for this class in combination with the much higher than average discount rate. The IMH–A–Large–B2 class is also significantly lower, in percentage terms. DOE notes that the difference is relatively small in terms of dollars; however, because the national average savings are small, the difference is significant in percentage terms. The lodging subgroup savings for IMH–A–Large–B2 are 88 percent lower than the average at TSLs 1 and 2, and 37 percent lower at TSL 3—the level recommended for the standard.

Table V.31 presents the comparison of median PBPs for the small business subgroup in the lodging sector with national median values (median PBPs from chapter 8 of the TSD). The PBP values are slightly longer or the same for all equipment classes in the lodging small business subgroup at all TSLs. As noted above, the energy savings would be lower than a national average. Thus, the slightly lower median PBP appears to be a result of a narrower electricity saving results distribution that is close to but below the national average.

TABLE V.26—COMPARISON OF MEAN LCC SAVINGS FOR THE FOODSERVICE SECTOR SMALL BUSINESS SUBGROUP WITH THE NATIONAL AVERAGE VALUES

Equipment class	Category	Mean LCC savings 2013$ *				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	Small Business	174	174	212	212	(535)
	All Business Types	175	175	214	214	(534)
IMH–W–Med–B	Small Business	312	312	312	168	(60)
	All Business Types	308	308	308	165	(63)
IMH–W–Large–B	Small Business	NA	NA	NA	NA	(169)
	All Business Types	NA	NA	NA	NA	(172)
IMH–W–Large–B1	Small Business	NA	NA	NA	NA	(198)
	All Business Types	NA	NA	NA	NA	(200)
IMH–W–Large–B2	Small Business	NA	NA	NA	NA	(77)
	All Business Types	NA	NA	NA	NA	(80)
IMH–A–Small–B	Small Business	139	75	78	78	(390)
	All Business Types	136	72	77	77	(393)
IMH–A–Large–B	Small Business	387	498	359	264	54
	All Business Types	382	501	361	265	55
IMH–A–Large–B1	Small Business	444	575	404	292	43
	All Business Types	439	580	407	294	45
IMH–A–Large–B2	Small Business	81	81	114	114	114
	All Business Types	76	76	110	110	110
RCU–Large–B	Small Business	754	754	754	424	150
	All Business Types	748	748	748	418	144
RCU–Large–B1	Small Business	749	749	749	397	166
	All Business Types	743	743	743	391	161
RCU–Large–B2	Small Business	832	832	832	832	(99)
	All Business Types	820	820	820	820	(109)
SCU–W–Large–B	Small Business	431	601	541	184	184
	All Business Types	444	613	550	192	192
SCU–A–Small–B	Small Business	112	162	276	226	(148)
	All Business Types	110	161	281	230	(145)
SCU–A–Large–B	Small Business	164	392	432	65	65
	All Business Types	163	400	439	71	71
IMH–A–Small–C	Small Business	248	296	317	317	(155)
	All Business Types	245	292	313	313	(165)
IMH–A–Large–C	Small Business	544	544	630	630	44
	All Business Types	539	539	626	626	28
RCU–Small–C	Small Business	503	453	509	509	(57)
	All Business Types	498	448	505	505	(73)
SCU–A–Small–C	Small Business	225	281	293	293	(257)
	All Business Types	224	278	290	290	(268)

* Values in parenthesis are negative numbers.

TABLE V.27—PERCENTAGE CHANGE IN MEAN LCC SAVINGS FOR THE FOODSERVICE SECTOR SMALL BUSINESS SUBGROUP COMPARED TO NATIONAL AVERAGE VALUES *

Equipment class	TSL 1 (%)	TSL 2 (%)	TSL 3 (%)	TSL 4 (%)	TSL 5 (%)
IMH–W–Small–B	−1	−1	−1	−1	0
IMH–W–Med–B	1	1	1	2	5
IMH–W–Large–B	NA	NA	NA	NA	1
IMH–W–Large–B1	NA	NA	NA	NA	1
IMH–W–Large–B2	NA	NA	NA	NA	4
IMH–A–Small–B	2	3	2	2	1
IMH–A–Large–B	1	−1	−1	−1	−2
IMH–A–Large–B1	1	−1	−1	−1	−4
IMH–A–Large–B2	7	7	3	3	3
RCU–Large–B	1	1	1	1	4
RCU–Large–B1	1	1	1	1	3
RCU–Large–B2	1	1	1	1	9
SCU–W–Large–B	−3	−2	−2	−4	−4
SCU–A–Small–B	1	1	−2	−2	−2
SCU–A–Large–B	1	−2	−2	−9	−9
IMH–A–Small–C	1	1	1	1	6
IMH–A–Large–C	1	1	1	1	57
RCU–Small–C	1	1	1	1	22
SCU–A–Small–C	1	1	1	1	4

* Negative percentage values imply decrease in LCC savings, and positive percentage values imply increase in LCC savings.

TABLE V.28—COMPARISON OF MEDIAN PAYBACK PERIODS FOR THE FOODSERVICE SECTOR SMALL BUSINESS SUBGROUP WITH NATIONAL MEDIAN VALUES

Equipment class	Category	Median payback period years				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	Small Business	2.3	2.3	2.7	2.7	12.7
	All Business Types	2.5	2.5	2.7	2.7	13.4
IMH–W–Med–B	Small Business	2.0	2.0	2.0	4.8	7.2
	All Business Types	2.1	2.1	2.1	5.0	7.6
IMH–W–Large–B	Small Business	NA	NA	NA	NA	10.0
	All Business Types	NA	NA	NA	NA	10.6
IMH–W–Large–B1	Small Business	NA	NA	NA	NA	10.5
	All Business Types	NA	NA	NA	NA	11.1
IMH–W–Large–B2	Small Business	NA	NA	NA	NA	8.4
	All Business Types	NA	NA	NA	NA	8.9
IMH–A–Small–B	Small Business	3.2	4.5	4.4	4.4	11.4
	All Business Types	3.4	4.8	4.7	4.7	11.9
IMH–A–Large–B	Small Business	2.1	2.3	2.2	3.7	5.3
	All Business Types	2.2	2.4	2.3	3.9	5.6
IMH–A–Large–B1	Small Business	1.1	1.4	1.4	3.2	5.1
	All Business Types	1.2	1.5	1.5	3.4	5.4
IMH–A–Large–B2	Small Business	7.0	7.0	6.5	6.5	6.5
	All Business Types	7.4	7.4	6.9	6.9	6.9
RCU–Large–B	Small Business	1.0	1.0	1.0	3.2	4.8
	All Business Types	1.1	1.1	1.1	3.3	5.0
RCU–Large–B1	Small Business	0.9	0.9	0.9	3.2	4.7
	All Business Types	0.9	0.9	0.9	3.4	4.9
RCU–Large–B2	Small Business	2.8	2.8	2.8	2.8	6.7
	All Business Types	3.0	3.0	3.0	3.0	7.0
SCU–W–Large–B	Small Business	1.1	1.5	1.7	4.9	4.9
	All Business Types	1.1	1.6	1.8	5.1	5.1
SCU–A–Small–B	Small Business	2.0	2.2	2.5	3.3	8.4
	All Business Types	2.2	2.4	2.6	3.5	8.9
SCU–A–Large–B	Small Business	1.7	1.6	2.0	6.2	6.2
	All Business Types	1.8	1.6	2.1	6.5	6.5
IMH–A–Small–C	Small Business	1.4	1.5	1.6	1.6	8.3
	All Business Types	1.5	1.6	1.7	1.7	8.8
IMH–A–Large–C	Small Business	0.6	0.6	0.7	0.7	5.5
	All Business Types	0.7	0.7	0.7	0.7	5.9
RCU–Small–C	Small Business	0.7	1.1	1.2	1.2	5.5
	All Business Types	0.7	1.2	1.2	1.2	5.8
SCU–A–Small–C	Small Business	0.7	1.0	1.4	1.4	10.6
	All Business Types	0.8	1.1	1.5	1.5	11.4

TABLE V.29—COMPARISON OF LCC SAVINGS FOR THE LODGING SECTOR SMALL BUSINESS SUBGROUP WITH THE NATIONAL AVERAGE VALUES

Equipment class	Category	Mean LCC savings 2013$ *				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	Small Business	155	155	189	189	(561)
	All Business Types	175	175	214	214	(534)
IMH–W–Med–B	Small Business	275	275	275	123	(109)
	All Business Types	308	308	308	165	(63)
IMH–W–Large–B	Small Business	NA	NA	NA	NA	(221)
	All Business Types	NA	NA	NA	NA	(172)
IMH–W–Large–B1	Small Business	NA	NA	NA	NA	(244)
	All Business Types	NA	NA	NA	NA	(200)
IMH–W–Large–B2	Small Business	NA	NA	NA	NA	(148)
	All Business Types	NA	NA	NA	NA	(80)
IMH–A–Small–B	Small Business	118	54	61	61	(423)
	All Business Types	136	72	77	77	(393)
IMH–A–Large–B	Small Business	337	443	321	211	(10)
	All Business Types	382	501	361	265	55
IMH–A–Large–B1	Small Business	398	523	368	237	(25)
	All Business Types	439	580	407	294	45
IMH–A–Large–B2	Small Business	9	9	70	70	70
	All Business Types	76	76	110	110	110
RCU–Large–B	Small Business	679	679	679	347	71
	All Business Types	748	748	748	418	144

TABLE V.29—COMPARISON OF LCC SAVINGS FOR THE LODGING SECTOR SMALL BUSINESS SUBGROUP WITH THE NATIONAL AVERAGE VALUES—Continued

Equipment class	Category	Mean LCC savings 2013$ *				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
RCU–Large–B1	Small Business	676	676	676	322	90
	All Business Types	743	743	743	391	161
RCU–Large–B2	Small Business	718	718	718	718	(205)
	All Business Types	820	820	820	820	(109)
SCU–W–Large–B	Small Business	404	553	494	129	129
	All Business Types	444	613	550	192	192
SCU–A–Small–B	Small Business	98	142	248	196	(182)
	All Business Types	110	161	281	230	(145)
SCU–A–Large–B	Small Business	146	361	392	18	18
	All Business Types	163	400	439	71	71
IMH–A–Small–C	Small Business	222	263	282	282	(189)
	All Business Types	245	292	313	313	(165)
IMH–A–Large–C	Small Business	493	493	571	571	(33)
	All Business Types	539	539	626	626	28
RCU–Small–C	Small Business	456	406	456	456	(133)
	All Business Types	498	448	505	505	(73)
SCU–A–Small–C	Small Business	204	253	261	261	(288)
	All Business Types	224	278	290	290	(268)

* Values in parentheses are negative numbers.

TABLE V.30—PERCENTAGE CHANGE IN MEAN LCC SAVINGS FOR THE LODGING SECTOR SMALL BUSINESS SUBGROUP COMPARED TO NATIONAL AVERAGE VALUES *

Equipment class	TSL1 (%)	TSL2 (%)	TSL3 (%)	TSL4 (%)	TSL5 (%)
IMH–W–Small–B	–11	–11	–12	–12	–5
IMH–W–Med–B	–11	–11	–11	–26	–72
IMH–W–Large–B	NA	NA	NA	NA	–29
IMH–W–Large–B1	NA	NA	NA	NA	–22
IMH–W–Large–B2	NA	NA	NA	NA	–84
IMH–A–Small–B	–13	–25	–21	–21	–7
IMH–A–Large–B	–12	–12	–11	–20	–118
IMH–A–Large–B1	–9	–10	–10	–19	–155
IMH–A–Large–B2	–88	–88	–37	–37	–37
RCU–Large–B	–9	–9	–9	–17	–50
RCU–Large–B1	–9	–9	–9	–18	–44
RCU–Large–B2	–12	–12	–12	–12	–88
SCU–W–Large–B	–9	–10	–10	–33	–33
SCU–A–Small–B	–11	–11	–12	–15	–26
SCU–A–Large–B	–10	–10	–11	–75	–75
IMH–A–Small–C	–9	–10	–10	–10	–15
IMH–A–Large–C	–9	–9	–9	–9	–215
RCU–Small–C	–8	–9	–10	–10	–83
SCU–A–Small–C	–9	–9	–10	–10	–7

* Negative percentage values imply decrease in LCC savings, and positive percentage values imply increase in LCC savings.

TABLE V.31—COMPARISON OF MEDIAN PAYBACK PERIODS FOR THE LODGING SECTOR SMALL BUSINESS SUBGROUP WITH THE NATIONAL MEDIAN VALUES

Equipment class	Category	Median payback period years				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	Small Business	2.5	2.5	2.8	2.8	13.5
	All Business Types	2.5	2.5	2.7	2.7	13.4
IMH–W–Med–B	Small Business	2.1	2.1	2.1	5.1	7.7
	All Business Types	2.1	2.1	2.1	5.0	7.6
IMH–W–Large–B	Small Business	NA	NA	NA	NA	10.7
	All Business Types	NA	NA	NA	NA	10.6
IMH–W–Large–B1	Small Business	NA	NA	NA	NA	11.2
	All Business Types	NA	NA	NA	NA	11.1
IMH–W–Large–B2	Small Business	NA	NA	NA	NA	9.0
	All Business Types	NA	NA	NA	NA	8.9
IMH–A–Small–B	Small Business	3.4	4.8	4.7	4.7	12.3

TABLE V.31—COMPARISON OF MEDIAN PAYBACK PERIODS FOR THE LODGING SECTOR SMALL BUSINESS SUBGROUP WITH THE NATIONAL MEDIAN VALUES—Continued

Equipment class	Category	Median payback period years				
		TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
	All Business Types	3.4	4.8	4.7	4.7	11.9
IMH–A–Large–B	Small Business	2.2	2.4	2.3	3.9	5.7
	All Business Types	2.2	2.4	2.3	3.9	5.6
IMH–A–Large–B1	Small Business	1.2	1.5	1.5	3.4	5.4
	All Business Types	1.2	1.5	1.5	3.4	5.4
IMH–A–Large–B2	Small Business	7.5	7.5	6.9	6.9	6.9
	All Business Types	7.4	7.4	6.9	6.9	6.9
RCU–Large–B	Small Business	1.1	1.1	1.1	3.4	5.1
	All Business Types	1.1	1.1	1.1	3.3	5.0
RCU–Large–B1	Small Business	0.9	0.9	0.9	3.5	5.0
	All Business Types	0.9	0.9	0.9	3.4	4.9
RCU–Large–B2	Small Business	3.0	3.0	3.0	3.0	7.1
	All Business Types	3.0	3.0	3.0	3.0	7.0
SCU–W–Large–B	Small Business	1.1	1.6	1.8	5.2	5.2
	All Business Types	1.1	1.6	1.8	5.1	5.1
SCU–A–Small–B	Small Business	2.2	2.4	2.6	3.5	8.9
	All Business Types	2.2	2.4	2.6	3.5	8.9
SCU–A–Large–B	Small Business	1.8	1.6	2.1	6.6	6.6
	All Business Types	1.8	1.6	2.1	6.5	6.5
IMH–A–Small–C	Small Business	1.5	1.6	1.7	1.7	9.0
	All Business Types	1.5	1.6	1.7	1.7	8.8
IMH–A–Large–C	Small Business	0.7	0.7	0.7	0.7	6.0
	All Business Types	0.7	0.7	0.7	0.7	5.9
RCU–Small–C	Small Business	0.7	1.2	1.2	1.2	5.9
	All Business Types	0.7	1.2	1.2	1.2	5.8
SCU–A–Small–C	Small Business	0.8	1.1	1.5	1.5	11.7
	All Business Types	0.8	1.1	1.5	1.5	11.4

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of amended energy conservation standards on manufacturers of automatic commercial ice makers. The following section describes the expected impacts on manufacturers at each TSL. Chapter 12 of the final rule TSD explains the analysis in further detail.

a. Industry Cash Flow Analysis Results

The following tables depict the financial impacts of the new and amended energy conservation standards on manufacturers of automatic commercial ice makers. The financial impacts are represented by changes in the industry net present value (INPV.) In addition, the tables depict the conversion costs that DOE estimates manufacturers would incur for all equipment classes at each TSL. The impact of the energy efficiency standards on industry cash flow were analyzed under two markup scenarios that correspond to the range of anticipated market responses to amended energy conservation standards.

