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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 14

RIN 3038–AE21

Proceedings Before the Commodity Futures Trading Commission; Rules Relating to Suspension or Disbarment From Appearance and Practice

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') amends its regulations to clarify the standard used for determining when an accountant has engaged in ''unethical or improper professional conduct''—grounds for a temporary or permanent denial of the privilege to practice before the Commission. The amendment enhances transparency by codifying the standard used in Commission adjudications of accountant conduct under the Commission's regulations.

DATES: This rule is effective July 10, 2015.

FOR FURTHER INFORMATION CONTACT: Jason Gizzarelli, Director, Office of Proceedings, (202) 418–5395, *jgizzarelli@cftc.gov,* Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

Part 14 of the Commission's regulations addresses the circumstances under which the Commission may deny attorneys and accountants, temporarily or permanently, the privilege of practicing their respective professions before it. Rule 14.8 specifically provides that the Commission, after notice and opportunity for a hearing and an adverse finding by a preponderance of the evidence, may bar an attorney or accountant found: (a) Not to possess the requisite qualifications to represent others; or (b) to be lacking in character or integrity; or (c) to have engaged in unethical or improper professional conduct either in the course of an adjudicatory, investigative, rulemaking, or other proceeding before the Commission or otherwise.[1]

Prior to this amendment, rule 14.8 did not further articulate what constitutes ''unethical or improper professional conduct'' by an accountant under paragraph (c). However, since 1996, the Commission has filed six administrative actions alleging violations of rule 14.8 against accountants appearing and practicing before it.[2] In each case, the Commission accepted a settlement banning the defendants from practicing before it for a specified time period.

Section 201.102(e) of the Securities and Exchange Commission's (''SEC's'') regulations (''SEC rule of practice 102(e)'')[3] addresses the standard of conduct for accountants practicing before that commission. Parallel to Commission rule 14.8, SEC rule of practice 102(e)(1)(ii) sets out ''unethical or improper professional conduct'' as grounds for accountant suspension and disbarment from practice before the SEC. As amended in 1998,[4] the SEC regulation further provides that with respect to persons licensed to practice as accountants, ''improper professional conduct'' under SEC rule of practice 102(e)(1)(ii) means intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional standards; or either of the following two types of negligent conduct: A single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted; or repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.[5]

The standard for accountant ''improper professional conduct'' expressed in SEC rule of practice 102(e)(1) is consistent with that applied by the Commission in its earlier-referenced adjudications of accountant conduct under rule 14.8.

II. The Proposed Amendment to Rule 14.8; Consideration of Comments

On October 23, 2014, the Commission published a proposed amendment to rule 14.8 (''the Proposal'') for public comment.[6] As proposed, the amendment sought to add language to rule 14.8(c) to clarify the meaning of accountant ''improper professional conduct.'' As explained in the Proposal, the proposed amendment mirrors in substance the standard prescribed in SEC rule of practice 102(e)(1)(iv), and comports with the standard historically applied by the Commission in adjudications of accountant conduct.

The Commission received three comments on the Proposal.[7] Each commenter supported the amended rule as proposed without raising substantive issues. For example Deloitte LLP stated that it ''support[s] the CFTC's decision to seek regulatory consistency by adopting a definition that is identical to the definition provided under Rule 102(e) of the Rules of Practice of the U.S. Securities and Exchange Commission.''[8] Ernst & Young LLP wrote that ''[a]dopting a rule that is modeled after SEC Rule 102(e), which would be the case with respect to the proposed amendment, strikes us as a reasonable approach given the lengthy

[1] 17 CFR 14.8.

[2] *In re Deloitte & Touche and Thomas Lux,* CFTC Docket No. 96–10, 1996 WL 547883 (CFTC September 25, 1996); *In re Sherald Griffin, CPA & Donna Laubscher, CPA,* CFTC Docket No. 98–12, 1998 WL 161709 (CFTC April 8, 1998); *In re Anatoly Osadchy, CPA,* CFTC Docket No. 99–2, 1998 WL 754637 (CFTC October 29, 1998); *In re G. Victor Johnson and Altschuler, Melvoin & Glasser, LLP,* CFTC Docket No. 04–29, 2005 WL 1398672 (CFTC June 13, 2005); *In re G. Victor Johnson II, McGladrey & Pullen, LLP and Altshuler, Melvoin & Glasser, LLP,* CFTC Docket No. 11–01, 2010 WL 3903905 (CFTC October 4 2010; *In re Jeannie Veraja-Snelling,* CFTC Docket No. 13–29, 2013 WL 4647784 (CFTC filed Aug. 26, 2013).

[3] 17 CFR 201.102(e).

[4] *See* Amendment to Rule 102(e) of the Commission's Rule of Practice, 63 FR 57164 (Oct. 26, 1998).

[5] 17 CFR 201.102(e)(1)(iv).

[6] Proceedings before the Commodity Futures Trading Commission; Rules Relating to Suspension or Disbarment from Appearance and Practice, 79 FR 63343 (Oct. 23, 2014).

[7] The three commenters on the proposed rule amendment were Ernst & Young LLP, Deloitte LLP and Chris Barnard.

[8] Deloitte LLP Comment Letter at 1 (November 24, 2014).

history and background of the SEC's rule.''[9] A third commenter wrote that the proposed rule ''requires the accountant to act with integrity and perform its duties with competence and care and will promote market integrity, ensure regulators consistency (with the SEC), enhance customer protection and improve risk management.''[10] Accordingly, the Commission is adopting the amendment to rule 14.8, as proposed.

III. Role of and Standards Applied to Accountants

Accountants auditing Commission registrants perform a critical gatekeeper role in protecting the financial integrity of the derivatives markets and the investing public. Accountants appearing before the Commission in this capacity must understand the business operations of their clients and conduct financial audits both in accordance with applicable professional principles and standards and in satisfaction of all the requirements of the Commission's regulations.[11]

Rule 14.8 can be an effective remedial tool to ensure that the accountants appearing before the Commission are competent to do so and do not pose a threat to the Commission's registration and examination functions. Accountants who engage in intentional or knowing misconduct, which includes reckless conduct, clearly pose such a threat, as do accountants who engage in certain specified types of negligent conduct.

The Commission believes that a single, highly unreasonable error in judgment or other act made in circumstances warranting heightened scrutiny conclusively demonstrates a lack of competence to practice before the Commission. Repeated unreasonable conduct may also indicate a lack of competence. Therefore, if the Commission finds that an accountant acted egregiously in a single instance or unreasonably in more than one instance and that this conduct indicates a lack of competence, then that accountant engaged in improper professional conduct under rule 14.8's standard.

The amendment to rule 14.8 is not meant, however, to encompass every professional misstep. A single judgment error, for example, even if unreasonable when made, may not indicate a lack of competence to practice before the Commission sufficient to require Commission action. The amendment seeks to provide greater clarity with respect to the Commission's standard for assessing accountant conduct, as developed to-date through administrative adjudications. At the same time, however, like the SEC regulation after which the amendment is modeled, the amendment elaborates standards that are to be applied in adjudications on a case-by-case basis, a method that promotes equitable application of the standards as warranted upon full consideration of the facts of each case.

Similarly, as the SEC noted when it amended its rule of practice in 1998,[12] the Commission does not seek to use rule 14.8 to establish new standards for the accounting profession. The rule itself imposes no new professional standards on accountants. Accountants who appear or practice before the Commission are already subject to professional standards, and rule 14.8(c) is intended to apply in a manner consistent with those existing standards.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act requires agencies to consider whether the rules they may adopt will have a significant economic effect on a substantial number of small entities.[13] This amendment simply clarifies the standard by which the Commission determines whether accountants have engaged in ''improper professional conduct'' and does not impose any additional burdens on small businesses. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the amendment will not have a significant economic impact on a substantial number of small businesses.

B. Paperwork Reduction Act

The amendment to Rule 14.8 does not establish a collection of information for which the Commission would be obligated to comply with the Paperwork Reduction Act.[14]

C. Consideration of Costs and Benefits

Section 15(a) of the Commodity Exchange Act (''CEA'') requires the Commission to ''consider the costs and benefits'' of its actions before promulgating a regulation under the CEA or issuing certain orders.[15] Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

Reckless accounting practices threaten serious harm to market participants and, potentially, to the financial system as a whole.[16] Rule 14.8, which encompasses ''improper professional conduct'' of accountants that practice before the Commission, is one of the Commission's tools to guard against such harm. The amendment does not substantively change the standard that the Commission has employed to date under rule 14.8(c) in assessing accountant conduct. Rather, as discussed above, the amendment—which closely tracks language in the SEC's analogous rule[17]—simply expands upon the pre-existing language of rule 14.8(c) to articulate the standard more specifically and in a manner consistent with the standard the Commission has applied in past administrative adjudications considering accountant behavior.[18]

Accordingly, the amendment's chief benefit derives from clarifying the specific contours of the Commission's existing rule 14.8(c) standard as applied to accountant behavior and by codifying this refined approach in the Commission's regulations. Through this codification, the standard will be more transparent and accessible to professional practitioners, market participants, and the public generally. As a result, accountants appearing before the Commission will have the benefit of prominent notice of the specific standards of conduct to which they are held, and the consequences of failing to meet them. To the extent an

[9] Ernst & Young LLP Comment Letter at 1 (November 24, 2014).

[10] Chris Barnard Comment Letter at 2 (November 4, 2014).

[11] The current professional principles and standards applicable to accountants appearing before the Commission include Generally Accepted Accounting Principles, Generally Accepted Auditing Standards, International Accounting Standards, the Code of Conduct of the American Institute of Certified Public Accountants, and the rules and standards of the Public Company Accounting Oversight Board.

[12] *See* 63 FR 33305 (June 18, 1998); 63 FR 57164 (Oct. 26, 1998).

[13] 5 U.S.C. 601 *et seq.*

[14] 44 U.S.C. 3501 *et seq.*

[15] 7 U.S.C. 19(a).

[16] For example, accounting professionals who prepare or assist in the preparation of misleading auditing reports or financial statements—either deliberately or due to their incompetence—may help cover up fraudulent practices that result in loss of customer funds. In addition, misleading auditing reports or financial statements may result in excessive risks being undertaken, because certain risk measures or decisions regarding risk management are based on accounting data.

[17] 17 CFR 201.102(e)(1)(iv).

[18] *See* note 2, *supra.*

accountant inclined to test the bounds of professional conduct may have previously perceived loopholes or ambiguity for exploitation under the generally-stated standard of rule 14.8(c), the clarifying amendment provides a deterrent against such potentially damaging conduct—a benefit for market participants and the public. Further, such clear, specific notice forecloses to a great degree potential for an offending accounting practitioner, in defense of improper conduct, to argue confusion or uncertainty about what specifically the Commission's standard requires, thus supporting Commission enforcement efficiency.

The Commission anticipates no material cost burden attributable to the amendment for market participants or accounting professionals to whom the amendment is addressed. Again, this amendment merely articulates with more precision the contours of the more generally-stated standard of rule 14.8(c) as it has existed prior to this amendment; further, this pre-existing standard has encompassed standards governing the accounting profession generally and with which accounting professionals have needed to comply. Since the clarifying amendment effects no substantive change to the rule 14.8 standard, accountants practicing before the Commission should already be in compliance. Consequently, they should experience no cost to change their behavior to comply with the rule as amended.

In the following, the Commission considers the amendment relative to the CEA section 15(a) factors.

(1) Protection of Market Participants and the Public

As noted, improper accounting practices may help to cover up financial frauds or foster improper managerial decisions and may pose a threat to the safety of customer funds. By articulating the Commission's standards in more specific, codified, and readily accessible form, the amendment safeguards against accountants professing lack of knowledge of the applicable standards—or exploiting perceived ambiguities in them—to the detriment of market participants and the public.

(2) Efficiency, Competitiveness, and Financial Integrity of Futures Markets

Threats to the safety of customer funds generate public distrust in financial market integrity. To the extent this rule amendment better informs accountants and fosters their understanding of the Commission's standards and the consequences of improper actions—actions that potentially could threaten the safety of customer funds—the amendment promotes the integrity of financial markets.

(3) Price Discovery

The Commission does not foresee that the amendment will directly impact price discovery.

(4) Sound Risk Management Practices

As noted, improper accounting practices may lead to unnecessary risks being undertaken, as certain risk measures or managerial decisions are based on accounting data. To the extent the amendment improves accountants' understanding of the Commission's standards, thereby deterring improper conduct that potentially could result in unnecessary risks being undertaken, the amendment promotes sound risk management practices.

(5) Other Public Interest Considerations

By harmonizing the rule 14.8(c) standard for accountants with that of SEC rule of practice 102(e), the amendment helps to ensure consistency and reduces potential for confusion.

List of Subjects in 17 CFR Part 14

Administrative practice and procedure, Professional conduct and competency standards, Ethical conduct, Penalties.

For the reasons discussed in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 14 as set forth below:

PART 14—RULES RELATING TO SUSPENSION OR DISBARMENT FROM APPEARANCE AND PRACTICE

■ 1. The authority citation for part 14 is revised to read as follows:

Authority: Pub. L. 93–463, sec. 101(a)(11), 88 Stat. 1391, 7 U.S.C. 4a(j).

■ 2. Amend § 14.8 by revising paragraph (c) to read as follows:

§ 14.8 Lack of requisite qualifications, character and integrity.

* * * * *

(c) To have engaged in unethical or improper professional conduct either in the course of any adjudicatory, investigative or rulemaking or other proceeding before the Commission or otherwise. With respect to the professional conduct of persons licensed to practice as accountants, ''unethical or improper professional conduct'' means:

(1) Intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional principles or standards; or

(2) Either of the following two types of negligent conduct:

(i) A single instance of highly unreasonable conduct that results in a violation of applicable professional principles or standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted.

(ii) Repeated instances of unreasonable conduct, each resulting in a violation of applicable professional principles or standards, which indicate a lack of competence to practice before the Commission.

Issued in Washington, DC, on June 5, 2015, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Proceedings Before the Commodity Futures Trading Commission; Rules Relating to Suspension or Disbarment From Appearance and Practice—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Wetjen, Bowen, and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2015–14159 Filed 6–9–15; 8:45 am]

BILLING CODE 6351–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 10–210; FCC 15–57]

Relay Services for Deaf-Blind Individuals

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission extends the National Deaf-Blind Equipment Distribution Program (NDBEDP) as a pilot program for one additional year. The NDBEDP provides up to $10 million annually to support programs that distribute communications equipment to low-income individuals who are deaf-blind. Extending the pilot program enables the NDBEDP to continue providing communications equipment to low-income individuals who are deaf-blind without interruption while the Commission considers whether to adopt rules to govern a permanent NDBEDP.

DATES: Effective June 10, 2015.

FOR FURTHER INFORMATION CONTACT: Rosaline Crawford, Consumer and

Governmental Affairs Bureau, Disability Rights Office, at 202–418–2075 or email *Rosaline.Crawford@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document FCC 15–57, Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, Order (*Order*), adopted on May 21, 2015 and released on May 27, 2015, in CG Docket No. 10–210. The full text of document FCC 15–57 will be available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site at *http://fjallfoss.fcc.gov/ecfs2/,* and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Document FCC 15–57 can also be downloaded in Word or Portable Document Format (PDF) at *http://www.fcc.gov/ndbedp.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis

I. Background

1. Section 105 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) added section 719 to the Communications Act of 1934, as amended, which directed the Commission to establish rules to provide up to $10 million annually from the Interstate Telecommunications Relay Service Fund (TRS Fund) to support programs that distribute communications equipment to low-income individuals who are deaf-blind. Public Law 111–260, 124 Stat. 2751 (2010); Public Law 111–265, 124 Stat. 2795 (2010); 47 U.S.C. 620. In 2011, the Commission established the NDBEDP as a two-year pilot program, with an option to extend it for an additional year. *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* CG Docket No. 10–210, Report and Order, published at 76 FR 26641, May 9, 2011 (*NDBEDP Pilot Program Order*); 47 CFR 64.610 (NDBEDP pilot program rules). The Consumer and Governmental Affairs Bureau (CGB or Bureau) launched the pilot program on July 1, 2012. To implement the program, the Bureau certified 53 entities to participate in the NDBEDP—one entity to distribute communications equipment in each state, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, hereinafter referred to as ''state programs'' or ''certified programs''—and selected a national outreach coordinator to support the outreach and distribution efforts of these state programs. On February 7, 2014, the Bureau extended the pilot program for a third year, until June 30, 2015. Many individuals who have received equipment and training through the NDBEDP have reported that this program has vastly improved their daily lives, significantly enhancing their ability to live independently and expanding their educational and employment opportunities.

2. On August 1, 2014, the Bureau released a Public Notice inviting comment on which rules governing the NDBEDP pilot program should be retained and which should be modified to make the permanent NDBEDP more effective and more efficient. *Consumer and Governmental Affairs Bureau Seeks Comment on the National Deaf-Blind Equipment Distribution Program,* CG Docket No. 10–210, Public Notice, 29 FCC Rcd 9451 (CGB 2014). In response to the Public Notice, the Commission received over 40 comments from disability organizations, certified programs, and individual consumers, which will help to inform the preparation of a Notice of Proposed Rulemaking to establish a permanent NDBEDP when the pilot program ends.

II. Extension of Pilot Program

3. In the *Order,* the Commission extends the existing NDBEDP pilot program rules for one additional year, until June 30, 2016. As noted in the *Order,* the Commission has sought comment on whether certain changes should be made when the NDBEDP transitions from a pilot to a permanent program. Completion of this rulemaking and implementation of any new rules may take longer than June 30, 2015, when the rules governing the NDBEDP pilot program will expire. Extending the pilot program will provide time to receive and thoroughly consider public input on proposed rules for a permanent program, as well as to implement final rules for the permanent NDBEDP without interrupting the distribution of communications equipment and provision of related services to low-income individuals who are deaf-blind, which the Commission finds serves the public interest. The extension will also provide greater programmatic certainty to entities that are currently certified to participate in the NDBEDP and enable the Commission to provide a smooth transition from the NDBEDP pilot program to a permanent program. The Commission commits to continue the pilot NDBEDP as long as necessary to ensure a seamless transition between the pilot and permanent programs to ensure the uninterrupted distribution of equipment to this target population. When the Commission adopts final rules for the permanent program, it will consider the extent to which the pilot program needs to be extended further. To provide reasonable notice to the certified programs operating under the pilot program rules prior to June 30, 2015, this extension of the pilot program rules shall be effective June 10, 2015.

Final Paperwork Reduction Act of 1995 Analysis

The Commission currently has an Office and Management and Budget (OMB) collection 3060–1146 pending OMB's review and approval of an extension submitted to OMB on April 22, 2015. This collection contains information collection requirements for the NDBEDP pilot program, which are subject to the Paperwork Reduction Act (PRA) of 1995. Public Law 104–13. However, document FCC 15–57 does not modify the existing information collection requirements contained in OMB collection 3060–1146, and it does not contain new or modified information collection requirements subject to the PRA. In addition, therefore, it does not contain any new or modified 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 also* 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission will not send a copy of FCC 15–57 pursuant to the Congressional Review Act, because the Commission adopted no rules therein. *See* 5 U.S.C 801(a)(1)(A). Rather than adopting rules, the Commission exercised its statutory authority to extend the NDBEDP as a pilot program by *Order* for one additional year.