The first markup scenario assessed the lower bound of potential impacts (higher profitability). DOE modeled a preservation of gross margin percentage markup scenario, in which a uniform ''gross margin percentage'' markup is applied across all efficiency levels. In this scenario, DOE assumed that a manufacturer's absolute dollar markup would increase as production costs increase in the amended energy conservation standards case. Manufacturers have indicated that it is optimistic to assume that they would be able to maintain the same gross margin percentage markup as their production costs increase in response to a new or amended energy conservation standard, particularly at higher TSLs.

The second markup scenario assessed the upper bound of potential impacts (lower profitability). DOE modeled the preservation of the EBIT markup scenario, which assumes that manufacturers would not be able to preserve the same overall gross margin, but instead would lower their markup for marginally compliant products to maintain a cost-competitive product offering and keep the same overall level of EBIT as in the base case. Table V.32 and Table V.33 show the range of potential INPV impacts for manufacturers of automatic commercial ice makers. The first table reflects the lower bound of impacts (higher profitability), and the second represents the upper bound of impacts (lower profitability).

Each scenario results in a unique set of cash flows and corresponding industry values at each TSL. In the following discussion, the INPV results refer to the sum of discounted cash flows through 2047, the difference in INPV between the base case and each standards case, and the total industry conversion costs required for each standards case.

TABLE V.32—MANUFACTURER IMPACT ANALYSIS FOR AUTOMATIC COMMERCIAL ICE MAKERS—PRESERVATION OF GROSS MARGIN PERCENTAGE MARKUP SCENARIO *

	Units	Base case	Trial standard level				
			1	2	3	4	5
INPV	*2013$ millions*	121.6	115.0	112.3	109.5	109.3	109.8
Change in INPV	*2013$ millions*		(6.6)	(9.3)	(12.1)	(12.3)	(11.8)
	%		(5.4)	(7.7)	(10.0)	(10.1)	(9.7)
Product Conversion Costs	*2013$ millions*		12.3	18.1	23.8	28.1	40.3
Capital Conversion Costs	*2013$ millions*		0.2	0.6	1.3	2.0	3.9
Total Conversion Costs	*2013$ millions*		12.6	18.7	25.1	30.0	44.1

* Values in parentheses are negative numbers.

TABLE V.33—MANUFACTURER IMPACT ANALYSIS FOR AUTOMATIC COMMERCIAL ICE MAKERS—PRESERVATION OF EBIT MARKUP SCENARIO *

	Units	Base case	Trial standard level				
			1	2	3	4	5
INPV	*2013$ millions*	121.6	114.1	110.4	106.5	103.0	91.6
Change in INPV	*2013$ millions*		(7.5)	(11.2)	(15.1)	(18.6)	(30.0)
	%		(6.2)	(9.2)	(12.5)	(15.3)	(24.6)
Product Conversion Costs	*2013$ millions*		12.3	18.1	23.8	28.1	40.3
Capital Conversion Costs	*2013$ millions*		0.2	0.6	1.3	2.0	3.9
Total Conversion Costs	*2013$ millions*		12.6	18.7	25.1	30.0	44.1

* Values in parentheses are negative numbers.

Beyond impacts on INPV, DOE includes a comparison of free cash flow between the base case and the standards case at each TSL in the year before amended standards take effect to provide perspective on the short-run cash flow impacts in the discussion of the following results.

At TSL 1, DOE estimates impacts on INPV for manufacturers of automatic commercial ice makers to range from −$7.5 million to −$6.6 million, or a change in INPV of −6.2 percent to −5.4 percent. At this TSL, industry free cash flow is estimated to decrease to $6.7 million, or a drop of 35.7 percent, compared to the base-case value of $10.4 million in the year before the compliance date (2017).

DOE estimates that approximately 27 percent of all batch commercial ice makers and 29 percent of all continuous commercial ice makers on the market will require redesign to meet standards at TSL 1. At this TSL DOE expects capital and product conversion costs of $0.2 million and $12.3 million, respectively. Combined, the total conversion cost is $12.5 million.

At TSL 2, DOE estimates impacts on INPV for manufacturers of automatic commercial ice makers to range from −$11.2 million to −$9.3 million, or a change in INPV of −9.2 percent to −7.7 percent. At this TSL, industry free cash flow is estimated to decrease to $4.8 million, or a drop of 53.5 percent, compared to the base-case value of $10.4 million in the year before the compliance date (2017).

DOE estimates that approximately 39 percent of all batch commercial ice makers and 41 percent of all continuous commercial ice makers on the market will require redesign to meet standards at TSL 2. At this TSL, DOE expects industry capital and product conversion costs of $0.6 million and of $18.1 million, respectively. Combined, the total conversion cost is $18.7 million, 48 percent higher than those incurred by industry at TSL 1.

At TSL 3, DOE estimates impacts on INPV for manufacturers of automatic commercial ice makers to range from −$15.1 million to −$12.1 million, or a change in INPV of −12.5 percent to −10.0 percent. At this TSL, industry free cash flow is estimated to decrease to $2.9 million, or a drop of 72.4 percent, compared to the base-case value of $10.4 million in the year before the compliance date (2017).

DOE estimates that approximately 51 percent of all batch commercial ice makers and 55 percent of all continuous commercial ice makers on the market will require redesign to meet standards at TSL 3. At this TSL, DOE expects industry capital and product conversion costs of $23.8 million and of $1.3 million, respectively. Combined, the total conversion cost is $25.1 million, 34 percent higher than those incurred by industry at TSL 2.

At TSL 4, DOE estimates impacts on INPV for manufacturers of automatic commercial ice makers to range from −$18.6 million to −$12.3 million, or a change in INPV of −15.3 percent to −10.1 percent. At this TSL, industry free cash flow is estimated to decrease to $0.9 million, or a drop of 91.1 percent, compared to the base-case value of $10.4 million in the year before the compliance date (2017).

DOE estimates that approximately 66 percent of all batch commercial ice makers and 55 percent of all continuous commercial ice makers on the market will require redesign to meet standards at TSL 4. Additionally, for four equipment classes, there is only one manufacturer with products that currently meet the standard. At this TSL, DOE expects industry capital and product conversion costs of $2.0 million and of $28.1 million, respectively. Combined, the total conversion cost is $30.0 million, 20 percent higher than those incurred by industry at TSL 3.

At TSL 5, DOE estimates impacts on INPV for manufacturers of automatic commercial ice makers to range from −$30.0 million to −$11.8 million, or a change in INPV of −24.6 percent to −9.7 percent. At this TSL, industry free cash flow is estimated to decrease to −$5.3 million, or a drop of 151.1 percent, compared to the base-case

value of $10.4 million in the year before the compliance date (2017).

DOE estimates that approximately 84 percent of all batch commercial ice makers and 78 percent of all continuous commercial ice makers on the market will require redesign to meet standards at TSL 5. Additionally, for five equipment classes, there is only one manufacturer with products that currently meet the standard. At this TSL, DOE expects industry capital and product conversion costs of $3.9 million and of $40.3 million, respectively. Combined, the total conversion cost is $44.1 million, 47 percent higher than those incurred by industry at TSL 4.

b. Impacts on Direct Employment

DOE used the GRIM to estimate the domestic labor expenditures and number of domestic production workers in the base case and at each TSL from 2015 through 2047. DOE used statistical data from the most recent U.S Census Bureau's 2011 Annual Survey of Manufactures (ASM), 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 the manufacture of a product are a function of the labor intensity of the product, the sales volume, and an assumption that wages in real terms remain constant.

In the GRIM, DOE used the labor content of each product and the manufacturing production costs from the engineering analysis to estimate the annual labor expenditures in the automatic commercial ice maker industry. 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 multiplied by the labor rate found in the U.S. Census Bureau's ASM).

The estimates of production workers in this section cover workers, including line-supervisors, who are directly involved in fabricating and assembling automatic commercial ice makers within an original equipment manufacturer (OEM) facility. Workers performing services that are closely associated with production operations, such as material handling with a forklift, are also included as production labor.

The employment impacts shown in Table V.34 represent the potential production employment changes that could result following the compliance date of new and amended energy conservation standards. The upper end of the employment results in Table V.34 estimates the maximum increase in the number of production workers after implementation of new or amended energy conservation standards and it assumes that manufacturers continue to produce the same scope of covered products in the U.S. The lower end of employment results in Table V.34 represent the maximum decrease to the total number of U.S. production workers in the industry due to manufacturers moving production outside of the U.S. While the results present a range of employment impacts following the compliance date of the new and amended energy conservation standards, the following discussion also includes a qualitative discussion of the likelihood of negative employment impacts at the various TSLs. Finally, the employment impacts shown are independent of the employment impacts from the broader U.S. economy, which are documented in chapter 13 of the final rule TSD.

DOE estimates that in the absence of amended energy conservation standards, there would be 389 domestic production workers involved in manufacturing automatic commercial ice makers in 2018. Using 2011 Census Bureau data and interviews with manufacturers, DOE estimates that approximately 84 percent of automatic commercial ice makers sold in the United States are manufactured domestically. Table V.34 shows the range of the impacts of potential amended energy conservation standards on U.S. production workers in the automatic commercial ice maker industry.

TABLE V.34—POTENTIAL CHANGES IN THE TOTAL NUMBER OF DOMESTIC AUTOMATIC COMMERCIAL ICE MAKER PRODUCTION WORKERS IN 2018

	Base case	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Total Number of Domestic Production Workers in 2018 (without changes in production locations)	389	391	402	414	418	444
Potential Changes in Domestic Production Workers in 2018*		(389) to 2	(389) to 13	(389) to 25	(389) to 29	(389) to 55

*DOE presents a range of potential employment impacts. Values in parentheses are negative numbers.

At all TSLs, most of the design options analyzed by DOE do not greatly alter the labor content of the final product. For example, the use of higher efficiency compressors or fan motors involve one-time changes to the final product but do not significantly change the amount of production hours required for the final assembly. One manufacturer suggested that their domestic production employment levels would only change if market demand contracted following higher overall prices. However, more than one manufacturer suggested that where they already have overseas manufacturing capabilities, they would consider moving additional manufacturing to those facilities if they felt the need to offset a significant rise in materials costs. Provided the changes in materials costs do not support the relocation of manufacturing facilities, DOE would expect only modest changes to domestic manufacturing employment balancing additional requirements for assembly labor with the effects of price elasticity.

c. Impacts on Manufacturing Capacity

According to the majority of automatic commercial ice maker manufacturers interviewed, new or amended energy conservation standards that require modest changes to product efficiency will not significantly affect manufacturers' production capacities. Any redesign of automatic commercial ice makers would not change the fundamental assembly of the equipment, but manufacturers do anticipate some potential for additional lead time immediately following standards associated with changes in sourcing of higher efficiency components, which may be supply constrained.

One manufacturer cited the possibility of a 3- to 6-month shutdown in the event that amended standards were set high enough to require retooling of their entire product line. Most of the design options that were evaluated are already available on the market as product options. Thus, DOE

believes that, short of widespread retooling, manufacturers will be able to maintain manufacturing capacity levels and continue to meet market demand under amended energy conservation standards.

d. Impacts on Subgroups of Manufacturers

Small business, low-volume, niche equipment manufacturers, and manufacturers exhibiting a cost structure substantially different from the industry average could be affected disproportionately. As discussed in section IV.J, using average cost assumptions to develop an industry cash flow estimate is inadequate to assess differential impacts among manufacturer subgroups.

For automatic commercial ice makers, DOE identified and evaluated the impact of amended energy conservation standards on one subgroup: small manufacturers. The SBA defines a ''small business'' as having fewer than 750 employees for NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing,'' which includes ice-making machinery manufacturing. DOE identified seven manufacturers in the automatic commercial ice makers industry that meet this definition.

For a discussion of the impacts on the small manufacturer subgroup, see the regulatory flexibility analysis in section VI.B of this preamble and chapter 12 of the final rule TSD.

e. Cumulative Regulatory Burden

While any one regulation may not impose a significant burden on manufacturers, the combined effects of recent or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. In addition to energy conservation standards, other regulations can significantly affect manufacturers' financial operations. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to equipment efficiency.

For the cumulative regulatory burden analysis, DOE looks at other regulations that could affect ACIM manufacturers that will take effect approximately 3 years before or after the 2018 compliance date of amended energy conservation standards for these products. In written comments, manufacturers cited Federal regulations on equipment other than automatic commercial ice makers that contribute to their cumulative regulatory burden. The compliance years and expected industry conversion costs of relevant amended energy conservation standards are indicated in Table V.35.