Ordering Clause

Pursuant to the authority contained in sections 1, 4(i), 4(j), and 719 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 620, that document FCC 15–57 *is adopted.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2015–13717 Filed 6–9–15; 8:45 am]

BILLING CODE 6712–01–P

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1602, 1615, and 1652

RIN 3206–AN00

Federal Employees Health Benefits Program; Rate Setting for Community-Rated Plans

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a final rule that makes changes to the Federal Employees Health Benefits Acquisition Regulation (FEHBAR). These changes: define which subscriber groups may be included for consideration as similarly sized subscriber groups (SSSGs); require the SSSG to be traditional community rated; establish that traditional community rated (TCR) Federal Employees Health Benefits (FEHB) plans must select only one rather than two SSSGs; and make conforming changes to FEHB contract language to account for the new medical loss ratio (MLR) standard for most community rated FEHB plans.

DATES: *Effective Date:* July 10, 2015.

FOR FURTHER INFORMATION CONTACT: Wenqiong Fu, Policy Analyst, at *wenqiong.fu@opm.gov* or (202) 606–0004.

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management is issuing a final rule to update the Federal Employees Health Benefits Acquisition Regulation to accommodate the new FEHB specific medical loss ratio (MLR) requirement for most community rated plans as well as to update the similarly sized subscriber group (SSSG) requirement for traditional community rated plans.

Comments on FEHB Premium Impacts

OPM received a comment regarding the impact the regulation will have on future premiums in the FEHB Program. Based on the analysis, OPM does not believe that there will be a significant impact in aggregate on the entire FEHBP, and as such, it is unlikely that there will be any major substantive impacts on future premium increases in the FEHBP as a whole.

Comment on Traditional Community Rating Plans on FEHB Groups

A commenter raised a concern that, by utilizing TCR plans, OPM may potentially cost the government more money. The commenter's justification was that insurers will adjust rates to the highest expected rate if they have to provide the same rates to all groups. Traditional Community Rating is guided by state law and all groups pay the average cost of coverage for the community. As such, it is not believed plans will adjust rates to the highest expected rate.

Comments on Recommended Language

A commenter suggested that (1) OPM should exclude customers of carrier subsidiaries from SSSG consideration and (2) OPM should also exclude from SSSG analysis ''[an] entity that maintains a contractual arrangement with the carrier to provide healthcare benefits.''

OPM declines to make this change. We require these entities to be considered for SSSG comparison because we do not want businesses to form distinct entities under a corporate umbrella for the sole purposes of getting a lower rate for non-FEHBP groups. Our goal is to identify one non-FEHBP subscriber group (employer groups covered by an issuer) that is closest in size to the FEHBP group and, if the group received a discounted rate, the carrier must provide the discount to the FEHBP. We feel that, if carriers have the ability to shift groups under a corporate umbrella, the most appropriate SSSG will not be available for comparison to the FEHBP group and the FEHB program will be at greater risk. OPM also is not amending 48 CFR 1602.170–13(b)(1)(iv). Our intention is not to include SSSGs of entities with whom a Carrier contracts to provide health insurance coverage for its own employees. Additionally, we do not intend to set up a reinsurance arrangement. Our intent is to include entities where a Carrier has contracted provision of benefits to its customers to a third-party entity.

Regulatory Flexibility Act

OPM certifies that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only affects health insurance carriers in the FEHB Program.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866. OPM has examined the impact of this final rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any one year. This rule is not considered a major rule because there will be no increased costs to Federal agencies, Federal Employees, or Federal retirees in their health insurance premiums.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles, and responsibilities of State, local, or tribal governments.

List of Subjects in 48 CFR Parts 1602, 1615, and 1652

Government employees, Government procurement, Health insurance reporting and recordkeeping requirements.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

For the reasons set forth in the preamble, OPM amends chapter 16 of title 48 CFR (FEHBAR) as follows:

PART 1602—DEFINITIONS OF WORDS AND TERMS

■ 1. The authority citation for part 1602 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 2. Revise § 1602.170–13 to read as follows:

§ 1602.170–13 Similarly sized subscriber groups.

(a) A *Similarly sized subscriber group* (SSSG) is a non-FEHB employer group that:

(1) As of the date specified by OPM in the rate instructions, has a subscriber enrollment closest to the FEHBP subscriber enrollment;

(2) Uses traditional community rating; and,

(3) Meets the criteria specified in the rate instructions issued by OPM.

(b) Any group with which an entity enters into an agreement to provide

health care services is a potential SSSG (including groups that are traditional community rated and covered by separate lines of business, government entities, groups that have multi-year contracts, and groups having point-of-service products) except as specified in paragraph (c) of this section.

(1) An entity's subscriber groups may be included as an SSSG if the entity is any of the following:

(i) The carrier;

(ii) A division or subsidiary of the carrier;

(iii) A separate line of business or qualified separate line of business of the carrier; or

(iv) An entity that maintains a contractual arrangement with the carrier to provide healthcare benefits.

(2) A subscriber group covered by an entity meeting any of the criteria under paragraph (b)(1) of this section may be included for comparison as a SSSG if the entity meets any of the following criteria:

(i) It reports financial statements on a consolidated basis with the carrier; or

(ii) Shares, delegates, or otherwise contracts with the carrier, any portion of its workforce that involves the management, design, pricing, or marketing of the healthcare product.

(c) The following groups must be excluded from SSSG consideration:

(1) Groups the carrier rates by the method of retrospective experience rating;

(2) Groups consisting of the carrier's own employees;

(3) Medicaid groups, Medicare-only groups, and groups that receive only excepted benefits as defined at 26 U.S.C. 9832(c);

(4) A purchasing alliance whose rate-setting is mandated by the State or local government;

(5) Administrative Service Organizations (ASOs);

(6) Any other group excluded from consideration as specified in the rate instructions issued by OPM.

(d) OPM shall determine the FEHBP rate by selecting the lowest rate derived by using rating methods consistent with those used to derive the SSSG rate.

(e) In the event that a State-mandated TCR carrier has no SSSG, then it will be subject to the FEHB specific MLR requirement.

■ 3. In § 1602.170–14, revise paragraph (a) to read as follows:

§ 1602.170–14 FEHB-specific medical loss ratio threshold calculation.

(a) *Medical Loss Ratio* (MLR) means the ratio of plan incurred claims, including the carrier's expenditures for activities that improve health care quality, to total premium revenue determined by OPM, as defined by the Department of Health and Human Services in 45 CFR part 158.

* * * * *

PART 1615—CONTRACTING BY NEGOTIATION

■ 4. The authority citation for part 1615 is revised to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301; 5 U.S.C. 8902.

■ 5. In § 1615.402, revise paragraphs (c)(2), (c)(3)(i)(A) and (B), and (c)(4) to read as follows:

§ 1615.402 Pricing policy.

* * * * *

(c) * * *

(2) For contracts with fewer than 1,500 enrollee contracts for which the FEHB Program premiums for the contract term will be at or above the threshold at FAR 15.403–4(a)(1), OPM will require the carrier to submit its rate proposal, utilization data, and a certificate of accurate cost or pricing data required in 1615.406–2. In addition, OPM will require the carrier to complete the proposed rates form containing cost and pricing data, and the Community-Rate Questionnaire, but will not require the carrier to send these documents to OPM. The carrier will keep the documents on file for periodic auditor and actuarial review in accordance with 1652.204–70. OPM will perform a basic reasonableness test on the data submitted. Rates that do not pass this test will be subject to further OPM review.

(3) * * *

(i) * * *

(A) For contracts with 1,500 or more enrollee contracts for which the FEHB Program premiums for the contract term will be at or above the threshold at FAR 15.403–4(a)(1), OPM will require the carrier to provide the data and methodology used to determine the FEHB Program rates. OPM will also require the data and methodology used to determine the rates for the carrier's SSSG. The carrier will provide cost or pricing data required by OPM in its rate instructions for the applicable contract period. OPM will evaluate the data to ensure that the rate is reasonable and consistent with the requirements in this chapter. If necessary, OPM may require the carrier to provide additional documentation.

(B) Contracts will be subject to a downward price adjustment if OPM determines that the Federal group was charged more than it would have been charged using a methodology consistent with that used for the SSSG. Such adjustments will be based on the rate determined by using the methodology (including discounts) the carrier used for the SSSG.

* * * * *

(4) Contracts will be subject to a downward price adjustment if OPM determines that the Federal group was charged more than it would have been charged using a methodology consistent with that used for the similarly-sized subscriber group (SSSG). Such adjustments will be based on the rate determined by using the methodology (including discounts) the carrier used for the SSSG.

* * * * *

■ 6. In § 1615.406–2, revise the first certificate following paragraph (b) to read as follows:

§ 1615.406–2 Certificates of accurate cost or pricing data for community rated carriers.

* * * * *

(Beginning of first certificate)

Certificate of Accurate Cost or Pricing Data for Community-Rated Carriers (SSSG methodology)

This is to certify that, to the best of my knowledge and belief: (1) The cost or pricing data submitted (or, if not submitted, maintained and identified by the carrier as supporting documentation) to the Contracting officer or the Contracting officer's representative or designee, in support of the ____* FEHB Program rates were developed in accordance with the requirements of 48 CFR Chapter 16 and the FEHB Program contract and are accurate, complete, and current as of the date this certificate is executed; and (2) the methodology used to determine the FEHB Program rates is consistent with the methodology used to determine the rates for the carrier's Similarly Sized Subscriber Group.

* Insert the year for which the rates apply.

Firm: _____

Name: _____

Signature: _____

Date of Execution: _____

(End of first certificate)

* * * * *

PART 1652—CONTRACT CLAUSES

■ 7. The authority citation for part 1652 continues to read as follows:

Authority: 5 U.S.C. 8913; 40 U.S.C. 486(c); 48 CFR 1.301.

■ 8. In § 1652.215–70, revise paragraphs (a) and (c) to read as follows:

§ 1652.215–70 Rate Reduction for Defective Pricing or Defective Cost or Pricing Data.

* * * * *

(a) If any rate established in connection with this contract was increased because:

(1) The Carrier submitted, or kept in its files in support of the FEHBP rate, cost or pricing data that were not complete, accurate, or current as certified in one of the Certificates of Accurate Cost or Pricing Data (FEHBAR 1615.406–2);

(2) The Carrier submitted, or kept in its files in support of the FEHBP rate, cost or pricing data that were not accurate as represented in the rate reconciliation documents or MLR Calculation;

(3) The Carrier developed FEHBP rates for traditional community rated plans with a rating methodology and structure inconsistent with that used to develop rates for a similarly sized subscriber group (see FEHBAR 1602.170–13) as certified in the Certificate of Accurate Cost or Pricing Data for Community Rated Carriers;

(4) The Carrier, who is not mandated by the State to use traditional community rating, developed FEHBP rates with a rating methodology and structure inconsistent with its State-filed rating methodology (or if not required to file with the State, their standard written and established rating methodology) or inconsistent with the FEHB specific medical loss ratio (MLR) requirements (see FEHBAR 1602.170–13); or

(5) The Carrier submitted or, kept in its files in support of the FEHBP rate, data or information of any description that were not complete, accurate, and current—then, the rate shall be reduced in the amount by which the price was increased because of the defective data or information.

* * * * *

(c) When the Contracting Officer determines that the rates shall be reduced and the Government is thereby entitled to a refund or that the Government is entitled to a MLR penalty, the Carrier shall be liable to and shall pay the FEHB Fund at the time the overpayment is repaid or at the time the MLR penalty is paid—

(1) Simple interest on the amount of the overpayment from the date the overpayment was paid from the FEHB Fund to the Carrier until the date the overcharge is liquidated. In calculating the amount of interest due, the quarterly rate determinations by the Secretary of the Treasury under the authority of 26 U.S.C. 6621(a)(2) applicable to the periods the overcharge was retained by the Carrier shall be used;

(2) A penalty equal to the amount of overpayment, if the Carrier knowingly submitted cost or pricing data which was incomplete, inaccurate, or noncurrent; and,

(3) Simple interest on the MLR penalty from the date on which the penalty should have been paid to the FEHB Fund to the date on which the penalty was or will be actually paid to the FEHB fund. The interest rate shall be calculated as specified in paragraph (c)(1) of this section.

■ 9. In § 1652.216–70, revise paragraphs (b)(2), (3), (7), and (8) to read as follows:

§ 1652.216–70 Accounting and price adjustment.

* * * * *

(b) * * *

(2). Effective January 1, 2013 all community rated plans must develop the FEHBP's rates using their State-filed rating methodology or, if not required to file with the State, their standard written and established rating methodology. A carrier who mandated by the State to use traditional community rating will be subject to paragraph (b)(2)(ii) of this clause. All other carriers will be subject to paragraph (b)(2)(i) of this clause.

(i) The subscription rates agreed to in this contract shall meet the FEHB-specific MLR threshold as defined in FEHBAR 1602.170–14. The ratio of a plan's incurred claims, including the carrier's expenditures for activities that improve health care quality, to total premium revenue shall not be lower than the FEHB-specific MLR threshold published annually by OPM in its rate instructions.

(ii) The subscription rates agreed to in this contract shall be equivalent to the subscription rates given to the carrier's similarly sized subscriber group (SSSG) as defined in FEHBAR 1602.170–13. The subscription rates shall be determined according to the carrier's established policy, which must be applied consistently to the FEHBP and to the carrier's SSSG. If the SSSG receives a rate lower than that determined according to the carrier's established policy, it is considered a discount. The FEHBP must receive a discount equal to or greater than the carrier's SSSG discount.

(3) If subject to paragraph (b)(2)(ii) of this clause, then:

(i) If, at the time of the rate reconciliation, the subscription rates are found to be lower than the equivalent rates for the SSSG, the carrier may include an adjustment to the Federal group's rates for the next contract period, except as noted in paragraph (b)(3)(iii) of this clause.

(ii) If, at the time of the rate reconciliation, the subscription rates are found to be higher than the equivalent rates for the SSSG, the carrier shall reimburse the Fund, for example, by reducing the FEHB rates for the next contract term to reflect the difference between the estimated rates and the rates which are derived using the methodology of the SSSG, except as noted in paragraph (b)(3)(iii) of this clause.

(iii) Carriers may provide additional guaranteed discounts to the FEHBP that are not given to the SSSG. Any such guaranteed discounts must be clearly identified as guaranteed discounts. After the beginning of the contract year for which the rates are set, these guaranteed FEHBP discounts may not be adjusted.

* * * * *

(7) Carriers may provide additional guaranteed discounts to the FEHBP. Any such guaranteed discounts must be clearly identified as guaranteed discounts. After the beginning of the contract year for which the rates are set, these guaranteed FEHBP discounts may not be adjusted.

(8) Carriers may not impose surcharges (loadings not defined based on an established rating method) on the FEHBP subscription rates or use surcharges in the rate reconciliation process. If the carrier is subject to the SSSG rules and imposes a surcharge on the SSSG, the carrier cannot impose the surcharge on FEHB.

* * * * *

[FR Doc. 2015–14219 Filed 6–9–15; 8:45 am]

BILLING CODE 6325–63–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 389

[Docket No. FMCSA–2015–0168]

RIN 2126–AB79

Rulemaking Procedures—Federal Motor Carrier Safety Regulations; Treatment of Confidential Business Information

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: FMCSA amends its Rulemaking Procedures by adding a new section establishing the standards and procedures that the Agency will use regarding the submission of certain

confidential commercial or financial information that is referred to in this rule as ''confidential business information'' (CBI). This rule also sets forth the procedures for asserting a claim of confidentiality by parties who voluntarily submit CBI to the Agency in connection with a notice-and-comment rulemaking and in a manner consistent with the standards adopted in today's rule.

DATES: This final rule is effective June 10, 2015.

FOR FURTHER INFORMATION CONTACT: Kim McCarthy, Office of Chief Counsel, Regulatory Affairs Division (MC–CCR), Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590; by telephone at 202–366–0834. If you have questions on viewing or submitting material to the public docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Legal Basis for Rulemaking

Section 552(b)(4) of the Freedom of Information Act (FOIA) exempts from public disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential''. 5 U.S.C. 552(b)(4). There is a substantial body of Federal case law interpreting and upholding this exemption, commonly referred to as ''FOIA Exemption 4.'' An underlying theme of the FOIA Exemption 4 cases is that the exemption is ''intended to protect the government as well as the individual,'' including advancing the efficiency of government operations. *National Parks & Conservation Ass'n* v. *Morton,* 498 F.2d 765, 767 (D.C. Cir. 1974).

Like other Federal agencies, FMSCA has adopted procedural rules implementing the FOIA. 49 CFR 389.7. Agencies' procedures for exempting CBI from disclosure under FOIA vary. In today's rule, FMCSA establishes procedures that the Agency will use for the submission of certain CBI that is presumptively exempt from public disclosure under FOIA Exemption 4. These procedures apply to information voluntarily submitted to the Agency in response to a notice-and-comment rulemaking and that falls within the designated classes of information established in accordance with the rule.

Today's rule incorporates the confidentiality standard for CBI adopted by the U.S. Court of Appeals for the D.C. Circuit in *Critical Mass Energy Project* v. *NRC,* 975 F.2d 871 (D.C. Cir. 1992) (en banc), in which the court distinguished between information the government compels and that which is voluntarily submitted to help further government functions, such as rulemakings. The court held that information voluntarily submitted to the government should be treated as confidential under FOIA Exemption 4 as long as the submitter can show that it is not customarily released to the general public. *Id.* at 880.

This regulation is published as a final rule and effective on June 10, 2015. Under the Administrative Procedure Act (APA), agencies may promulgate final rules only after providing notice and an opportunity for public comment. 5 U.S.C. 553(b) and (c). This requirement does not apply, however, to ''interpretative rules, general statements of policy, or rules of agency organization, *procedure* or practice.'' 5 U.S.C. 553(b)(A) (emphasis added). Today's final rule establishes procedures for submitting CBI, and FMCSA therefore determines that notice and comment is unnecessary. In addition, this rule makes no substantive changes to the motor carrier safety regulations and is therefore not a substantive rule subject to the APA's requirement that publication be made at least 30 days before its effective date. 5 U.S.C. 553(d).

Before prescribing any regulations, FMCSA must also consider their benefits and costs. 49 U.S.C. 31136(c)(2)(A) and 31502(d). Those factors are discussed in this final rule.

Background Information

FMCSA has a recurring occasional need to receive CBI in order to improve the Agency's ability to promulgate regulations that: (1) Are evidence-based; (2) take into account the operational and financial realities of regulated parties; and (3) result in improved safety for motor carriers, drivers, and the general public. Historically, FMCSA has received limited amounts of usable data submitted as part of the rulemaking comment process, even in response to specific requests for data on particular topics. FMCSA believes that the procedures and confidentiality protections set forth in today's rule will optimize the Agency's ability to receive necessary CBI in response to notice-and-comment rulemakings.

The Agency recognizes the need to add confidentiality assurances to commenters who provide CBI. Today's rule balances the interests of FMCSA, persons who choose to submit CBI to the Agency, and the public. First, this rule responds to FMCSA's need for pertinent data by facilitating its ability to obtain information necessary for the development of particular rulemakings. Today's rule authorizes the FMCSA Administrator to define classes of information, which are presumptively confidential, based on the confidentiality standard for voluntarily submitted information adopted by the D.C. Circuit in *Critical Mass,* as noted above. Under the procedures adopted, the specific items of information included within a class will be determined on an as needed basis, depending on the informational requirements of each particular rulemaking. Because the Agency will invite the submission of CBI that is specifically calibrated to inform the rulemaking, FMCSA believes this procedure will significantly enhance the efficacy of responsive comments and, ultimately, the final rule.