TABLE V.35—COMPLIANCE DATES AND EXPECTED CONVERSION EXPENSES OF FEDERAL ENERGY CONSERVATION STANDARDS AFFECTING AUTOMATIC COMMERCIAL ICE MAKER MANUFACTURERS

Federal energy conservation standards	Approximate compliance date	Estimated total industry conversion expense
Commercial refrigeration equipment, 79 FR 17725 (March 28, 2014)	2017	$184.0M, (2012$)
Walk-in Coolers and Freezers, 79 FR 32049 (June 3, 2014)	2017	$33.6.0M, (2012$)
Miscellaneous Refrigeration Equipment *	TBD	TBD

* The final rule for this energy conservation standard has not been published. The compliance date and analysis of conversion costs have not been finalized at this time.

DOE discusses these and other requirements and includes the full details of the cumulative regulatory burden analysis in chapter 12 of the final rule TSD.

3. National Impact Analysis

a. Amount and Significance of Energy Savings

DOE estimated the NES by calculating the difference in annual energy consumption for the base-case scenario and standards-case scenario at each TSL for each equipment class and summing up the annual energy savings for the automatic commercial ice maker equipment purchased during the 30-year 2018 through 2047 analysis period. Energy impacts include the 30-year period, plus the life of equipment purchased in the last year of the analysis, or roughly 2018 through 2057. The energy consumption calculated in the NIA is full-fuel-cycle (FFC) energy, which quantifies savings beginning at the source of energy production. DOE also reports primary or source energy that takes into account losses in the generation and transmission of electricity. FFC and primary energy are discussed in section IV.H.3.

Table V.36 presents the source NES for all equipment classes at each TSL and the sum total of NES for each TSL.

Table V.37 presents the energy savings at each TSL for each equipment class in the form of percentage of the cumulative energy use of the equipment stock in the base-case scenario.

TABLE V.36—CUMULATIVE NATIONAL ENERGY SAVINGS AT SOURCE FOR EQUIPMENT PURCHASED IN 2018–2047

[Quads]

Equipment class	Standard level * **				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	0.002	0.002	0.004	0.004	0.009
IMH–W–Med–B	0.005	0.005	0.005	0.008	0.010
IMH–W–Large–B †	0.000	0.000	0.000	0.000	0.002
IMH–W–Large–B1	0.000	0.000	0.000	0.000	0.001
IMH–W–Large–B2	0.000	0.000	0.000	0.000	0.001
IMH–A–Small–B	0.011	0.023	0.037	0.037	0.071
IMH–A–Large–B †	0.019	0.034	0.039	0.058	0.075

TABLE V.36—CUMULATIVE NATIONAL ENERGY SAVINGS AT SOURCE FOR EQUIPMENT PURCHASED IN 2018–2047—Continued

[Quads]

Equipment class	Standard level * **				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–A–Large–B1	0.016	0.031	0.035	0.055	0.071
IMH–A–Large–B2	0.002	0.002	0.003	0.003	0.003
RCU–Large–B †	0.015	0.015	0.015	0.029	0.037
RCU–Large–B1	0.014	0.014	0.014	0.027	0.035
RCU–Large–B2	0.001	0.001	0.001	0.001	0.002
SCU–W–Large–B	0.000	0.001	0.001	0.001	0.001
SCU–A–Small–B	0.007	0.018	0.024	0.032	0.036
SCU–A–Large–B	0.006	0.014	0.019	0.023	0.023
IMH–A–Small–C	0.002	0.004	0.006	0.006	0.009
IMH–A–Large–C	0.002	0.002	0.003	0.003	0.006
RCU–Small–C	0.001	0.002	0.003	0.003	0.005
SCU–A–Small–C	0.006	0.010	0.015	0.015	0.023
Total	0.077	0.130	0.171	0.219	0.307

* A value equal to 0.000 means the NES rounds to less than 0.001 quads.
** Numbers may not add to totals, due to rounding.
† IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B results are the sum of the results for the two typical units denoted by B1 and B2.

TABLE V.37—CUMULATIVE SOURCE ENERGY SAVINGS BY TSL AS A PERCENTAGE OF CUMULATIVE BASELINE ENERGY USAGE OF AUTOMATIC COMMERCIAL ICE MAKER EQUIPMENT PURCHASED IN 2018–2047

Equipment class	Base case energy usage (quads)	TSL Savings as percent of baseline usage				
		TSL 1 (%)	TSL 2 (%)	TSL 3 (%)	TSL 4 (%)	TSL 5 (%)
IMH–W–Small–B	0.064	4	4	6	6	15
IMH–W–Med–B	0.089	5	5	5	9	12
IMH–W–Large–B *	0.028	0	0	0	0	6
IMH–W–Large–B1	0.018	0	0	0	0	7
IMH–W–Large–B2	0.010	0	0	0	0	6
IMH–A–Small–B	0.467	2	5	8	8	15
IMH–A–Large–B *	0.644	3	5	6	9	12
IMH–A–Large–B1	0.495	3	6	7	11	14
IMH–A–Large–B2	0.149	2	2	2	2	2
RCU–Large–B *	0.368	4	4	4	8	10
RCU–Large–B1	0.343	4	4	4	8	10
RCU–Large–B2	0.026	4	4	4	4	7
SCU–W–Large–B	0.004	7	14	18	23	23
SCU–A–Small–B	0.150	5	12	16	21	24
SCU–A–Large–B	0.102	6	14	19	23	23
IMH–A–Small–C	0.071	3	5	8	8	12
IMH–A–Large–C	0.044	4	4	7	7	14
RCU–Small–C	0.031	3	6	10	10	16
SCU–A–Small–C	0.145	4	7	10	10	16
Total	2.206	3	6	8	10	14

* IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B results are the sum of the results for the 2 typical units denoted by B1 and B2.

Table V.38 presents energy savings at each TSL for each equipment class with the FFC adjustment. The NES increases from 0.081 quads at TSL 1 to 0.321 quads at TSL 5.

TABLE V.38—CUMULATIVE NATIONAL ENERGY SAVINGS INCLUDING FULL-FUEL-CYCLE FOR EQUIPMENT PURCHASED IN 2018–2047

[Quads]

Equipment class	Standard level * **				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	0.002	0.002	0.004	0.004	0.010
IMH–W–Med–B	0.005	0.005	0.005	0.008	0.011
IMH–W–Large–B †	0.000	0.000	0.000	0.000	0.002

TABLE V.38—CUMULATIVE NATIONAL ENERGY SAVINGS INCLUDING FULL-FUEL-CYCLE FOR EQUIPMENT PURCHASED IN 2018–2047—Continued

[Quads]

Equipment class	Standard level * **				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Large–B1	0.000	0.000	0.000	0.000	0.001
IMH–W–Large–B2	0.000	0.000	0.000	0.000	0.001
IMH–A–Small–B	0.011	0.024	0.039	0.039	0.075
IMH–A–Large–B †	0.020	0.035	0.040	0.061	0.078
IMH–A–Large–B1	0.017	0.033	0.037	0.057	0.075
IMH–A–Large–B2	0.003	0.003	0.004	0.004	0.004
RCU–Large–B †	0.016	0.016	0.016	0.030	0.038
RCU–Large–B1	0.015	0.015	0.015	0.029	0.037
RCU–Large–B2	0.001	0.001	0.001	0.001	0.002
SCU–W–Large–B	0.000	0.001	0.001	0.001	0.001
SCU–A–Small–B	0.008	0.019	0.026	0.033	0.037
SCU–A–Large–B	0.006	0.015	0.020	0.024	0.024
IMH–A–Small–C	0.002	0.004	0.006	0.006	0.009
IMH–A–Large–C	0.002	0.002	0.003	0.003	0.007
RCU–Small–C	0.001	0.002	0.003	0.003	0.005
SCU–A–Small–C	0.007	0.011	0.016	0.016	0.024
Total	0.081	0.136	0.179	0.229	0.321

* A value equal to 0.000 means the NES rounds to less than 0.001 quads
** Numbers may not add to totals due to rounding.
† IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B results are the sum of the results for the 2 typical units denoted by B1 and B2.

Circular A–4 requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using 9, rather than 30, years of product shipments. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[73] The review timeframe established in EPCA generally is not synchronized with the product lifetime, product manufacturing cycles or other factors specific to automatic commercial ice makers. 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 analysis period are presented in Table V.39 . The impacts are counted over the lifetime of equipment purchased in 2018 through 2026.

TABLE V.39—NATIONAL FULL-FUEL-CYCLE ENERGY SAVINGS FOR 9-YEAR ANALYSIS PERIOD FOR EQUIPMENT PURCHASED IN 2018–2026

[Quads]

Equipment class	Standard level * **				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	0.001	0.001	0.001	0.001	0.003
IMH–W–Med–B	0.001	0.001	0.001	0.002	0.003
IMH–W–Large–B †	0.000	0.000	0.000	0.000	0.001
IMH–W–Large–B1	0.000	0.000	0.000	0.000	0.000
IMH–W–Large–B2	0.000	0.000	0.000	0.000	0.000
IMH–A–Small–B	0.003	0.007	0.012	0.012	0.022
IMH–A–Large–B †	0.006	0.011	0.012	0.018	0.023
IMH–A–Large–B1	0.005	0.010	0.011	0.017	0.022
IMH–A–Large–B2	0.001	0.001	0.001	0.001	0.001
RCU–Large–B †	0.005	0.005	0.005	0.009	0.012
RCU–Large–B1	0.005	0.005	0.005	0.009	0.011
RCU–Large–B2	0.000	0.000	0.000	0.000	0.001
SCU–W–Large–B	0.000	0.000	0.000	0.000	0.000
SCU–A–Small–B	0.002	0.006	0.008	0.010	0.011

[73] For automatic commercial ice makers, DOE is required to review standards at least every five years after the effective date of any amended standards. (42 U.S.C. 6313(d)(3)(B)) If new standards are promulgated, EPCA requires DOE to provide manufacturers a minimum of 3 and a maximum of 5 years to comply with the standards. (42 U.S.C. 6313(d)(3)(C)) In addition, for certain other types of commercial equipment that are not specified in 42 U.S.C. 6311(1)(B)–(G), EPCA requires DOE to review its standards at least once every 6 years (42 U.S.C. 6295(m)(1) and 6316(a)), and either a 3-year or a 5-year period after any new standard is promulgated before compliance is required. (42 U.S.C. 6295(m)(4) and 6316(a)) As a result, DOE's standards for automatic commercial ice makers can be expected to be in effect for 8 to 10 years between compliance dates, and its standards governing certain other commercial equipment, the period is 9 to 11 years. A 9-year analysis was selected as representative of the time between standard revisions.

TABLE V.39—NATIONAL FULL-FUEL-CYCLE ENERGY SAVINGS FOR 9-YEAR ANALYSIS PERIOD FOR EQUIPMENT PURCHASED IN 2018–2026—Continued

[Quads]

Equipment class	Standard level * **				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
SCU–A–Large–B	0.002	0.004	0.006	0.007	0.007
IMH–A–Small–C	0.001	0.001	0.002	0.002	0.003
IMH–A–Large–C	0.001	0.001	0.001	0.001	0.002
RCU–Small–C	0.000	0.001	0.001	0.001	0.002
SCU–A–Small–C	0.002	0.003	0.005	0.005	0.007
Total	0.024	0.041	0.054	0.069	0.097

* A value equal to 0.000 means the NES rounds to less than 0.001 quads.
** Numbers may not add to totals due to rounding.
† IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B results are the sum of the results for the 2 typical units denoted by B1 and B2.

b. Net Present Value of Customer Costs and Benefits

DOE estimated the cumulative NPV to the Nation of the total savings for the customers that would result from potential standards at each TSL. In accordance with OMB guidelines on regulatory analysis (OMB Circular A–4, section E, September 17, 2003), DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. The 7-percent rate is an estimate of the average before-tax rate of return on private capital in the U.S. economy, and reflects the returns on real estate and small business capital, including corporate capital. DOE used this discount rate to approximate the opportunity cost of capital in the private sector, because recent OMB analysis has found the average rate of return on capital to be near this rate. In addition, DOE used the 3-percent rate to capture the potential effects of amended standards on private consumption. This rate represents the rate at which society discounts future consumption flows to their present value. It can be approximated by the real rate of return on long-term government debt (*i.e.,* yield on Treasury notes minus annual rate of change in the CPI), which has averaged about 3 percent on a pre-tax basis for the last 30 years.

Table V.40 and Table V.41 show the customer NPV results for each of the TSLs DOE considered for automatic commercial ice makers at both 7-percent and 3-percent discount rates, respectively. In each case, the impacts cover the expected lifetime of equipment purchased from 2018 through 2047. Detailed NPV results are presented in chapter 10 of the final rule TSD.

The NPV results at a 7-percent discount rate for TSL 5 were negative for 9 classes, and also for one of the typical size units of a large batch equipment class for which the class total was positive. In all cases the TSL 5 NPV was significantly lower than the TSL 3 results. This is consistent with the LCC analysis results for TSL 5, which showed significant increase in LCC and significantly higher PBPs that were in some cases greater than the average equipment lifetimes. Efficiency levels for TSL 4 were chosen to correspond to the highest efficiency level with a positive NPV for all classes at a 7-percent discount rate. Similarly, the criteria for choice of efficiency levels for TSL 3, TSL 2, and TSL 1 were such that the NPV values for all the equipment classes show positive values. The criterion for TSL 3 was to select efficiency levels with the highest NPV at a 7-percent discount rate. Consequently, the total NPV for automatic commercial ice makers was highest for TSL 3, with a value of $0.430 billion (2013$) at a 7-percent discount rate. TSL 4 showed the second highest total NPV, with a value of $0.337 billion (2013$) at a 7-percent discount rate. TSL 1, TSL 2 and TSL 5 have a total NPV lower than TSL 3 or 4.