Second, by making confidential class determinations, this rule will alleviate the burden on commenters to submit individual claims for confidential treatment, as well as the Agency's burden to evaluate requests for confidential treatment submitted on an individual basis.

Third, this rule responds to the interests of commenters who wish to protect their submitted information from disclosure in the public domain because it is confidential within the meaning of the FOIA. It establishes the standards and procedures by which submitters of CBI must substantiate their request for confidential treatment. Today's rule also states that, if those qualifying requirements are met and maintained, the Agency will not disclose the CBI in the public docket or in response to a FOIA request.

Fourth, this rule responds to the public's interest in transparency and disclosure in the rulemaking process. It requires FMCSA to describe through summarization, aggregation, or some other de-identified means, any CBI submitted in accordance with these procedures and on which the Agency relies in developing a final rule. FMCSA must also explain how such CBI assisted in formulating that final rule.

Finally, this rule permits the public disclosure of information initially designated as confidential by the submitter if the Agency finds that the submitter fails to meet or maintain the confidentiality criteria established in this rule. In addition, to the extent that commenters who choose to submit CBI in accordance with the adopted procedures also wish to provide *non-confidential* information, their comments must be segregated and filed in the rulemaking's public docket.

Regulatory Analyses

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

FMCSA considered the impact of this procedural rule under Executive Orders 12866 and 13563 and DOT's regulatory policies and procedures (44 FR 11034; February 26, 1979). The Agency has determined this rule does not constitute a significant regulatory action within the meaning of Executive Order 12866, as supplemented by Executive Order 13563, or DOT's regulatory policies and procedures.

FMCSA expects that the economic impact of this rule will be minimal, as it merely codifies the procedures by which CBI may be voluntarily submitted to FMCSA in connection with notice-and-comment rulemakings. This rule does not alter the confidentiality threshold established by FOIA Exemption 4, as currently reflected in the FOIA procedures of both FMCSA (49 CFR 389.5(b)) and the DOT (49 CFR part 7). It is adopted to address the concerns of potential submitters of CBI as well as the Agency's need to receive certain commercial and financial information that is eligible for confidential treatment under FOIA Exemption 4.

Today's rule imposes a minimal additional burden on parties who elect to submit CBI to FMCSA since they will now be required to complete a standardized affidavit certifying that the submitted information meets the confidentiality threshold established by FOIA Exemption 4. FMCSA expects that the amount of time and resources that CBI submitters will devote to completing the standardized CBI affidavit will be minimal. This rule does not change the current burden imposed on submitters to ensure that the information they designate as confidential meets the established FOIA criteria.

The Agency may realize additional costs associated with its use of resources to review submitted CBI, subjected to request for public disclosure under the FOIA, in order to confirm that the information is withheld from the public in accordance with FOIA Exemption 4. We expect the increase in the use of Agency resources devoted to FOIA review will be minimal. Although this rule does not change the Agency's current role in reviewing confidential information subject to request for disclosure under the FOIA, we anticipate that the volume of FOIA requests may increase due to the fact that FMCSA will specifically solicit CBI for submission under informational categories established in accordance with today's final rule. Today's rule is intended to increase the amount of CBI submitted to the Agency. FMCSA expects any additional FOIA review costs will be minimal, however, since CBI will be submitted under informational categories already determined by the Agency to be presumptively confidential.

FMCSA believes the potential marginal increase in costs associated with the adoption of this rule is more than outweighed by the benefits for both submitters of CBI and for the Agency. In addition, this rule enhances FMCSA's ability to promulgate rules that are data-driven and evidence-based; therefore, regulated entities and the public will also benefit.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FMCSA is not required to prepare a final regulatory flexibility analysis under 5 U.S.C. 604(a) for this final rule because the agency has not issued a notice of proposed rulemaking prior to this action. FMCSA has therefore determined that it has good cause to adopt the rule without notice-and-comment.

Assistance to Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this final rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Ms. Kim McCarthy, listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.

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 $151 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2012 levels) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Paperwork Reduction Act

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

Executive Order 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of Executive Order 13132 if it has ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' FMCSA has determined that this final rule will not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 (Civil Justice Reform)

This final 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.

Executive Order 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this final rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

FMCSA reviewed this final rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property

Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

Privacy

The Consolidated Appropriations Act, 2005, (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note) requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This rule does not involve the collection of personally identifiable information (PII).

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency which receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002, Public Law 107–347, § 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct a privacy impact assessment for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a privacy impact assessment.

Executive Order 12372 (Intergovernmental Review of Federal Programs)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs do not apply to this program.

Executive Order 13211 (Energy Supply, Distribution or Use)

FMCSA has analyzed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

Indian Tribal Governments (E.O. 13175)

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

National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment (NEPA, CAA, Environmental Justice)

FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined that this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, March 1, 2004), Appendix 2, paragraph (6b) that covers editorial and procedural regulations. The CE is available for inspection or copying in the *Regulations.gov* Web site listed under **ADDRESSES**.

FMCSA also analyzed this action under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898, each Federal agency must identify and address, as appropriate, ''disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations'' in the United States, its possessions, and territories. FMCSA evaluated the environmental justice effects of this rule in accordance with the E.O. and has determined that no environmental justice issue is associated with this rule, nor is there any collective environmental impact that would result from its promulgation.

List of Subjects in 49 CFR Part 389

Administrative practice and procedure, Highway safety, Motor carriers, Motor vehicle safety.

In consideration of the foregoing, FMCSA amends 49 CFR part 389 to read as follows:

PART 389—RULEMAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

■ 1. The authority citation for part 389 continues to read as follows:

Authority: 49 U.S.C. 113, 501 *et seq.,* subchapters I and III of chapter 311, chapter 313, and 31502; 42 U.S.C. 4917; and 49 CFR 1.87.

■ 2. Add a definition of ''Confidential business information'' to § 389.3 in alphabetical order to read as follows:

§ 389.3 Definitions.

* * * * *

Confidential business information means trade secrets or commercial or financial information that is privileged or confidential, as described in 5 U.S.C. 552(b)(4). Commercial or financial information is considered confidential if it was voluntarily submitted and is the type of information that is customarily not released to the general public by the person or entity from whom it was obtained.

■ 3. Add § 389.9 to subpart A to read as follows:

§ 389.9 Treatment of confidential business information.

(a) *Purpose.* This section establishes the standards and procedures by which the Agency will solicit and receive certain confidential commercial or financial information, as that term is used in the Freedom of Information Act (5 U.S.C. 552(b)(4)), categorically referred to below as ''confidential business information,'' and the manner in which the Agency will protect such information from public disclosure in accordance with 5 U.S.C. 552(b)(4).

(b) *Confidential class determinations.* The Administrator may make and issue a class determination, which shall pertain to a specified rulemaking and shall clearly identify categories of information included within the class. Information submitted under the class determination and conforming to the characteristics of the class will be treated as presumptively confidential and accorded the non-disclosure protections described in paragraph (h) of this section. The Administrator may establish a class upon finding that:

(1) FMCSA seeks to obtain related items of commercial or financial

information as described in 5 U.S.C. 552(b)(4);

(2) The class determination would facilitate the voluntary submission of information necessary to inform the rulemaking; and

(3) One or more characteristics common to each item of information in the class will necessarily result in identical treatment, and that it is therefore appropriate to treat all such items as a class under this section.

(c) *Frequency and content of class determinations.* Class determinations may be defined by the Administrator on an as needed basis and shall include substantive criteria established in accordance with the informational needs of the particular rulemaking.

(d) *Modification or amendment.* The Administrator may amend or modify any class determination established under this section.

(e) *Publication.* Once the Administrator has made a class determination, the Agency shall publish the class determination in the **Federal Register**. If the Administrator amends or modifies any class determination established and published in accordance with this section, such changes will be published in the **Federal Register**.

(f) *Submission of confidential business information.* Persons wishing to submit information in accordance with a class determination established under authority of this section must complete and sign, under penalties of perjury, an *Affidavit in Support of Request for Confidentiality* (Affidavit), as set forth in Appendix A to this part. In the event that information is submitted under more than one designated class, each submission must include an executed Affidavit, asserting, among other factors, that:

(1) The information is submitted to the Agency voluntarily;

(2) The information is of a type customarily not disclosed to the public by the submitter;

(3) The information, to the best of the submitter's knowledge and belief, has not been disclosed to the public; and

(4) The information satisfies the substantive criteria for the class as established by the Administrator under authority of paragraph (b) of this section.

(g) *Submission of comments not containing confidential business information.* If a submitter elects to provide commentary in addition to the confidential business information submitted under one or more classes designated under this section, any portion of a submitter's additional commentary that does *not* contain confidential business information shall be filed in the public docket in the form and manner set forth in the rulemaking.

(h) *Non-disclosure of confidential business information.* In accordance with the provisions of 5 U.S.C. 552(b)(4), information submitted under this section shall not be available for inspection in the public docket, nor shall such information be provided by the Agency in response to any request for the information submitted to the Agency under 5 U.S.C. 552, except as provided for in paragraph (j) of this section.

(1) If a requester brings suit to compel the disclosure of information submitted under this section, the Agency shall promptly notify the submitter.

(2) The submitter may be joined as a necessary party in any suit brought against the Department of Transportation or FMCSA for non-disclosure.

(i) *Use of confidential business information.* To the extent that the Agency relies upon confidential business information submitted under paragraph (f) of this section in formulating a particular rule, the Agency shall, in the preamble of the final rule, disclose its receipt of such information under a designated class and shall describe the information in a de-identified form, including by summary, aggregation or other means, as necessary, to sufficiently explain the Agency's reasoning while maintaining the confidentiality of the information.