TABLE V.40—NET PRESENT VALUE AT A 7-PERCENT DISCOUNT RATE FOR EQUIPMENT PURCHASED IN 2018–2047

[Billion 2013$]

Equipment class	Standard level *				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	0.006	0.006	0.011	0.011	(0.049)
IMH–W–Med–B	0.010	0.010	0.010	0.006	(0.008)
IMH–W–Large–B **	0.000	0.000	0.000	0.000	(0.002)
IMH–W–Large–B1	0.000	0.000	0.000	0.000	(0.002)
IMH–W–Large–B2	0.000	0.000	0.000	0.000	(0.000)
IMH–A–Small–B	0.017	0.017	0.036	0.036	(0.238)
IMH–A–Large–B **	0.043	0.109	0.120	0.109	0.021
IMH–A–Large–B1	0.043	0.109	0.119	0.107	0.020
IMH–A–Large–B2	(0.000)	(0.000)	0.001	0.001	0.001
RCU–Large–B **	0.042	0.042	0.042	0.035	0.007
RCU–Large–B1	0.040	0.040	0.040	0.033	0.008
RCU–Large–B2	0.002	0.002	0.002	0.002	(0.001)
SCU–W–Large–B	0.002	0.002	0.003	0.001	0.001
SCU–A–Small–B	0.016	0.037	0.076	0.068	(0.060)
SCU–A–Large–B	0.014	0.059	0.064	0.004	0.004
IMH–A–Small–C	0.006	0.009	0.014	0.014	(0.014)
IMH–A–Large–C	0.005	0.005	0.009	0.009	(0.001)
RCU–Small–C	0.002	0.004	0.008	0.008	(0.003)

TABLE V.40—NET PRESENT VALUE AT A 7-PERCENT DISCOUNT RATE FOR EQUIPMENT PURCHASED IN 2018–2047—Continued

[Billion 2013$]

Equipment class	Standard level *				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
SCU–A–Small–C	0.018	0.027	0.036	0.036	(0.062)
Total	0.183	0.328	0.430	0.337	(0.406)

* A value equal to 0.000 means the NPV rounds to less than $0.001 (2013$). Values in parentheses are negative numbers.
** IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B results are the sum of the results for the 2 typical units denoted by B1 and B2.

TABLE V.41—NET PRESENT VALUE AT A 3-PERCENT DISCOUNT RATE FOR EQUIPMENT PURCHASED IN 2018–2047

[Billion 2013$]

Equipment class	Standard level *				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	0.014	0.014	0.025	0.025	(0.074)
IMH–W–Med–B	0.022	0.022	0.022	0.016	(0.008)
IMH–W–Large–B **	0.000	0.000	0.000	0.000	(0.003)
IMH–W–Large–B1	0.000	0.000	0.000	0.000	(0.003)
IMH–W–Large–B2	0.000	0.000	0.000	0.000	(0.000)
IMH–A–Small–B	0.039	0.046	0.092	0.092	(0.360)
IMH–A–Large–B **	0.091	0.234	0.259	0.271	0.122
IMH–A–Large–B1	0.090	0.233	0.254	0.266	0.117
IMH–A–Large–B2	0.001	0.001	0.005	0.005	0.005
RCU–Large–B **	0.088	0.088	0.088	0.084	0.039
RCU–Large–B1	0.084	0.084	0.084	0.080	0.039
RCU–Large–B2	0.004	0.004	0.004	0.004	(0.001)
SCU–W–Large–B	0.003	0.005	0.005	0.002	0.002
SCU–A–Small–B	0.035	0.079	0.169	0.159	(0.075)
SCU–A–Large–B	0.030	0.127	0.138	0.031	0.031
IMH–A–Small–C	0.012	0.019	0.030	0.030	(0.022)
IMH–A–Large–C	0.011	0.011	0.019	0.019	0.001
RCU–Small–C	0.005	0.009	0.017	0.017	(0.002)
SCU–A–Small–C	0.038	0.057	0.076	0.076	(0.103)
Total	0.389	0.712	0.942	0.822	(0.453)

* A value equal to 0.000 means the NPV rounds to less than $0.001 (2013$). Values in parentheses are negative numbers.
** IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B results are the sum of the results for the 2 typical units denoted by B1 and B2.

The NPV results based on the aforementioned 9-year analysis period are presented in Table V.42 and Table V.43. The impacts are counted over the lifetime of equipment purchased in 2018–2026. As mentioned previously, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V.42—NET PRESENT VALUE AT A 7-PERCENT DISCOUNT RATE FOR 9-YEAR ANALYSIS PERIOD FOR EQUIPMENT PURCHASED IN 2018–2026

[Billion 2013$]

Equipment class	Standard level *				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	0.003	0.003	0.005	0.005	(0.030)
IMH–W–Med–B	0.005	0.005	0.005	0.003	(0.004)
IMH–W–Large–B	0.000	0.000	0.000	0.000	(0.001)
IMH–W–Large–B–1	0.000	0.000	0.000	0.000	(0.001)
IMH–W–Large–B–2	0.000	0.000	0.000	0.000	(0.000)
IMH–A–Small–B	0.009	0.009	0.018	0.018	(0.137)
IMH–A–Large–B	0.021	0.051	0.057	0.036	(0.005)
IMH–A–Large–B–1	0.021	0.052	0.057	0.036	(0.006)
IMH–A–Large–B–2	(0.000)	(0.000)	0.001	0.001	0.001
RCU–Large–B	0.021	0.021	0.021	0.018	0.004
RCU–Large–B–1	0.020	0.020	0.020	0.017	0.005
RCU–Large–B–2	0.001	0.001	0.001	0.001	(0.001)
SCU–W–Large–B	0.001	0.001	0.001	0.000	0.000
SCU–A–Small–B	0.008	0.018	0.036	0.032	(0.030)

TABLE V.42—NET PRESENT VALUE AT A 7-PERCENT DISCOUNT RATE FOR 9-YEAR ANALYSIS PERIOD FOR EQUIPMENT PURCHASED IN 2018–2026—Continued

[Billion 2013$]

Equipment class	Standard level *				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
SCU–A–Large–B	0.007	0.028	0.030	0.001	0.001
IMH–A–Small–C	0.003	0.004	0.007	0.007	(0.007)
IMH–A–Large–C	0.003	0.003	0.005	0.005	(0.000)
RCU–Small–C	0.001	0.002	0.004	0.004	(0.001)
SCU–A–Small–C	0.009	0.013	0.018	0.018	(0.030)
Total	0.090	0.158	0.207	0.147	(0.241)

* A value equal to 0.000 means the NPV rounds to less than $0.001 (2013$). Values in parentheses are negative numbers.

TABLE V.43—NET PRESENT VALUE AT A 3-PERCENT DISCOUNT RATE FOR 9-YEAR ANALYSIS PERIOD FOR EQUIPMENT PURCHASED IN 2018–2026

[Billion 2013$]

Equipment class	Standard level *				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	0.005	0.005	0.009	0.009	(0.038)
IMH–W–Med–B	0.008	0.008	0.008	0.006	(0.002)
IMH–W–Large–B	0.000	0.000	0.000	0.000	(0.001)
IMH–W–Large–B–1	0.000	0.000	0.000	0.000	(0.001)
IMH–W–Large–B–2	0.000	0.000	0.000	0.000	(0.000)
IMH–A–Small–B	0.014	0.017	0.035	0.035	(0.168)
IMH–A–Large–B	0.033	0.081	0.090	0.067	0.016
IMH–A–Large–B–1	0.033	0.081	0.089	0.065	0.014
IMH–A–Large–B–2	0.001	0.001	0.002	0.002	0.002
RCU–Large–B	0.032	0.032	0.032	0.031	0.015
RCU–Large–B–1	0.030	0.030	0.030	0.030	0.016
RCU–Large–B–2	0.002	0.002	0.002	0.002	(0.000)
SCU–W–Large–B	0.001	0.002	0.002	0.001	0.001
SCU–A–Small–B	0.013	0.029	0.057	0.054	(0.029)
SCU–A–Large–B	0.011	0.043	0.047	0.010	0.010
IMH–A–Small–C	0.004	0.007	0.011	0.011	(0.008)
IMH–A–Large–C	0.004	0.004	0.007	0.007	0.001
RCU–Small–C	0.002	0.003	0.006	0.006	(0.001)
SCU–A–Small–C	0.014	0.021	0.028	0.028	(0.037)
Total	0.142	0.253	0.332	0.264	(0.241)

* A value equal to 0.000 means the NPV rounds to less than $0.001 (2013$). Values in parentheses are negative numbers.

c. Water Savings

One energy-saving design option for batch type ice makers had the additional benefit of reducing potable water usage for some types of batch type ice makers. The water savings are identified on Table V.44. DOE is not, as part of this rulemaking, establishing a potable water standard. The water savings identified through the analyses are products of the analysis of energy-saving design options.

TABLE V.44—WATER SAVINGS

Equipment class	Water savings by standard level * ** million gallons				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	761	761	1,733	1,733	1,733
IMH–W–Med–B	0	0	0	0	0
IMH–W–Large–B	0	0	0	0	0
IMH–W–Large–B1	0	0	0	0	0
IMH–W–Large–B2	0	0	0	0	0
IMH–A–Small–B	0	0	0	0	–5,424
IMH–A–Large–B	0	12,501	12,501	11,733	11,733
IMH–A–Large–B1	0	12,501	12,501	11,733	11,733
IMH–A–Large–B2	0	0	0	0	0
RCU–Large–B	0	0	0	0	0
RCU–Large–B1	0	0	0	0	0
RCU–Large–B2	0	0	0	0	0

TABLE V.44—WATER SAVINGS—Continued

Equipment class	Water savings by standard level * ** million gallons				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
SCU–W–Large–B	336	336	336	336	336
SCU–A–Small–B	0	0	13,580	13,580	13,580
SCU–A–Large–B	0	9,388	9,388	9,388	9,388
IMH–A–Small–C	0	0	0	0	0
IMH–A–Large–C	0	0	0	0	0
RCU–Small–C	0	0	0	0	0
SCU–A–Small–C	0	0	0	0	0
Total	1,097	22,987	37,539	36,771	31,347

* A zero indicates no water usage reductions were identified.
** IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B results are the sum of the results for the 2 typical units denoted by B1 and B2.

d. Indirect Employment Impacts

In addition to the direct impacts on manufacturing employment discussed in section IV.N, DOE develops general estimates of the indirect employment impacts of the new and amended standards on the economy. DOE expects amended energy conservation standards for automatic commercial ice makers to reduce energy bills for commercial customers and expects the resulting net savings to be redirected to other forms of economic activity. DOE also realizes that these shifts in spending and economic activity by automatic commercial ice maker owners could affect the demand for labor. Thus, indirect employment impacts may result from expenditures shifting between goods (the substitution effect) and changes in income and overall expenditure levels (the income effect) that occur due to the imposition of new and amended standards. These impacts may affect a variety of businesses not directly involved in the decision to make, operate, or pay the utility bills for automatic commercial ice makers. To estimate these indirect economic effects, DOE used an input/output model of the U.S. economy using U.S. Department of Commerce, Bureau of Economic Analysis (BEA), and BLS data (as described in section IV.J of this rulemaking; see chapter 16 of the final rule TSD for more details).

Customers who purchase more-efficient equipment pay lower amounts towards utility bills, which results in job losses in the electric utilities sector. In this input/output model, the dollars saved on utility bills from more-efficient automatic commercial ice makers are spent in economic sectors that create more jobs than are lost in electric and water utilities sectors. Thus, the new and amended energy conservation standards for automatic commercial ice makers are likely to slightly increase the net demand for labor in the economy. The net increase in jobs might be offset by other, unanticipated effects on employment. Neither the BLS data nor the input/output model used by DOE includes the quality of jobs. As shown in Table V.45, DOE estimates that net indirect employment impacts from new and amended automatic commercial ice makers standard are small relative to the national economy.

TABLE V.45—NET SHORT-TERM CHANGE IN EMPLOYMENT

[Number of employees]

Trial standard level	2018	2022
1	18 to 21	104 to 107.
2	31 to 38	196 to 204.
3	41 to 52	263 to 276.
4	41 to 63	315 to 340.
5	4 to 82	376 to 464.

4. Impact on Utility or Performance of Equipment

In performing the engineering analysis, DOE considers design options that would not lessen the utility or performance of the individual classes of equipment. (42 U.S.C. 6295(o)(2)(B)(i)(IV) and 6313(d)(4)) As presented in the screening analysis (chapter 4 of the final rule TSD), DOE eliminates from consideration any design options that reduce the utility of the equipment. For this rulemaking, DOE did not consider TSLs for automatic commercial ice makers that reduce the utility or performance of the equipment.

5. Impact of Any Lessening of Competition

EPCA directs DOE to consider any lessening of competition likely to result from amended standards. It directs the Attorney General of the United States (Attorney General) to determine in writing the impact, if any, of any lessening of competition likely to result from a proposed standard. (42 U.S.C. 6295(o)(2)(B)(i)(V) and 6313(d)(4)) To assist the Attorney General in making such a determination, DOE provided the DOJ with copies of this rule and the TSD for review. During MIA interviews, domestic manufacturers indicated that foreign manufacturers have begun to enter the automatic commercial ice maker industry, but not in significant numbers. Manufacturers also stated that consolidation has occurred among automatic commercial ice makers manufacturers in recent years. Interviewed manufacturers believe that these trends may continue in this market even in the absence of amended standards.

More than one manufacturer suggested that where they already have overseas manufacturing capabilities, they would consider moving additional manufacturing to those facilities if they felt the need to offset a significant rise in materials costs. The Department acknowledges that to be competitive in the marketplace manufacturers must constantly re-examine their supply chains and manufacturing infrastructure. DOE does not believe however, that at the levels specified in this final rule, amended standards would result in domestic firms relocating significant portions of their domestic production capacity to other countries. The majority of automatic commercial ice makers are manufactured in the U.S. and the amended standards are at levels which are already met by a large portion of the product models being manufactured. The amended standards can largely be met using existing capital assets and during interviews, manufacturers in general indicated they would modify their existing facilities to comply with amended energy conservation standards.

6. Need of the Nation To Conserve Energy

An improvement in the energy efficiency of the equipment subject to this final rule is likely to improve the security of the Nation's energy system by reducing overall demand for energy. Reduced electricity demand resulting from energy conservation may also improve the reliability of the electricity system. As a measure of this reduced demand, chapter 15 in the final rule TSD presents the estimated reduction in national generating capacity for the TSLs that DOE considered in this rulemaking.

Energy savings from new and amended standards for automatic commercial ice makers could also produce environmental benefits in the form of reduced emissions of air pollutants and GHGs associated with electricity production. Table V.46 provides DOE's estimate of cumulative CO_2, NO_X, Hg, N_2O, CH_4 and SO_2 emissions reductions projected to result from the TSLs considered in this rule. The table includes both power sector emissions and upstream emissions. The upstream emissions were calculated using the multipliers discussed in section IV.K. DOE reports annual emissions reductions for each TSL in chapter 13 of the final rule TSD.