(j) *Disclosure of confidential business information.* (1) If the Administrator finds that information submitted to the Agency under paragraph (f) of this section fails to satisfy the requirements set forth in paragraphs (f)(2), (3) or (4), or that the Affidavit accompanying the information submitted under paragraph (f) is false or misleading in any material respect, the Agency shall disclose the non-conforming information by placing it in the public docket for the particular rulemaking, within 20 days following written notice to the submitter of its decision to do so, except that:

(i) Submitters may, within 10 days of receipt of such notice, provide the Agency with a written statement explaining why the submitted information conforms to the requirements of paragraph (f) of this section and thus, should not be disclosed. The Agency shall continue to withhold the information from the public docket until completing its review of the submitter's statement. The Agency may, following timely review of the submitter's statement, determine that disclosure is not required under this paragraph. In any event, the Agency shall advise the submitter in writing of its decision concerning whether the information shall be disclosed in the public docket.

(ii) [Reserved]

(2) Notice of the Agency's intention to disclose the submitted information is not required if the Administrator determines that the entity submitting such information has authorized its disclosure to the public.

(3) If, at the time the Administrator determines that the submitted information fails to comply with the requirements set forth in paragraph (f), such information is the subject of a FOIA request, the requirements of 49 CFR 7.29 shall apply.

■ 4. Add Appendix A to Part 389 to read as follows:

APPENDIX A TO PART 389

AFFIDAVIT IN SUPPORT OF REQUEST FOR CONFIDENTIALITY

I, _____, pursuant to the provisions of 49 CFR part 389, section 389.9, state as follows:

(1) I am [insert official's name, title] and I am authorized by [insert name of entity] to execute this Affidavit on its behalf;

(2) I certify that the information contained in the document(s) attached to this Affidavit is submitted voluntarily, with the claim that the information is entitled to confidential treatment under 5 U.S.C. 552(b)(4);

(3) I certify that the information contained in the documents attached to this Affidavit is of a type not customarily disclosed to the general public by [insert name of entity];

(4) I certify that, to the best of my knowledge, information and belief, the information contained in the documents attached to this Affidavit, for which confidential treatment is claimed, has never been released to the general public or been made available to any unauthorized person outside [insert name of entity];

(5) I certify that this information satisfies the substantive criteria set forth in the notice published in the **Federal Register** on _____ [insert date of rule-specific publication in month/day/year format] under FMCSA Docket Number [insert docket number].

(6) I make no representations beyond those made in this Affidavit, and, in particular, I make no representations as to whether this information may become available outside [insert name of entity] due to unauthorized or inadvertent disclosure; and

(7) I certify under penalties of perjury that the foregoing statements are true and correct.

Executed on this ____day of ____, ____.

_____(*signature of official*)

Issued under the authority of delegation in 49 CFR 1.87. May 27, 2015.

T.F. Scott Darling III,

Chief Counsel.

[FR Doc. 2015–14181 Filed 6–9–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 141021887–5172–02]

RIN 0648–XD974

Fisheries of the Exclusive Economic Zone Off Alaska; Kamchatka Flounder in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Kamchatka flounder in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2015 Kamchatka flounder initial total allowable catch (ITAC) in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), June 6, 2015, through 2400 hours, A.l.t., December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

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

The 2015 Kamchatka flounder ITAC in the BSAI is 5,525 metric tons (mt) as established by the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015). In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2015 Kamchatka flounder ITAC in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,000 mt, and is setting aside the remaining 3,525 mt as incidental catch. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Kamchatka flounder in the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Kamchatka flounder to directed fishing in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 4, 2015.

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

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

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

Dated: June 4, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–14155 Filed 6–5–15; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 111
Wednesday, June 10, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 57

[Doc. No. AMS–LPS–14–0055]

Revisions to the Electronic Submission of the Import Request of Shell Eggs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule invites comments on revising the regulations (7 CFR part 57) governing the inspection of eggs. This rule would streamline the importation process for table eggs, hatching eggs and inedible liquid egg by requiring that applications for inspection be submitted electronically.

DATES: Comments on this proposed rule must be received by August 10, 2015 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this proposed rule by using the electronic process available at *http://www.regulations.gov.* Written comments may also be sent to Michelle Degenhart, Assistant to the Director, Quality Assessment Division (QAD), Livestock, Poultry, and Seed Program, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0258, Room 3932S, 1400 Independence Avenue SW., Washington, DC 20250 or by facsimile to (202) 690–2746. All comments should reference the docket number (AMS–LPS–14–0055), the date and page number of this issue of the **Federal Register**. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Michelle Degenhart, Assistant to the Director, QAD, Livestock, Poultry, and Seed Program, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0258, Room 3932S, 1400 Independence Avenue SW., Washington, DC 20250 or by facsimile to (202) 690–2746 or via email *Michelle.Degenhart@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Agricultural Marketing Service (AMS) administers the Shell Egg Surveillance Program, a mandatory inspection program for shell eggs under the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*). This inspection program ensures that shell eggs sold to consumers contain no more restricted eggs than are permitted in the standards for consumer grades. Restricted eggs may contain dirty or cracked shells, eggs leaking internal contents, and eggs with meat or blood spots in the interior. Regulations governing the EPIA are contained in 7 CFR part 57.

On February 19, 2014, the President signed Executive Order 13659 (EO), streamlining the export/import process for America's businesses. EO 13659 outlines the use of the International Trade Data System (ITDS) to modernize and simplify the import and export of cargo. ITDS will allow traders to make a single electronic report and the relevant data will be distributed to the appropriate agencies. Costs will be reduced for business and government. An agency will obtain data more quickly through electronic filings. Automated processing will enhance an agency's ability to process cargo more expeditiously and to identify unsafe, dangerous, or prohibited shipments. This information will be assessed electronically by the relevant government agency resulting in border related decisions which will be electronically sent back to the trade. AMS will incorporate electronic filing of import requests for shell eggs to comply with EO 13659.

Automated Commercial Environment (ACE) Interface

AMS has participated in the development of the ITDS, a government-wide project to build an electronic ''single-window'' for collecting and sharing trade data for reporting imports and exports among Federal agencies. The goal of the ITDS is to eliminate the redundant reporting of data, replacing multiple filings, many of which are on paper, with a single electronic filing. The U.S. Customs and Border Protection (CBP) has developed the Automated Commercial Environment (ACE), a U.S. commercial trade processing system that automates border processing of products. The ACE system connects the trade community and participating government agencies by providing a single, centralized, online access point. When applicants file entries with the CBP through ACE, relevant data is electronically distributed to appropriate government agencies. AMS considers any electronic data entered in ACE as certified by the applicant. In addition, AMS considers any electronic records, digital images, data, or information from a foreign government for foreign inspection and foreign establishment certification to be equivalent to paper records and certified by the foreign government. When developing, procuring, maintaining, or using electronic information technology (EIT), Federal agencies are required by Section 508(a) (1) (a) of the Rehabilitation Act of 1973 (29 U.S.C. 794d) to ensure that EIT is accessible to people with disabilities, including employees and members of the public. The ACE interface meets these requirements.

Therefore, for the reasons specified above, we are proposing to amend the shell egg import regulations to include that applicants may submit LPS Form 222-Import Request electronically.

Executive Order 12866, 13563 and the Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 603 we have performed an initial regulatory flexibility analysis regarding economic effects of this proposed rule on small entities. Copies of the analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Based on the information we have, the AMS Administrator has made a preliminary determination that, this proposed rule would not have a significant impact on a substantial number of small entities.

Executive Order 12988

This proposal has been reviewed under executive order 12988, Civil

Justice Reform. If adopted, this rule: would have no retroactive effects: and would not require administrative proceedings before parties may file suit in court challenging this rule. Pursuant to section 23 of the EPIA (21 U.S.C. 1052), states or local jurisdictions are preempted from requiring the use of standards of quality, condition, weight, quantity, or grade which are in addition to or different from Federal standards for any eggs which have moved or are moving in interstate or foreign commerce.

Executive Order 13175

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

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35.) the Office of Management and Budget (OMB) has approved the information collection and recordkeeping requirements included in this proposed rule, and there are no new requirements. Should any changes become necessary they would be submitted to OMB for approval. The assigned OMB control number is 0581–0113.

AMS is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

E-Government Act

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

List of Subjects in 7 CFR Part 57

Eggs and egg products, Exports, Food grades and standards, Imports, Reporting and recordkeeping requirements.

For the reasons set forth in this Proposed Rule, it is proposed that 7 CFR part 57 be amended as follows:

PART 57—INSPECTION OF EGGS (EGG PRODUCTS INSPECTION ACT)

■ 1. The authority citation for part 57 continues to read as follows:

Authority: 21 U.S.C. 1031–1056.

■ 2. Revise § 57.920 to read as follows:

§ 57.920 Importer to make application for inspection of imported eggs.

Each person importing any eggs as defined in these regulations, unless exempted by § 57.960 shall make application for inspection upon LPS Form 222—Import Request, to the Chief, Grading Branch, Poultry Programs, AMS, U.S. Department of Agriculture, Washington, DC 20250, or to the Poultry Programs, Grading Branch office nearest the port where the product is to be offered for importation. The application may be filed through electronic submission via *QAD.importrequesteggs@ams.usda.gov,* or by accessing the U.S. Customs and Border Protection's International Trade Data System. Application shall be made as far in advance as possible prior to the arrival of the product. Each application shall state the approximate date of product arrival in the United States, the name of the ship or other carrier, the country from which the product was shipped, the destination, the quantity and class of product, and the point of first arrival in the United States.

Dated: June 5, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015–14180 Filed 6–9–15; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 15

[Docket No. FDA–2015–N–0540]

Homeopathic Product Regulation: Evaluating the Food and Drug Administration's Regulatory Framework After a Quarter-Century; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public hearing; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period for the notice of public hearing that appeared in the **Federal Register** of March 27, 2015. In the notice of public hearing, FDA requested comments on a number of specific questions identified in the document. The Agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the notice of public hearing published March 27, 2015 (80 FR 16327). Submit either electronic or written comments by August 21, 2015.

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

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

• *Mail/Hand delivery/Courier (for paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Docket No. (FDA–2015–N–0540) for this notice of public hearing. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number(s), found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lesley DeRenzo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 5161, Silver Spring, MD 20993–0002, 240–402–4612.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 27, 2015, FDA published a notice of public hearing with a 60-day comment period following the public hearing and requested comments on a number of specific questions identified throughout the document. Comments on the notice

of public hearing will inform FDA's decision about whether and how to adjust the current enforcement policies for drug products labeled as homeopathic to reflect changes in the homeopathic product marketplace over the last approximately 25 years.

FDA is extending the comment period for an additional 60 days, until August 21, 2015. The Agency believes that an additional 60-day extension of the comment period for the notice of public hearing will allow adequate time for interested persons to submit comments without significantly delaying Agency decision making on these important issues.

II. Request for Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). You should annotate and organize your comments to identify the specific questions or topic to which they refer. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: June 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–14143 Filed 6–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF STATE

22 CFR Part 96

[Public Notice 9165]

RIN 1400–AD82

Intercountry Adoptions: Regulatory Change To Prevent Accreditation and Approval Renewal Requests From Coming Due at the Same Time

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Department of State (Department) regulation on the accreditation and approval of adoption service providers in intercountry adoptions. Most agencies and persons currently accredited received that accreditation at approximately the same time, which has resulted in a surge of concurrent renewal applications for consideration by the Council on Accreditation (COA), the designated accrediting entity. Permitting some agencies or persons to qualify for an extension by one year of the accreditation or approval period will result in a more even distribution of applications for renewal in a given year. By distributing renewals, and the resources needed to process them, COA will be further enabled to effectively and consistently carry out its other functions.

DATES: Comments are due by July 10, 2015.

ADDRESSES: • *Internet:* You may view this proposed rule and submit your comments by visiting the Regulations.gov Web site at *www.regulations.gov,* and searching for docket number DOS–2014–0015.

• *Mail or Delivery:* You may send your paper, disk, or CD–ROM submissions to the following address: Comments on Proposed Rule 22 CFR part 96, Office of Legal Affairs, Overseas Citizen Services, U.S. Department of State, CA/OCS/L, SA–17, Floor 10, Washington, DC 20522–1710.

• All comments should include the commenter's name and the organization the commenter represents (if applicable). If the Department is unable to read your comment for any reason, the Department might not be able to consider your comment. Please be advised that all comments will be considered public comments and might be viewed by other commenters; therefore, do not include any information you would not wish to be made public. After the conclusion of the comment period, the Department will publish a final rule (in which it will address relevant comments) as expeditiously as possible.

FOR FURTHER INFORMATION CONTACT: Carine Rosalia, Office of Legal Affairs, Overseas Citizen Services, U.S. Department of State, CA/OCS/L, SA–17, Floor 10, Washington, DC 20522–1710; (202) 485–6079.

SUPPLEMENTARY INFORMATION:

Why is the Department promulgating this rulemaking?

This proposed rule amends procedural aspects of the Intercountry Adoption Accreditation Regulations concerning the length of accreditation or approval found in 22 CFR part 96. Subpart G governs decisions on applications for accreditation and approval. Section 96.60 provides for accreditation or approval for a period of four years. Section 96.60 does not currently provide the opportunity to stagger the renewal applications, which results in many renewal applications coming due at the same time.

This proposed rule will aid the accrediting entity in managing its workload. In particular, the amendments to this section will allow for a one-year extension of previously-granted accreditation or approval, not to exceed five years total, based on criteria included in the rule, and summarized here.

There will be criteria for selecting which agencies or persons are eligible for the one-year extension. As a threshold matter, only agencies and persons that have no pending adoption-related complaint investigations or adverse actions will be eligible for an extension under this procedure. Also, those entities that have undergone a change in corporate or internal structure (such as a merger or a leadership change in chief executive or chief financial officer) since their initial accreditation/approval or last renewal will not qualify for an extension under this procedure. If the agency or person meets the threshold criteria, in order to ensure that the extension achieves its purpose of staggering renewals thereafter, the Secretary, in his discretion may consider additional factors including, but not limited to, the agency's or person's volume of intercountry adoption cases in the year preceding the application for renewal or extension, the agency's or person's U.S. state licensure record, and the number of extensions available.

Since the President signed into law the Universal Accreditation Act of 2012, approximately 40 new agencies received accreditation, all in the same year. The resulting surge in the number of agencies requiring review in certain years argued strongly for establishing a mechanism that would allow COA to better manage the distribution of renewals. The procedure outlined in this rulemaking will allow a more even distribution of the number of renewals an accrediting entity must review in a given year.

The Department invites comment on the procedures described above.

Administrative Procedure Act

The Department is publishing this notice of proposed rulemaking with a 30-day period for public comments.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities. For

the small business entities affected by the amendments, the cost is neutral because it does not change the cost per year of accreditation or renewal, but in only potentially the year in which renewal takes place.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, (codified at 2 U.S.C. 1532) does not apply to this rulemaking.

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121).

Executive Order 12866

The Department of State has reviewed this proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of this final regulation justify its costs. The Department does not consider this rulemaking to be an economically significant action under the Executive Order. The proposed rule will not add any new legal requirements to Part 96; it merely adds administrative flexibility to the work of the Department-designated accrediting entity.

Executive Orders 12372 and 13132: Federalism

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will it have federalism implications warranting the application of Executive Orders 12372 and No. 13132.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the proposed rule in light of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13563: Improving Regulation and Regulatory Review

The Department has considered this proposed rule in light of Executive Order 13563, dated January 18, 2011, and affirms that it is consistent with the guidance therein.

Paperwork Reduction Act

This proposed rule does not impose information collection requirements subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 96

Adoption, Child welfare, Children, Immigration, Foreign persons, Accreditation, Approval.

For the reasons stated in the preamble, the Department of State proposes to amend 22 CFR part 96 as follows:

PART 96—INTERCOUNTRY ADOPTION ACCREDITATION OF AGENCIES AND APPROVAL OF PERSONS

■ 1. The authority citation for part 96 continues to read as follows:

Authority: The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); The Intercountry Adoption Act of 2000, 42 U.S.C. 14901–14954; The Intercountry Adoption Universal Accreditation Act of 2012, Pub. L. 112–276, 42 U.S.C. 14925.

■ 2. Revise § 96.60 to read as follows:

§ 96.60 Length of accreditation or approval period.

(a) The accrediting entity will accredit or approve an agency or person for a period of four years, except as provided in § 96.60(b). The accreditation or approval period will commence on the date that the agency or person is granted accreditation or approval.

(b) In order to stagger the renewal requests from agencies and persons applying for accreditation or approval and to prevent the renewal requests from coming due at the same time, the accrediting entity may extend the period of accreditation it has previously granted for no more than one year and such that the total period of accreditation does not exceed five years, as long as the agency or person remains in substantial compliance with the applicable standards in subpart F of this part. The only agencies and persons that may qualify for an extension are:

(1) Those that have no pending Complaint Registry investigations or adverse actions (see § 96.70); and

(2) Those that have not undergone a change in corporate or internal structure (such as a merger or change in chief executive or financial officer) during their current accreditation or approval period. For agencies and persons that meet these two criteria, the Secretary, in his or her discretion, may consider additional factors in deciding upon an extension including, but not limited to, the agency's or person's volume of intercountry adoption cases in the year preceding the application for renewal or extension, the agency's or person's state licensure record, and the number of extensions available.

Dated: June 2, 2015.

Michele T. Bond,

Acting Assistant Secretary for Consular Affairs, U.S. Department of State.

[FR Doc. 2015–14066 Filed 6–9–15; 8:45 am]

BILLING CODE 4710–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2015–0330; FRL–9928–95–Region 10]

Approval and Promulgation of Implementation Plans; Washington: Interstate Transport of Fine Particulate Matter

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Clean Air Act (CAA) requires each State Implementation Plan (SIP) to contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. On May 11, 2015, the State of Washington submitted a SIP revision to the Environmental Protection Agency (EPA) to address these interstate transport requirements with respect to the 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). The EPA is proposing to find that Washington has adequately addressed certain CAA interstate transport requirements for the 2006 24-hour $PM_{2.5}$ NAAQS.

DATES: Written comments must be received on or before July 10, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2015–0330, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: R10-Public_Comments@epa.gov.*
- *Mail:* Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT–150), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- *Hand Delivery/Courier:* EPA Region 10 9th Floor Mailroom, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT—150. Such deliveries

are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2015–0330. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

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

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

Table of Contents

I. Background
A. 2006 24-Hour $PM_{2.5}$ NAAQS and Interstate Transport
B. Rules Addressing Interstate Transport for the 2006 24-Hour $PM_{2.5}$ NAAQS
C. Guidance
II. State Submittal
III. EPA Evaluation
A. Identification of Nonattainment and Maintenance Receptors
B. Evaluation of Significant Contribution to Nonattainment
C. Evaluation of Interference with Maintenance
IV. Proposed Action
V. Statutory and Executive Order Reviews

I. Background

A. 2006 24-Hour $PM_{2.5}$ NAAQS and Interstate Transport

On September 21, 2006, the EPA promulgated a final rule revising the 1997 24-hour primary and secondary NAAQS for $PM_{2.5}$ from 65 micrograms per cubic meter (μg/m^3) to 35 μg/m^3 (October 17, 2006, 71 FR 61144). Section 110(a)(1) of the CAA requires each state to submit to the EPA, within three years (or such shorter period as the Administrator may prescribe) after the promulgation of a primary or secondary NAAQS or any revision thereof, a SIP that provides for the ''implementation, maintenance, and enforcement'' of such NAAQS. The EPA refers to these specific submittals as ''infrastructure'' SIPs because they are intended to address basic structural SIP requirements for new or revised NAAQS. For the 2006 24-hour $PM_{2.5}$ NAAQS, these infrastructure SIPs were due on September 21, 2009. CAA section 110(a)(2) includes a list of specific elements that ''[e]ach such plan submission'' must meet.