TABLE V.46—SUMMARY OF EMISSIONS REDUCTION ESTIMATED FOR AUTOMATIC COMMERCIAL ICE MAKERS TSLS

[Cumulative for equipment purchased in 2018–2047]

	TSL				
	1	2	3	4	5
Power Sector and Site Emissions					
CO_2 (*million metric tons*)	4.68	7.87	10.38	13.25	18.62
NO_X (*thousand tons*)	3.71	6.23	8.22	10.50	14.75
Hg (*tons*)	0.01	0.02	0.03	0.04	0.05
N_2O (*thousand tons*)	0.06	0.11	0.14	0.18	0.25
CH_4 (*thousand tons*)	0.44	0.73	0.97	1.24	1.74
SO_2 (*thousand tons*)	4.13	6.95	9.17	11.70	16.45
Upstream Emissions					
CO_2 (*million metric tons*)	0.25	0.42	0.56	0.72	1.00
NO_X (*thousand tons*)	3.59	6.03	7.96	10.17	14.29
Hg (*tons*)	0.00	0.00	0.00	0.00	0.00
N_2O (*thousand tons*)	0.00	0.00	0.00	0.01	0.01
CH_4 (*thousand tons*)	20.91	35.15	46.40	59.23	83.24
SO_2 (*thousand tons*)	0.04	0.08	0.10	0.13	0.18
Total Emissions					
CO_2 (*million metric tons*)	4.93	8.29	10.94	13.97	19.63
NO_X (*thousand tons*)	7.30	12.26	16.19	20.67	29.04
Hg (*tons*)	0.01	0.02	0.03	0.04	0.05
N_2O (*thousand tons*)	0.06	0.11	0.14	0.18	0.26
CH_4 (*thousand tons*)	21.35	35.89	47.37	60.47	84.97
SO_2 (*thousand tons*)	4.18	7.02	9.27	11.83	16.62

As part of the analysis for this final rule, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that were estimated for each of the TSLs considered. As discussed in section IV.L, DOE used values for the SCC developed by an interagency process. The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent, 3 percent, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. The four SCC values for CO_2 emissions reductions in 2015, expressed in 2013$, are $12/ton, $40.5/ton, $62.4/ton, and $119.0/ton. These values for later years are higher due to increasing emissions-related costs as the magnitude of projected climate change is expected to increase.

Table V.47 presents the global value of CO_2 emissions reductions at each TSL. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values, and these results are presented in chapter 14 of the final rule TSD.

TABLE V.47—GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR AUTOMATIC COMMERCIAL ICE MAKERS

TSL	SCC scenario *			
	5% Discount rate, average	3% Discount rate, average	2.5% Discount rate, average	3% Discount rate, 95th percentile
	million 2013$			
Power Sector and Site Emissions				
1	34.5	154.3	243.8	476.2
2	57.9	259.4	409.9	800.5
3	76.4	342.3	541.0	1,056.6
4	97.6	437.0	690.6	1,348.9
5	137.1	614.1	970.5	1,895.5
Upstream Emissions				
1	1.8	8.2	13.0	25.4
2	3.0	13.8	21.9	42.7
3	4.0	18.2	28.8	56.3
4	5.1	23.3	36.8	71.9
5	7.2	32.7	51.8	101.0
Total Emissions				
1	36.3	162.5	256.8	501.6
2	61.0	273.2	431.7	843.1
3	80.5	360.6	569.8	1,112.9
4	102.7	460.3	727.5	1,420.8
5	144.3	646.8	1,022.3	1,996.5

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $12, $40.5, $62.4, and $119.0 per metric ton (2013$).

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other GHG emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed in this rulemaking on reducing CO_2 emissions is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this and other rulemakings, as well as other methodological assumptions and issues. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE has included in this final rule the most recent values and analyses resulting from the ongoing interagency review process.

DOE also estimated a range for the cumulative monetary value of the economic benefits associated with NO_X emission reductions anticipated to result from the new and amended standards for the automatic commercial ice makers. The dollar-per-ton values that DOE used are discussed in section IV.L. Table V.48 presents the present value of cumulative NO_X emissions reductions for each TSL calculated using the average dollar-per-ton values and 7-percent and 3-percent discount rates.

TABLE V.48—PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR AUTOMATIC COMMERCIAL ICE MAKERS

TSL	3% Discount rate	7% Discount rate
	million 2013$	
Power Sector and Site Emissions *		
1	5.6	2.9
2	9.4	4.9
3	12.4	6.5
4	15.8	8.2
5	22.2	11.6
Upstream Emissions		
1	5.2	2.5
2	8.7	4.3
3	11.4	5.6
4	14.6	7.2
5	20.5	10.1
Total Emissions		
1	10.7	5.4

TABLE V.48—PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR POTENTIAL STANDARDS FOR AUTOMATIC COMMERCIAL ICE MAKERS—Continued

TSL	3% Discount rate	7% Discount rate
	million 2013$	
2	18.0	9.2
3	23.8	12.1
4	30.4	15.4
5	42.7	21.7

The NPV of the monetized benefits associated with emission reductions can be viewed as a complement to the NPV of the customer savings calculated for each TSL considered in this rulemaking. Table V.49 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of consumer savings calculated for each TSL considered in this rulemaking, at both a 7-percent and a 3-percent discount rate. The CO_2 values used in the table correspond to the four scenarios for the valuation of CO_2 emission reductions presented in section IV.L.

TABLE V.49—AUTOMATIC COMMERCIAL ICE MAKERS TSLS: NET PRESENT VALUE OF CUSTOMER SAVINGS COMBINED WITH NET PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

TSL	Consumer NPV at 3% Discount Rate added with:			
	SCC Value of $12/metric ton CO_2* and medium value for NO_X*	SCC Value of $40.5/metric ton CO_2* and medium value for NO_X*	SCC Value of $62.4/metric ton CO_2* and medium value for NO_X*	SCC Value of $119.0/metric ton CO_2* and medium value for NO_X*
	billion 2013$			
1	*0.436*	*0.563*	*0.657*	*0.902*
2	*0.791*	*1.004*	*1.162*	*1.574*
3	*1.046*	*1.326*	*1.536*	*2.079*
4	*0.955*	*1.313*	*1.580*	*2.273*
5	*(0.266)*	*0.237*	*0.612*	*1.587*
TSL	Consumer NPV at 7% Discount Rate added with:			
	SCC Value of $12/metric ton CO_2* and medium value for NO_X*	SCC Value of $40.5/metric ton CO_2* and medium value for NO_X*	SCC Value of $62.4/metric ton CO_2* and medium value for NO_X*	SCC Value of $119.0/metric ton CO_2* and medium value for NO_X*
	billion 2013$			
1	*0.225*	*0.351*	*0.445*	*0.690*
2	*0.398*	*0.611*	*0.769*	*1.181*
3	*0.523*	*0.803*	*1.012*	*1.555*
4	*0.455*	*0.813*	*1.080*	*1.773*
5	*(0.240)*	*0.263*	*0.638*	*1.613*

*These label values represent the global SCC in 2015, in 2013$. The present values have been calculated with scenario-consistent discount rates. For NO_X emissions, each case uses the medium value, which corresponds to $2,684 per ton.

Although adding the value of customer savings to the values of emission reductions provides a valuable perspective, the following should be considered. First, the national customer savings are domestic U.S. customer monetary savings that occur as a result of market transactions, while the values of emission reductions are based on estimates of marginal social costs, which, in the case of CO_2, are based on a global value. Second, the assessments of customer operating cost savings and emission-related benefits are performed with quite different time frames for analysis. For automatic commercial ice makers, the present value of national customer savings is measured for the lifetime of units shipped from 2018 through 2047. The SCC values, on the other hand, reflect the present value of future climate-related impacts resulting from the emission of one metric ton of CO_2 in each year. Because of the long residence time of CO_2 in the atmosphere, these impacts continue well beyond 2100.

7. Other Factors

EPCA allows the Secretary, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII) and 6313(d)(4)) DOE considered LCC impacts on identifiable groups of customers, such as customers of different business types, who may be disproportionately affected by any new or amended national energy conservation standard level. The LCC subgroup impacts are discussed in section V.B.1.b and in final rule TSD chapter 11. DOE also considered the reduction in generation capacity that could result from the imposition of any new or amended national energy conservation standard level. Electric utility impacts are presented in final rule TSD chapter 15.

C. Conclusions/Proposed Standard

Any new or amended energy conservation standard for any type (or class) of covered product must be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 6313(d)(4)) In determining whether a proposed standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i) and 6313(d)(4)) The new or amended standard must also result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B) and 6313(d)(4))

DOE considered the impacts of potential standards at each TSL, beginning with the maximum technologically feasible level, to determine whether that level met the evaluation criteria. If the max-tech level was not justified, DOE then considered the next most-efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

To aid the reader in understanding the benefits and/or burdens of each TSL, tables are presented to 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 below, DOE also considers other burdens and benefits that affect economic justification including the effect of technological feasibility, manufacturer costs, and impacts on competition on the economic results presented. Table V.50, Table V.51, Table V.52 and Table V.53 present a summary of the results of DOE's quantitative analysis for each TSL. Results in Table

V.50 through Table V.53 are impacts from equipment purchased in the period from 2018 through 2047. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification of certain customer subgroups that are disproportionately affected by the proposed standards. Section V.B.1.b presents the estimated impacts of each TSL for these subgroups.

TABLE V.50—SUMMARY OF RESULTS FOR AUTOMATIC COMMERCIAL ICE MAKERS TSLS: NATIONAL IMPACTS *

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Cumulative National Energy Savings 2018 through 2047 *Quads*					
Undiscounted values	0.081	0.136	0.179	0.229	0.321.
Cumulative National Water Savings 2018 through 2047 *billion gallons*					
Undiscounted values	1.0	23.0	37.5	36.8	31.3.
Cumulative NPV of Customer Benefits 2018 through 2047 *billion 2013$*					
3% discount rate	0.389	0.712	0.942	0.822	(0.453).
7% discount rate	0.183	0.328	0.430	0.337	(0.406).
Industry Impacts					
Change in Industry NPV (2013$ million).	(7.5) to (6.6)	(11.2) to (9.3)	(15.1) to (12.1)	(18.6) to (12.3)	(30.0) to (11.8).
Change in Industry NPV (%)	(6.2) to (5.4)	(9.2) to (7.7)	(12.5) to (10.0)	(15.3) to (10.1)	(24.6) to (9.7).
Cumulative Emissions Reductions 2018 through 2047 **					
CO_2 (MMt)	4.93	8.29	10.94	13.97	19.63.
NO_X (kt)	7.30	12.26	16.19	20.67	29.04.
Hg (t)	0.01	0.02	0.03	0.04	0.05.
N_2O (*kt*)	0.06	0.11	0.14	0.18	0.26.
N_2O (kt CO_2eq)	17.14	28.81	38.03	48.55	68.23.
CH_4 (*kt*)	21.35	35.89	47.37	60.47	84.97.
CH_4 (*kt* CO_2eq)	597.78	1004.79	1326.27	1693.16	2379.30.
SO_2 (*kt*)	4.18	7.02	9.27	11.83	16.62.
Monetary Value of Cumulative Emissions Reductions 2018 through 2047 †					
CO_2 (2013$ billion)	0.036 to 0.502	0.061 to 0.843	0.080 to 1.113	0.103 to 1.421	0.144 to 1.997.
NO_X—3% discount rate (2013$ million).	10.7	18.0	23.8	30.4	42.7.
NO_X—7% discount rate (2013$ million).	5.4	9.2	12.1	15.4	21.7.
Employment Impacts					
Net Change in Indirect Domestic Jobs by 2022.	104 to 107	196 to 204	263 to 276	315 to 340	376 to 464.

* Values in parentheses are negative numbers.

** "MMt" stands for million metric tons; "kt" stands for kilotons; "t" stands for tons. CO_2eq is the quantity of CO_2 that would have the same global warming potential (GWP).

† Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions. Economic value of NO_X reductions is based on estimates at $2,684/ton.

TABLE V.51—SUMMARY OF RESULTS FOR AUTOMATIC COMMERCIAL ICE MAKERS TSLS: MEAN LCC SAVINGS

[2013$]

Equipment class	Standard level				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	$175	$175	$214	$214	($534)
IMH–W–Med–B	$308	$308	$308	$165	($63)
IMH–W–Large–B *	NA	NA	NA	NA	($172)
IMH–W–Large–B1	NA	NA	NA	NA	($200)
IMH–W–Large–B2	NA	NA	NA	NA	($80)
IMH–A–Small–B	$136	$72	$77	$77	($393)
IMH–A–Large–B *	$382	$501	$361	$265	$55
IMH–A–Large–B1	$439	$580	$407	$294	$45
IMH–A–Large–B2	$76	$76	$110	$110	$110

TABLE V.51—SUMMARY OF RESULTS FOR AUTOMATIC COMMERCIAL ICE MAKERS TSLS: MEAN LCC SAVINGS—Continued

[2013$]

Equipment class	Standard level				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
RCU–Large–B *	$748	$748	$748	$418	$144
RCU–Large–B1	$743	$743	$743	$391	$161
RCU–Large–B2	$820	$820	$820	$820	($109)
SCU–W–Large–B	$444	$613	$550	$192	$192
SCU–A–Small–B	$110	$161	$281	$230	($145)
SCU–A–Large–B	$163	$400	$439	$71	$71
IMH–A–Small–C	$245	$292	$313	$313	($165)
IMH–A–Large–C	$539	$539	$626	$626	$28
RCU–Small–C	$498	$448	$505	$505	($73)
SCU–A–Small–C	$224	$278	$290	$290	($268)

* LCC results for IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B are a weighted average of the two sub-equipment class level typical units shown on the table, using weights provided in TSD chapter 7.

TABLE V.52—SUMMARY OF RESULTS FOR AUTOMATIC COMMERCIAL ICE MAKERS TSLS: MEDIAN PAYBACK PERIOD

Equipment class	Standard level years				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B	2.5	2.5	2.7	2.7	13.4
IMH–W–Med–B	2.1	2.1	2.1	5.0	7.6
IMH–W–Large–B*	NA	NA	NA	NA	10.6
IMH–W–Large–B1	NA	NA	NA	NA	11.1
IMH–W–Large–B2	NA	NA	NA	NA	8.9
IMH–A–Small–B	3.4	4.8	4.7	4.7	11.9
IMH–A–Large–B*	2.2	2.4	2.3	3.9	5.6
IMH–A–Large–B1	1.2	1.5	1.5	3.4	5.4
IMH–A–Large–B2	7.4	7.4	6.9	6.9	6.9
RCU–Large–B*	1.1	1.1	1.1	3.3	5.0
RCU–Large–B1	0.9	0.9	0.9	3.4	4.9
RCU–Large–B2	3.0	3.0	3.0	3.0	7.0
SCU–W–Large–B	1.1	1.6	1.8	5.1	5.1
SCU–A–Small–B	2.2	2.4	2.6	3.5	8.9
SCU–A–Large–B	1.8	1.6	2.1	6.5	6.5
IMH–A–Small–C	1.5	1.6	1.7	1.7	8.8
IMH–A–Large–C	0.7	0.7	0.7	0.7	5.9
RCU–Small–C	0.7	1.2	1.2	1.2	5.8
SCU–A–Small–C	0.8	1.1	1.5	1.5	11.4

* PBP results for IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B are weighted averages of the results for the two sub-equipment class level typical units, using weights provided in TSD chapter 7.

TABLE V.53—SUMMARY OF RESULTS FOR AUTOMATIC COMMERCIAL ICE MAKER TSLS: DISTRIBUTION OF CUSTOMER LCC IMPACTS

Category	Standard Level percentage of customers (%)				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Small–B					
Net Cost (%)	0	0	1	1	96
No Impact (%)	63	63	47	47	0
Net Benefit (%)	37	37	52	52	4
IMH–W–Med–B					
Net Cost (%)	0	0	0	28	65
No Impact (%)	44	44	44	24	9
Net Benefit (%)	56	56	56	47	26
IMH–W–Large–B *					
Net Cost (%)	NA	NA	NA	NA	67
No Impact (%)	NA	NA	NA	NA	13
Net Benefit (%)	NA	NA	NA	NA	20
IMH–W–Large–B1					
Net Cost (%)	NA	NA	NA	NA	70
No Impact (%)	NA	NA	NA	NA	13
Net Benefit (%)	NA	NA	NA	NA	17

TABLE V.53—SUMMARY OF RESULTS FOR AUTOMATIC COMMERCIAL ICE MAKER TSLS: DISTRIBUTION OF CUSTOMER LCC IMPACTS—Continued

Category	Standard Level percentage of customers (%)				
	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
IMH–W–Large–B2					
Net Cost (%)	NA	NA	NA	NA	59
No Impact (%)	NA	NA	NA	NA	13
Net Benefit (%)	NA	NA	NA	NA	29
IMH–A–Small–B					
Net Cost (%)	1	21	21	21	95
No Impact (%)	76	47	0	0	0
Net Benefit (%)	22	32	79	79	5
IMH–A–Large–B *					
Net Cost (%)	1	1	2	31	53
No Impact (%)	69	45	12	12	10
Net Benefit (%)	30	53	86	57	37
IMH–A–Large–B1					
Net Cost (%)	0	0	0	35	61
No Impact (%)	66	38	3	3	0
Net Benefit (%)	34	62	97	63	39
IMH–A–Large–B2					
Net Cost (%)	9	9	10	10	10
No Impact (%)	83	83	61	61	61
Net Benefit (%)	8	8	29	29	29
RCU–Large–B *					
Net Cost (%)	0	0	0	23	55
No Impact (%)	56	56	56	22	2
Net Benefit (%)	44	44	44	55	42
RCU–Large–B1					
Net Cost (%)	0	0	0	25	55
No Impact (%)	56	56	56	20	1
Net Benefit (%)	44	44	44	55	44
RCU–Large–B2					
Net Cost (%)	1	1	1	1	57
No Impact (%)	56	56	56	56	20
Net Benefit (%)	43	43	43	43	23
SCU–W–Large–B					
Net Cost (%)	0	0	0	44	44
No Impact (%)	28	28	5	0	0
Net Benefit (%)	72	72	94	56	56
SCU–A–Small–B					
Net Cost (%)	0	1	1	16	77
No Impact (%)	48	20	12	0	0
Net Benefit (%)	52	79	87	84	23
SCU–A–Large–B					
Net Cost (%)	0	0	0	54	54
No Impact (%)	37	1	1	0	0
Net Benefit (%)	63	99	99	46	46
IMH–A–Small–C					
Net Cost (%)	0	0	0	0	68
No Impact (%)	69	58	39	39	14
Net Benefit (%)	31	42	61	61	18
IMH–A–Large–C					
Net Cost (%)	0	0	0	0	54
No Impact (%)	57	57	35	35	9
Net Benefit (%)	43	43	65	65	37
RCU–Small–C					
Net Cost (%)	0	0	0	0	64
No Impact (%)	72	44	11	11	6
Net Benefit (%)	28	55	89	89	31
SCU–A–Small–C					
Net Cost (%)	0	0	1	1	86
No Impact (%)	56	47	32	32	0
Net Benefit (%)	44	53	67	67	14
Average of Equipment Types **					
Net Cost (%)	1	7	6	20	75
No Impact (%)	62	40	16	12	3
Net Benefit (%)	37	53	77	68	22

* LCC results for IMH–W–Large–B, IMH–A–Large–B, and RCU–Large–B are a weighted average of the two sub-equipment class level typical units shown on the table.

** Average of equipment types created by weighting the class results by 2018 shipment estimates.

DOE also notes that the economics literature provides a wide-ranging discussion of how consumers trade-off upfront costs and energy savings in the absence of government intervention. Much of this literature attempts to explain why consumers appear to undervalue energy efficiency improvements. There is evidence that consumers undervalue future energy savings as a result of (1) a lack of information; (2) a lack of sufficient salience of the long-term or aggregate benefits; (3) a lack of sufficient savings to warrant delaying or altering purchases (*e.g.,* an inefficient ventilation fan in a new building or the delayed replacement of a water pump); (4) excessive focus on the short term, in the form of inconsistent weighting of future energy cost savings relative to available returns on other investments; (5) computational or other difficulties associated with the evaluation of relevant tradeoffs; and (6) a divergence in incentives (*e.g.,* renter versus building owner, builder versus home buyer). Other literature indicates that with less than perfect foresight and a high degree of uncertainty about the future, consumers may trade off these types of investments at a higher-than-expected rate between current consumption and uncertain future energy cost savings. This undervaluation suggests that regulation that promotes energy efficiency can produce significant net private gains (as well as producing social gains by, for example, reducing pollution).

While DOE is not prepared at present to provide a fuller quantifiable framework for estimating the benefits and costs of changes in consumer purchase decisions due to an amended energy conservation standard, DOE is committed to developing a framework that can support empirical quantitative tools for improved assessment of the consumer welfare impacts of appliance standards. DOE has posted a paper that discusses the issue of consumer welfare impacts of appliance energy efficiency standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[74] DOE welcomes comments on how to more fully assess the potential impact of energy conservation standards on consumer choice and methods to quantify this impact in its regulatory analysis.

TSL 5 corresponds to the max-tech level for all the equipment classes and offers the potential for the highest cumulative energy savings through the analysis period from 2018 to 2047. The estimated energy savings from TSL 5 is 0.321 quads of energy. Because one energy-saving design option reduces potable water usage, potential savings are estimated to be 31 billion gallons, although such savings should not be construed to be the result of a potable water standard. DOE projects a negative NPV for customers valued at $0.406 billion at a 7-percent discount rate. Estimated emissions reductions are 19.6 MMt of CO_2, up to 29.0 kt of NO_X and 0.05 tons of Hg. The CO_2 emissions have a value of up to $2.0 billion and the NO_X emissions have a value of $21.7 million at a 7-percent discount rate.

For TSL 5, the mean LCC savings for five equipment classes are positive, implying a decrease in LCC, with the decrease ranging from $28 for the IMH–A–Large–C equipment class to $192 for the SCU–W–Large–B equipment class.[75] The results shown on Table V.53 indicates a large fraction of customers would experience net LCC increases (*i.e.,* LCC costs rather than savings) from adoption of TSL 5, with 44 to 96 percent of customers experiencing net LCC increases. As shown on Table V.52, customers would experience payback periods of 5 years or longer in all equipment classes, and in many cases customers would experience payback periods exceeding the estimated 8.5 year equipment lifetime.

At TSL 5, the projected change in INPV ranges from a decrease of $30.0 million to a decrease of $11.8 million, depending on the chosen manufacturer markup scenario. The upper bound is considered optimistic by industry because it assumes manufacturers could pass on all compliance costs as price increases to their customers. DOE recognizes the risk of negative impacts if manufacturers' expectations concerning reduced profit margins are realized. If the lower bound of the range of impacts is reached, TSL 5 could result in a net loss of up to 24.6 percent in INPV for the ACIM industry.

DOE estimates that approximately 84 percent of all batch commercial ice makers and 78 percent of all continuous commercial ice makers on the market will require redesign to meet standards at TSL 5. DOE expects industry conversion costs of $44.1 million. Also of concern, for five equipment classes, there is only 1 manufacturer with products that could currently meet this standard.

After carefully considering the analysis results and weighing the benefits and burdens of TSL 5, DOE finds that at TSL 5, the benefits to the nation in the form of energy savings and emissions reductions are outweighed by a decrease of $0.406 billion in customer NPV and a decrease of up to 24.6 percent in INPV. Additionally, the majority of individual customers purchasing automatic commercial ice makers built to TSL 5 standards experience negative life-cycle cost savings, with over 90 percent of customers of 2 equipment classes experiencing negative life-cycle cost savings. After weighing the burdens of TSL 5 against the benefits, DOE finds TSL 5 not to be economically justified. DOE does not propose to adopt TSL 5 in this rulemaking.

TSL 4, the next highest efficiency level, corresponds to the highest efficiency level with a positive NPV at a 7-percent discount rate for all equipment classes. The estimated energy savings from 2018 to 2047 are 0.229 quads of energy—an amount DOE deems significant. Because one energy-saving design option reduces potable water usage, potential water savings are estimated to be 37 billion gallons, although such savings should not be construed to be the result of a potable water standard. At TSL 4, DOE projects an increase in customer NPV of $0.337 billion (2013$) at a 7-percent discount rate; estimated emissions reductions of 14.0 MMt of CO_2, 20.7 kt of NO_x, and 0.04 tons of Hg. The monetary value for CO_2 was estimated to be up to $1.4 billion. The monetary value for NO_X was estimated to be $15.4 million at a 7-percent discount rate.

At TSL 4, the mean LCC savings are positive for all equipment classes. As shown on Table V.51, mean LCC savings vary from $71 for SCU–A–Large–B to $626 for IMH–A–Large–C, which implies that, on average, customers will experience an LCC benefit. As shown on Table V.53, for 7 of the 13 classes, some fraction of the customers will experience net costs, while for 5 classes, 1 percent or less will experience net costs. Customers in 3 classes would experience net LCC costs of 30 percent or more, with the percentage ranging up to 54 percent for one equipment class. Median payback periods range from 0.7 years up to 6.5 years.

At TSL 4, the projected change in INPV ranges from a decrease of $18.6 million to a decrease of $12.3 million. If the lower bound of the range of

[74] Sanstad, A. *Notes on the Economics of Household Energy Consumption and Technology Choice.* 2010. Lawrence Berkeley National Laboratory, Berkeley, CA. *www1.eere.energy.gov/buildings/appliance_standards/pdfs/consumer_ee_theory.pdf*

[75] For this section of the final rule, the discussion is limited to results for full equipment classes. Thus, for the large equipment classes for which DOE analyzed 2 typical unit sizes, this discussion focuses on the weighted average or totals of the two typical units.

impacts is reached, TSL 4 could result in a net loss of up to 15.3 percent in INPV for manufacturers.

DOE estimates that approximately 66 percent of all batch commercial ice makers and 55 percent of all continuous commercial ice makers on the market will require redesign to meet standards at TSL 4. At this TSL DOE expects industry conversion costs to total $30.0 million. Additionally, for four equipment classes, there is only 1 manufacturer with products that currently meet the standard.

After carefully considering the analysis results and weighing the benefits and burdens of TSL 4, DOE finds that at TSL 4, the benefits to the nation in the form of energy savings and emissions reductions plus an increase of $0.337 billion in customer NPV are outweighed by a decrease of up to 15.3 percent in INPV and issues regarding availability of product from multiple manufacturers in some product classes. After weighing the burdens of TSL 4 against the benefits, DOE finds TSL 4 not to be economically justified. DOE does not propose to adopt TSL 4 in this rule.

At TSL 3, the next highest efficiency level, estimated energy savings from 2018 through 2047 are 0.179 quads of primary energy—an amount DOE considers significant. Because one energy-saving design option reduces potable water usage, potential water savings are estimated to be 37 billion gallons, although such savings should not be construed to be the result of a potable water standard. TSL 3 was defined as the set of efficiencies with the highest NPV for each analyzed equipment class. At TSL 3, DOE projects an increase in customer NPV of $0.430 billion at a 7-percent discount rate, and an increase of $0.942 billion at a 3-percent discount rate. Estimated emissions reductions are 10.9 MMt of CO_2, up to 16.2 kt of NO_X and 0.03 tons of Hg at TSL 3. The monetary value of the CO_2 emissions reductions was estimated to be up to $1.1 billion at TSL 3. The monetary value of the NO_X emission reductions was estimated to be $12.1 million at a 7-percent discount rate.

At TSL 3, nearly all customers for all equipment classes are shown to experience positive LCC savings. As shown on Table V.53 Table V.53, the percent of customers experiencing a net cost is 2 percent or less in 12 of 13 classes, with IMH–A–Small–B being the exception with 21 percent of customers experiencing a net cost. The payback period for IMH–A–Small–B is 4.7 years, while for all other equipment classes the median payback periods are 3 years or less. LCC savings range from $77 for IMH–A–Small–B to $748 for RCU–Large–B.

At TSL 3, the projected change in INPV ranges from a decrease of $15.1 million to a decrease of $12.1 million. If the lower bound of the range of impacts is reached, TSL 3 could result in a net loss of up to 12.5 percent in INPV for manufacturers.

DOE estimates that approximately 51 percent of all batch commercial ice makers and 55 percent of all continuous commercial ice makers on the market will require redesign to meet standards at TSL 3. At TSL 3, DOE expects industry conversion costs to total $25.1 million. There are multiple manufacturers with product that could meet this standard at all analyzed equipment classes.

At TSL 3, the monetized CO_2 emissions reduction values range from $0.080 to $1.113 billion. The mid-range value used by DOE to calculate total net benefits is the monetized CO_2 emissions reduction at $40.5 per ton in 2013$, which for TSL 3, is $0.361 billion. The monetized NO_X emissions reductions calculated at an intermediate value of $2,684 per ton in 2013$ are $12.1 million at a 7-percent discount rate and $23.8 million at a 3-percent rate. These monetized emissions reduction values were added to the customer NPV at 3-percent and 7-percent discount rates to obtain values of $1.326 billion and 0.803 billion, respectively, at TSL 3.

Approximately 94 percent of customers are expected to experience net benefits (or no impact) from equipment built to TSL 3 levels. The payback periods for TSL 3 are expected to be 3 years or less for all but the IMH–A–Small–B.

After carefully considering the analysis results and weighing the benefits and burdens of TSL 3, DOE concludes that setting the standards for automatic commercial ice makers at TSL 3 will offer the maximum improvement in energy efficiency that is technologically feasible and economically justified and will result in significant energy savings. Therefore, DOE today is adopting standards at TSL 3 for automatic commercial ice makers. TSL 3 is technologically feasible because the technologies required to achieve these levels already exist in the current market and are available from multiple manufacturers. TSL 3 is economically justified because the benefits to the nation in the form of energy savings, customer NPV at 3 percent and at 7 percent, and emissions reductions outweigh the costs associated with reduced INPV and potential effects of reduced manufacturing capacity.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that these standards address are as follows:

(1) Insufficient information 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 automatic commercial ice makers 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.

In addition, DOE has determined that today's regulatory action is a ''significant regulatory action'' under Executive Order 12866. DOE presented to the Office of Information and Regulatory Affairs (OIRA) in the OMB for review the draft rule and other documents prepared for this rulemaking, including a regulatory impact analysis (RIA), and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011. (76 FR 3281, Jan. 21, 2011) EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required

by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that this final rule is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://energy.gov/gc/office-general-counsel*).

For manufacturers of automatic commercial ice makers, 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 by 65 FR 53533, 53544 (September 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.* Commercial refrigeration equipment manufacturing is classified under NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing,'' which includes ice-making machinery manufacturing. The SBA sets a threshold of 750 employees or less for an entity to be considered as a small business for this category. Based on this threshold, DOE present the following FRFA analysis:

1. Description and Estimated Number of Small Entities Regulated

During its market survey, DOE used available public information to identify potential small manufacturers. DOE's research involved industry trade association membership directories (including AHRI), public databases (*e.g.,* AHRI Directory,[76] the SBA Database [77]), individual company Web sites, and market research tools (*e.g.,* Dunn and Bradstreet reports [78] and Hoovers reports [79]) 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 automatic commercial ice makers. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a ''small business,'' or are foreign owned.

DOE identified 16 manufacturers of automatic commercial ice makers. Seven of those are small businesses manufacturers operating in the United States. DOE contacted each of these companies, but only one accepted the invitation to participate in a confidential manufacturer impact analysis interview with DOE contractors.

In establishing today's standard levels, DOE has carefully considered the impacts on small manufacturers when establishing the standards for this industry. DOE's review of the industry suggests that the five of the seven small manufacturers identified specialize in industrial higher capacity ''tube'', ''flake'' or ''cracked'' ice machines. Industry literature indicates that these types of ice makers are typically designed to produce 2,000–40,000 lb/day of ice, with some designs going as low as 1,000 lb/day. Only at the lowest end of the tube, flake, and cracked ice platforms, typically 2,000 and 4,000 lb/day, do these manufacturers have products within the scope of this rulemaking. Based on product listings from manufacturer Web sites, DOE estimates that approximately 15% of the models produced by these five manufacturers are covered product under today's rule.

Of the remaining two small manufacturers, one exclusively produces continuous ice makers, and one exclusively produces gourmet, large cube, ice makers. Based on publically available information, DOE believes that approximately two-thirds of all the models made by the manufacturer of continuous machines already meet the standard, positioning it well compared to an industry-at-large compliance rate of approximately 50 percent.

DOE estimates that 10 percent of the models made by the manufacturer of gourmet, large cube machines already meet the standard. The low percentage indicates that this manufacturer may be disproportionately affected by the selected standard level, but as discussed in section IV.B.1.f, DOE does not have nor did it receive in response to requests for comments sufficient specific information to evaluate whether larger

[76] ''AHRI Certification Directory.'' AHRI Certification Directory. AHRI. (Available at: *https://www.ahridirectory.org/ahridirectory/pages/home.aspx*) (Last accessed October 10, 2011). See *www.ahridirectory.org/ahriDirectory/pages/home.aspx.*

[77] ''Dynamic Small Business Search.'' SBA. (Available at: See *http://dsbs.sba.gov/dsbs/search/dsp_dsbs.cfm*) (Last accessed October 12, 2011).

[78] ''D&B|Business Information|Get Credit Reports|888 480–6007.''. Dun & Bradstreet (Available at: *www.dnb.com*) (Last accessed October 10, 2011). See *www.dnb.com/.*

[79] ''Hoovers|Company Information|Industry Information|Lists.'' D&B (2013) (Available at: See *http://www.hoovers.com/*) (Last accessed December 12, 2012).

ice has specific consumer utility, nor to allow separate evaluation for such equipment of costs and benefits associated with achieving the efficiency levels considered in the rulemaking. In the absence of information, DOE cannot conclude that this type of ice has unique consumer utility justifying consideration of separate equipment classes. DOE notes that manufacturers of this equipment have the option seeking exception relief pursuant to 41 U.S.C. 7194 from DOE's Office of Hearings and Appeals.

Based on a 2008 study by Koeller & Company,[80] DOE understands that the ACIM market is dominated by four manufacturers who produce approximately 90 percent of the automatic commercial ice makers for sale in the United States. The four major manufacturers with the largest market share are Manitowoc, Scotsman, Hoshizaki, and Ice-O-Matic. The remaining 12 large and small manufacturers account for ten percent of domestic sales.

DOE considered comments that all manufacturers and stakeholders made regarding the engineering analysis and made changes to the analysis, which are described in some detail in section III.IV.D. These changes reduced the highest efficiency levels determined to be possible using the design options considered in the analyses and increased the estimated costs associated with attaining most efficiency levels. Consequently, the most cost-effective efficiency levels for the final rule analysis were lower than for the NOPR. This applied to specific equipment classes associated with the products sold by some of these small businesses, for example continuous ice makers, IMH batch ice makers, and RCU batch ice makers. The energy standards were consequently set at efficiency levels that will be less burdensome to attain for the affected small businesses.

2. Description and Estimate of Compliance Requirements

For the purposes of analysis, DOE assumes that the seven small domestic manufacturers of automatic commercial ice makers identified account for approximately 5 percent of industry shipments. While small business manufacturers of automatic commercial ice makers have small overall market share, some hold substantial market share in specific equipment classes. Several of these smaller firms specialize in producing industrial ice machines and the covered equipment they manufacture are extensions of industrial product lines that fall within the range of capacity covered by this rule. Others serve niche markets. Most have substantial portions of their business derived from equipment outside the scope of this rulemaking, as described further below, but are still considered small businesses based on the SBA limits for number of employees.

At the new and amended levels, small business manufacturers of automatic commercial ice makers are expected to face negative impacts on INPV. For the portions of their business covered by the standard, the impacts are approximately four times as severe as those felt by the industry at large: a loss of 49.8 percent of INPV for small businesses alone as compared to a loss of 12.5 percent for the industry at large. Where conversion costs are driven by the number of platforms requiring redesign at a particular standard level, small business manufacturers may be disproportionately affected. Product conversion costs including the investments made to redesign existing equipment to meet new or amended standards or to develop entirely new compliant equipment, as well as industry certification costs, do not scale with sales volume. As small manufacturers' investments are spread over a much lower volume of shipments, recovering the cost of upfront investments is proportionately more difficult. Additionally, smaller manufacturers typically do not have the same technical resources and testing capacity as larger competitors.

The product conversion investments required to comply are estimated to be over 10 times larger than the typical R&D expenditures for small businesses, whereas the industry as a whole is estimated to incur 4 times larger than typical R&D expenditures. Where the covered equipment from several small manufacturers are adaptations of larger platforms with capacities above the 4,000 lb ice/24 hour threshold, it may not prove economical for them to invest in redesigning such a small portion of their product offering to meet standards.

In confidential interviews, manufacturers indicated that many design options evaluated in the engineering analysis (*e.g.,* higher efficiency motors and compressors) would require them to purchase more expensive components. In many industries, small manufacturers typically pay higher prices for components due to smaller purchasing volumes while their large competitors receive volume discounts. However, this effect is diminished for the automatic commercial ice maker manufacturing industry for two distinct reasons. One reason relates to the fact that the automatic commercial ice maker industry as a whole is a low volume industry. In confidential interviews, manufacturers indicated that they have little influence over their suppliers, suggesting the volume of their component orders is similarly insufficient to receive substantial discounts. The second reason relates to the fact that, for most small businesses, the equipment covered by this rulemaking represents only a fraction of overall business. Where small businesses are ordering similar components for non-covered equipment, their purchase volumes may not be as low as is indicated by the total unit shipments for small businesses. For these reasons, it is expected that any volume discount for components enjoyed by large manufacturers would not be substantially different from the prices paid by small business manufacturers.

To estimate how small manufacturers would be potentially impacted, DOE developed specific small business inputs and scaling factors for the GRIM. These inputs were scaled from those used in the whole industry GRIM using information about the product portfolios of small businesses and the estimated market share of these businesses in each equipment class. DOE used this information in the GRIM to estimate the annual revenue, EBIT, R&D expense, and capital expenditures for a typical small manufacturer and to model the impact on INPV associated with the production of covered product; noting that for five of the seven small businesses in this analysis, only 15% of their product portfolio, which was based on review capacity ranges of the product offerings listed on these manufacturers' Web sites, is covered product under today's rule DOE then compared these impacts to those modeled for the industry at large, and found that small manufactures could lose up to 49.8 percent of the INPV associated with the production of covered product; as compared to a reduction in small business INPV of 78.8 percent at the NOPR stage. Table VI.1 and Table VI.2 summarize the impacts on small business INPV at each TSL, and Table VI.3 and Table VI.4 summarize the changes in results at TSL 3, between the NOPR and Final Rule analysis.

[80] Koeller, John, P.E., and Herman Hoffman, P.E. A Report on Potential Best Management Practices. Rep. The California Urban Water Conservation Council, n.d. Web. 19 May 2014.

TABLE VI.1—COMPARISON OF SMALL BUSINESS MANUFACTURERS OF AUTOMATIC COMMERCIAL ICE MAKER INPV * TO THAT OF THE INDUSTRY AT LARGE BY TSL UNDER THE PRESERVATION OF GROSS MARGIN MARKUP SCENARIO **

	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Industry at Large—Impact on INPV (%)	(6.2)	(9.2)	(12.5)	(15.3)	(24.6)
Small Businesses—Impact on INPV (%)	(18.3)	(34.2)	(48.8)	(51.5)	(57.2)

* Small business manufacturer INPV represents only the INPV associated with the production and sale of covered product. Many small business manufacturers produce products not covered by this rule.
** Values in parentheses are negative numbers.

TABLE VI.2—COMPARISON OF SMALL BUSINESS MANUFACTURERS OF AUTOMATIC COMMERCIAL ICE MAKER INPV * TO THAT OF THE INDUSTRY AT LARGE BY TSL UNDER THE PRESERVATION OF EBIT MARKUP SCENARIO **

	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Industry at Large—Impact on INPV (%)	(5.4)	(7.7)	(10.0)	(10.1)	(9.7)
Small Businesses—Impact on INPV (%)	(19.1)	(35.1)	(49.8)	(52.6)	(68.4)

* Small business manufacturer INPV represents only the INPV associated with the production and sale of covered product. Many small business manufacturers produce products not covered by this rule.
** Values in parentheses are negative numbers.

TABLE VI.3—COMPARISON OF SMALL BUSINESS MANUFACTURERS OF AUTOMATIC COMMERCIAL ICE MAKER INPV * TO THAT OF THE INDUSTRY AT LARGE UNDER THE PRESERVATION OF GROSS MARGIN MARKUP SCENARIO **; NOPR VS. FINAL RULE

	NOPR TSL 3	Final rule TSL 3
Industry at Large—Impact on INPV (%)	(20.5)	(12.5)
Small Businesses—Impact on INPV (%)	(76.6)	(48.8)

* Small business manufacturer INPV represents only the INPV associated with the production and sale of covered product. Many small business manufacturers produce products not covered by this rule.
** Values in parentheses are negative numbers.

TABLE VI.4—COMPARISON OF SMALL BUSINESS MANUFACTURERS OF AUTOMATIC COMMERCIAL ICE MAKER INPV * TO THAT OF THE INDUSTRY AT LARGE UNDER THE PRESERVATION OF EBIT MARKUP SCENARIO **; NOPR VS FINAL RULE

	NOPR TSL 3	Final rule TSL 3
Industry at Large—Impact on INPV (%)	(23.5)	(10.0)
Small Businesses—Impact on INPV (%)	(78.6)	(49.8)

* Small business manufacturer INPV represents only the INPV associated with the production and sale of covered product. Many small business manufacturers produce products not covered by this rule.
** Values in parentheses are negative numbers.

3. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the rule being adopted today.

4. Significant Alternatives to the Rule

The discussion above analyzes impacts on small businesses that would result from DOE's new and amended standards. In addition to the other TSLs being considered, the rulemaking TSD includes a regulatory impact analysis (RIA). For automatic commercial ice making equipment, the RIA discusses the following policy alternatives: (1) No change in standard; (2) consumer rebates; (3) consumer tax credits; and (4) manufacturer tax credits; (5) voluntary energy efficiency targets; (6) bulk government purchases; and (7) extending the compliance date for small entities. While these alternatives may mitigate to some varying extent the economic impacts on small entities compared to the standards, DOE did not consider these alternatives further because they are either not feasible to implement without authority and funding from Congress, or are expected to result in energy savings that are much smaller (ranging from 39 percent to less than 53 percent) than those that will be achieved by the new and amended standard levels. In reviewing alternatives DOE analyzed a case in which the voluntary programs targeted efficiencies corresponding to final rule TSL 3. DOE also examined standards at lower efficiency levels, TSL 2 and TSL 1. TSL 2 achieves 25 percent lower savings than TSL 3 and TSL 1 achieves less than half the savings of TSL 3. (See Table V.50 for the estimated impacts of standards at lower TSLs.) Voluntary programs at these levels achieve only a fraction of the savings achieved by standards and would provide even lower savings benefits. As shown in Table VI.1 through Table VI.4, the changes to the efficiency levels comprising TSL 3 between the NOPR and final rule resulted in a substantial reduction in the impacts faced by small businesses. To achieve further substantial reductions in small business impacts would force the standard down to TSL 1 levels, at the expense of substantial energy savings and NPV benefits, which would be inconsistent with DOE's statutory mandate to maximize the improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. DOE believes that establishing standards at TSL 3 provides the optimum balance between energy savings benefits and impacts on small businesses. Accordingly, DOE is declining to adopt any of these alternatives and is adopting the standards set forth in this rulemaking. (See chapter 17 of the TSD for further detail on the policy alternatives DOE considered.)

Additional compliance flexibilities may be available through other means. For example, individual manufacturers may petition for a waiver of the applicable test procedure. Further, EPCA provides that a manufacturer whose annual gross revenue from all of its operations does not exceed $8,000,000 may apply for an exemption from all or part of an energy conservation standard for a period not longer than 24 months after the effective date of a final rule establishing the standard. Additionally, Section 504 of the Department of Energy Organization Act, 42 U.S.C. 7194, provides authority for the Secretary to adjust a rule issued under EPCA in order to prevent ''special

hardship, inequity, or unfair distribution of burdens'' that may be imposed on that manufacturer as a result of such rule. Manufacturers should refer to 10 CFR part 430, subpart E, and part 1003 for additional details.

5. Response to Small Business Comments and Comments of the Office of Advocacy

The Chief Counsel of the SBA Office of Advocacy submitted comments regarding the impact of the proposed standards on small businesses and recommended that DOE use its discretion to adopt an alternative to the proposed standard that is achievable for small manufacturers. This letter is posted to the docket at *http://www.regulations.gov/#!docketDetail;D=EERE-2010-BT-STD-0037.*

DOE has taken several steps to minimize the impact of the new and amended standards on small businesses. The comments received in response to the proposed standards led DOE to hold an additional public meeting and allow stakeholders more time to submit additional information to DOE's consultant pursuant to non-disclosure agreements regarding efficiency gains and costs of potential design options. DOE reviewed additional market data, including published ratings of available ice makers, to recalibrate its engineering analysis, and as a result, revised the proposed TSL levels. DOE issued a NODA to announce the availability of the revised analysis and sought comment from stakeholders. In this final rule, DOE is adopting the TSL 3 presented in the NODA. As discussed previously, the changes to the efficiency levels comprising TSL 3 between the NOPR and final rule resulted in a standard that is less burdensome for small businesses.

In addition, in reviewing all available data sources received in response to the proposed standards, DOE found that the IMH–W continuous class ice makers consume more condenser water than DOE assumed at the NOPR stage. In setting the standard for the continuous class condenser water use, DOE intended that the baseline reflect the existing market for continuous type units. Based on this new data, the standard for condenser water use is set at 10 percent below the baseline condenser water use level for IMH–W batch ice makers, rather than 20 percent, as was proposed in the NOPR. As a result, all IMH–W continuous class models produced by small business manufacturers are compliant with the condenser water use standard for this class.

DOE notes that while any one regulation may not impose a significant burden on small business manufacturers, the combined effects of recent or impending regulations may have consequences for some small business manufacturers. In researching the product offerings of small business manufacturers covered by this rulemaking, DOE did not identify any that also manufacture products impacted by the recently issued energy conservation standards for commercial refrigeration equipment or walk-in coolers and freezers. DOE will continue to work with industry to ensure that cumulative impacts from its regulations are not unduly burdensome.

The SBA Office of Advocacy also recommended that DOE adopt a lower TSL for small businesses because the level proposed in the NOPR would have a disproportionately negative impact on small business manufacturers. As discussed previously, the changes to the analysis between the NOPR and final rule resulted in different TSLs. As such, the efficiency levels comprising TSL 3 as set forth in this final rule result in a substantial reduction in the impacts faced by small business manufacturers, as compared to those proposed in the NOPR. DOE also examined standards at lower efficiency levels, TSL 2 and TSL 1. TSL 2 achieves 25 percent lower savings than TSL 3 and TSL 1 achieves less than half the savings of TSL 3. (See Table V.50 for the estimated impacts of standards at lower TSLs.) The impacts on small manufacturers were also considered in comparison to the impacts on larger manufacturers to ensure that small business would remain competitive in the market. Because they compete mostly in market niches not covered by these standards, these rules apply to about 15 percent of these companies product in comparison to 100 percent for large business. In addition, for one of the remaining two manufacturers, DOE estimates that approximately two-thirds of its models already meet the energy efficiency standard and 100 percent of its models meet the condenser water standard. In comparison, a typical large manufacturer will need to redesign half of their products to meet the new and amended standards. Pursuant to DOE's statutory mandate, any new or amended standard must maximize the improvement in energy efficiency that the Secretary determines is both technologically feasible and economically justified. DOE determined that TSL 3 will achieve significant energy savings and is economically justified, and therefore is adopting TSL 3 in this final rule. DOE believes that establishing standards at TSL 3 provides the optimum balance between energy savings benefits and impacts on small businesses.

Finally, the SBA Office of Advocacy recommended that DOE consider extending the compliance date for small entities. DOE notes that EPCA requires that the amended standards established in this rulemaking must apply to equipment that is manufactured on or after 3 years after the final rule is published in the **Federal Register** unless DOE determines, by rule, that a 3-year period is inadequate, in which case DOE may extend the compliance date for that standard by an additional 2 years. (42 U.S.C. 6313(d)(3)(C)) As described previously, the standard levels set forth in this final rule are less stringent relative to those proposed in the NOPR, and fewer ice maker models will require redesign to meet the new standard. Therefore, DOE has determined that the 3-year period is adequate and is not extending the compliance date for small business manufacturers.

C. Review Under the Paperwork Reduction Act

Manufacturers of automatic commercial ice makers 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 automatic commercial ice makers, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including commercial refrigeration equipment. (76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless

that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that this final 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). This final rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this rule. DOE's CX determination for this final rule is available at *http://energy.gov/nepa/categorical-exclusion-determinations-b51.*

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 final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (February 7, 1996). Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For an amended regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel.*

DOE has concluded that this final rule would likely require expenditures of $100 million or more on the private sector. Such expenditures may include: (1) Investment in research and development and in capital expenditures by automatic commercial ice maker 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 automatic commercial ice maker, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the final rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the notice of final rulemaking and the ''Regulatory Impact Analysis'' section of the TSD for this final rule respond to those requirements.

Under section 205 of UMRA, the Department is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. 2 U.S.C. 1535(a). DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. As required by 42 U.S.C. 6295(o), 6313(d), this final rule would establish energy conservation standards for automatic commercial ice maker that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' chapter 17 of the TSD for today's final rule.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that this regulatory action, which sets forth energy conservation standards for automatic commercial ice makers, is not a significant energy action because the new and amended standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the final rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (January 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions. 70 FR at 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.*

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's final rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

Issued in Washington, DC, on December 31, 2014.

Kathleen B. Hogan,

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

For the reasons set forth in the preamble, DOE amends part 431 of chapter II 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 431.136 is revised to read as follows:

§ 431.136 Energy conservation standards and their effective dates.

(a) All basic models of commercial ice makers must be tested for performance using the applicable DOE test procedure in § 431.134, be compliant with the applicable standards set forth in paragraphs (b) through (d) of this section, and be certified to the Department of Energy under 10 CFR part 429 of this chapter.

(b) Each cube type automatic commercial ice maker with capacities between 50 and 2,500 pounds per 24-hour period manufactured on or after January 1, 2010 and before January 28, 2018, shall meet the following standard levels:

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kWh/100 lb ice	Maximum condenser water use [1] gal/100 lb ice
Ice-Making Head	Water	<500	7.8–0.0055H [2]	200–0.022H.
Ice-Making Head	Water	≥500 and <1,436	5.58–0.0011H	200–0.022H.
Ice-Making Head	Water	≥1,436	4.0	200–0.022H.
Ice-Making Head	Air	<450	10.26–0.0086H	Not Applicable.
Ice-Making Head	Air	≥450	6.89–0.0011H	Not Applicable.
Remote Condensing (but not remote compressor)	Air	<1,000	8.85–0.0038H	Not Applicable.
Remote Condensing (but not remote compressor)	Air	≥1,000	5.1	Not Applicable.
Remote Condensing and Remote Compressor	Air	<934	8.85–0.0038H	Not Applicable.
Remote Condensing (but not remote compressor)	Air	≥934	5.3	Not Applicable.
Self-Contained	Water	<200	11.40–0.019H	191–0.0315H.
Self-Contained	Water	≥200	7.6	191–0.0315H.
Self-Contained	Air	<175	18.0–0.0469H	Not Applicable.
Self-Contained	Air	≥175	9.8	Not Applicable.

[1] Water use is for the condenser only and does not include potable water used to make ice.
[2] H = harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate.
Source: 42 U.S.C. 6313(d).

(c) Each batch type automatic commercial ice maker with capacities between 50 and 4,000 pounds per 24-hour period manufactured on or after January 28, 2018, shall meet the following standard levels:

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kilowatt-hours (kWh)/100 lb ice [1]	Maximum condenser water use gal/100 lb ice [2]
Ice-Making Head	Water	< 300	6.88–0.0055H	200–0.022H.
Ice-Making Head	Water	≥300 and <850	5.80–0.00191H	200–0.022H.
Ice-Making Head	Water	≥850 and <1,500	4.42–0.00028H	200–0.022H.
Ice-Making Head	Water	≥1,500 and <2,500	4.0	200–0.022H.
Ice-Making Head	Water	≥2,500 and <4,000	4.0	145.
Ice-Making Head	Air	< 300	10–0.01233H	NA.
Ice-Making Head	Air	≥ 300 and < 800	7.05–0.0025H	NA.
Ice-Making Head	Air	≥ 800 and < 1,500	5.55–0.00063H	NA.
Ice-Making Head	Air	≥ 1500 and < 4,000	4.61	NA.
Remote Condensing (but not remote compressor)	Air	< 988	7.97–0.00342H	NA.
Remote Condensing (but not remote compressor)	Air	≥ 988 and < 4,000	4.59	NA.
Remote Condensing and Remote Compressor	Air	< 930	7.97–0.00342H	NA.
Remote Condensing and Remote Compressor	Air	≥ 930 and < 4,000	4.79	NA.
Self-Contained	Water	< 200	9.5–0.019H	191–0.0315H.
Self-Contained	Water	≥ 200 and < 2,500	5.7	191–0.0315H.
Self-Contained	Water	≥ 2,500 and < 4,000	5.7	112.
Self-Contained	Air	< 110	14.79–0.0469H	NA.
Self-Contained	Air	≥ 110 and < 200	12.42–0.02533H	NA.
Self-Contained	Air	≥ 200 and < 4,000	7.35	NA.

[1] H = harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate. Source: 42 U.S.C. 6313(d).
[2] Water use is for the condenser only and does not include potable water used to make ice.

(d) Each continuous type automatic commercial ice maker with capacities between 50 and 4,000 pounds per 24-hour period manufactured on or after January 28, 2018, shall meet the following standard levels:

Equipment type	Type of cooling	Harvest rate lb ice/24 hours	Maximum energy use kWh/100 lb ice [1]	Maximum condenser water use gal/100 lb ice [2]
Ice-Making Head	Water	<801	6.48–0.00267H	180–0.0198H.
Ice-Making Head	Water	≥801 and <2,500	4.34	180–0.0198H.
Ice-Making Head	Water	≥2,500 and <4,000	4.34	130.5.
Ice-Making Head	Air	<310	9.19–0.00629H	NA.
Ice-Making Head	Air	≥310 and <820	8.23–0.0032H	NA.
Ice-Making Head	Air	≥820 and <4,000	5.61	NA.
Remote Condensing (but not remote compressor)	Air	<800	9.7–0.0058H	NA.
Remote Condensing (but not remote compressor)	Air	≥800 and <4,000	5.06	NA.
Remote Condensing and Remote Compressor	Air	<800	9.9–0.0058H	NA.
		≥800 and <4,000	5.26	NA.
Self-Contained	Water	<900	7.6–0.00302H	153–0.0252H.
Self-Contained	Water	≥900 and <2,500	4.88	153–0.0252H.
Self-Contained	Water	≥2,500 and <4,000	4.88	90.
Self-Contained	Air	<200	14.22–0.03H	NA.
Self-Contained	Air	≥200 and <700	9.47–0.00624H	NA.
Self-Contained	Air	≥700 and <4,000	5.1	NA.

[1] H = harvest rate in pounds per 24 hours, indicating the water or energy use for a given harvest rate. Source: 42 U.S.C. 6313(d).
[2] Water use is for the condenser only and does not include potable water used to make ice.

Appendix

[The following letter from the Department of Justice will not appear in the Code of Federal Regulations.]

U.S. Department of Justice, Antitrust Division, William J. Baer, Acting Assistant Attorney General, RFK Main Justice Building, 950 Pennsylvania Ave., NW., Washington, DC 20530–0001, (202)514–2401/(202)616–2645 (Fax)

December 24, 2014

Eric J. Fygi, Deputy General Counsel, Department of Energy, Washington, DC 20585

Re: Energy Conservation Standards for Automatic Commercial Ice Makers,

Dear Deputy General Counsel Fygi:

I am responding to your December 3, 2014 letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for automatic commercial ice makers. Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (ECPA), 42 U.S.C. 6295(o)(2)(B)(i)(V), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR §0.40(g).

In conducting its analysis the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice, by placing certain manufacturers at an unjustified competitive disadvantage, or by inducing avoidable inefficiencies in production or distribution of particular products. A lessening of competition could result in higher prices to manufacturers and consumers.

We have reviewed the proposed standards contained in the Notice of Proposed Rulemaking (79 FR 14848, March 17, 2014) (NOPR). In light of the short time frame for our review of the proposed standards, we also consulted with DOE staff on the issues raised by the proposed NOPR.

Based on this review and consultation with DOE staff, our conclusion is that the proposed energy conservation standards for automatic commercial ice makers are unlikely to have a significant adverse impact on competition.

Sincerely,

William J. Baer

Enclosure

[FR Doc. 2015–00326 Filed 1–27–15; 8:45 am]

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