The interstate transport provisions in CAA section 110(a)(2)(D)(i) (also called ''good neighbor'' provisions) require each state to submit a SIP that prohibits emissions that will have certain adverse air quality effects in other states. CAA section 110(a)(2)(D)(i) identifies four distinct elements related to the impacts of air pollutants transported across state lines. In this action, the EPA is addressing the first two elements of this section, specified at CAA section 110(a)(2)(D)(i)(I),[1] for the 2006 24-hour $PM_{2.5}$ NAAQS.

The first element of CAA section 110(a)(2)(D)(i)(I) requires that each SIP for a new or revised NAAQS contain adequate provisions to prohibit any source or other type of emissions activity within the state from emitting air pollutants that will ''contribute significantly to nonattainment'' of the NAAQS in another state. The second element of CAA section 110(a)(2)(D)(i)(I) requires that each SIP contain adequate provisions to prohibit any source or other type of emissions activity in the state from emitting air pollutants that will ''interfere with maintenance'' of the applicable NAAQS in any other state.

B. Rules Addressing Interstate Transport for the 2006 24-hour $PM_{2.5}$ NAAQS

The EPA has addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) in past regulatory actions.[2] The EPA promulgated the final Cross-State Air Pollution Rule (Transport Rule) to address CAA section 110(a)(2)(D)(i)(I) in the eastern portion of the United States with respect to the 2006 $PM_{2.5}$ NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS (August 8, 2011, 76 FR 48208). The Transport Rule was intended to replace the earlier Clean Air Interstate Rule (CAIR) which was judicially remanded.[3] *See North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008). On August 21, 2012, the U.S. Court of Appeals for the DC Circuit issued a decision vacating the Transport Rule. *See EME Homer City Generation, L.P.* v. *E.P.A.,* 696 F.3d 7 (D.C. Cir. 2012). The Court also ordered the EPA to continue implementing CAIR in the interim. However, on April 29, 2014, the U.S. Supreme Court reversed and remanded the DC Circuit's ruling and upheld the EPA's approach in the Transport Rule for the issues that were in front of the Supreme Court for review.[4] On October 23, 2014, the DC Circuit lifted the stay on the Transport Rule.[5] While our evaluation is consistent with the Transport Rule approach, the State of Washington was not covered by either

[1] This proposed action does not address the two elements of the interstate transport SIP provision in CAA section 110(a)(2)(D)(i)(II) regarding interference with measures required to prevent significant deterioration of air quality or to protect visibility in another state. We previously addressed CAA section 110(a)(2)(D)(I)(II) for the 2006 24-hour $PM_{2.5}$ NAAQS in a final action dated May 12, 2015 (80 FR 27102).

[2] *See* NO_X SIP Call, 63 FR 57371 (October 27, 1998); Clean Air Interstate Rule (CAIR), 70 FR 25172 (May 12, 2005); and Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

[3] CAIR addressed the 1997 annual and 24-hour $PM_{2.5}$ NAAQS, and the 1997 8-hour ozone NAAQS. It did not address the 2006 24-hour $PM_{2.5}$ NAAQS. For more information on CAIR, please see our July 30, 2012 proposal for Arizona regarding interstate transport for the 2006 $PM_{2.5}$ NAAQS (77 FR 44551, 44552).

[4] *EPA* v. *EME Homer City Generation, L.P.,* 134 S.Ct. 1584 (2014).

[5] USCA Case #11–1302, Document # 1518738, Filed 10/23/2014.

CAIR or the Transport Rule, and the EPA made no determinations in either rule regarding whether emissions from sources in Washington significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in another state, nor did it attempt to quantify Washington's obligation.[6]

C. Guidance

On September 25, 2009, the EPA issued a guidance memorandum that addressed the requirements of CAA section 110(a)(2)(D)(i) for the 2006 24-hour $PM_{2.5}$ NAAQS (''2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance'' or ''Guidance'').[7] With respect to the requirement in CAA section 110(a)(2)(D)(i)(I) that state SIPs contain adequate provisions prohibiting emissions that would contribute significantly to nonattainment of the NAAQS in any other state, the 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance essentially reiterated the recommendations for western states made by the EPA in previous guidance addressing the CAA section 110(a)(2)(D)(i) requirements for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS.[8] The 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance advised states outside of the CAIR region to include in their CAA section 110(a)(2)(D)(i)(I) SIPs adequate technical analyses to support their conclusions regarding interstate pollution transport, *e.g.,* information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient pollutant concentrations in the state and in potentially impacted states, distances to the nearest areas not attaining the NAAQS in other states, and air quality modeling.[9] With respect to the requirement in CAA section 110(a)(2)(D)(i)(I) that state SIPs contain adequate provisions prohibiting emissions that would interfere with maintenance of the NAAQS by any other state, the Guidance stated that SIP submissions must address this independent requirement of the statute and provide technical information appropriate to support the state's conclusions, such as information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient concentrations in the state and in potentially impacted states, and air quality modeling. See footnotes 5 and 6.

In this action, the EPA is proposing to use the conceptual approach to evaluating interstate pollution transport under CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS with respect to Washington that the EPA explained in the 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance. The EPA believes that the CAA section 110(a)(2)(D)(i)(I) SIP submission from Washington for the 2006 24-hour $PM_{2.5}$ NAAQS may be evaluated using a ''weight of the evidence'' approach that takes into account available relevant information. Such information may include, but is not limited to, the amount of emissions in the state relevant to the 2006 24-hour $PM_{2.5}$ NAAQS, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may contribute significantly to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in other states. These submissions may rely on modeling when acceptable modeling technical analyses are available, but if not available, other available information can be sufficient to evaluate the presence or degree of interstate transport in a specific situation for the 2006 24-hour $PM_{2.5}$ NAAQS. For further explanation of this approach, see the technical support document (TSD) in the docket for this action.

II. State Submittal

CAA sections 110(a)(1) and (2) and section 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. The EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, a public comment period of at least 30 days, and an opportunity for a public hearing.

On May 11, 2015, Washington submitted a SIP to address the interstate transport requirements of CAA section 110(a)(2)(D)(i) for the 2006 $PM_{2.5}$ NAAQS (Washington 2006 $PM_{2.5}$ Interstate Transport submittal).[10] The Washington 2006 $PM_{2.5}$ Interstate Transport submittal included documentation of a public comment period from March 9, 2015 through April 10, 2015, and opportunity for public hearing. We find that the process followed by Washington in adopting the SIP submittal complies with the procedural requirements for SIP revisions under CAA section 110 and the EPA's implementing regulations.

With respect to the requirement in CAA section 110(a)(2)(D)(i)(I), the Washington 2006 $PM_{2.5}$ Interstate Transport submittal referred to the applicable rules in the Washington SIP, meteorological and other characteristics of areas with nonattainment problems for the 2006 24-hour $PM_{2.5}$ NAAQS in surrounding states, and Interagency Monitoring of Protected Visual Environments (IMPROVE) data from the regional haze program that provides additional information on how Washington sources influence monitored $PM_{2.5}$ levels in National Parks and wilderness areas surrounding Washington to assess potential interstate transport. The Washington submittal concluded that, based on the weight of the evidence, the Washington SIP adequately addresses the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. A detailed discussion of the Washington 2006 $PM_{2.5}$ Interstate Transport submittal can be found in the technical support document (TSD) in the docket for this action.

III. EPA Evaluation

To determine whether the CAA section 110(a)(2)(D)(i)(I) requirements

[6] Transport Rule or Cross-State Air Pollution Rule, 76 FR 48208 (August 8, 2011).

[7] *See* Memorandum from William T. Harnett entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS),'' September 25, 2009, available at *http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_harnett_pm25_sip_110a12.pdf.*

[8] *See* Memorandum from William T. Harnett entitled ''Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards,'' August 15, 2006, available at *http://www.epa.gov/ttn/caaa/t1/memoranda/section110a2di_sip_guidance.pdf.*

[9] The 2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Guidance stated that EPA was working on a new rule to replace CAIR that would address issues raised by the Court in the *North Carolina* case and that would provide guidance to states in addressing the requirements related to interstate transport in CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS. It also noted that states could not rely on the CAIR rule for section 110(a)(2)(D)(i)(I) submissions for the 2006 24-hour $PM_{2.5}$ NAAQS because the CAIR rule did not address this NAAQS. *See* 2006 $PM_{2.5}$ NAAQS Infrastructure Guidance at 4.

[10] The Washington 2006 $PM_{2.5}$ Interstate Transport submittal only addressed the CAA section 110(a)(2)(D)(i)(I) interstate transport requirements of the 2006 $PM_{2.5}$ NAAQS. The EPA previously addressed CAA section 110(a)(2)(D)(i)(II) for the 2006 $PM_{2.5}$ NAAQS in a separate action (May 12, 2015, 80 FR 27102). In addition, we previously approved the Washington SIP for 110(a)(2)(D)(i) with respect to the 1997 $PM_{2.5}$ NAAQS on January 13, 2009 (74 FR 1591). Finally, Washington did not submit a CAA section 110(a)(2)(D)(i)(I) demonstration with respect to the 2012 $PM_{2.5}$ NAAQS, which the State intends to address in a future action.

are satisfied, the EPA must determine whether a state's emissions will contribute significantly to nonattainment or interfere with maintenance in other states. If this factual finding is in the negative, then CAA section 110(a)(2)(D)(i)(I) does not require any changes to a state's SIP. Consistent with the EPA's approach in the 1998 NO_X SIP call, the 2005 CAIR, and the 2011 Transport Rule, the EPA is evaluating these impacts with respect to specific monitors identified as having nonattainment and/or maintenance problems, which we refer to as ''receptors.'' See footnote 2.

With respect to this proposed action, the EPA notes that no single piece of information is by itself dispositive of the issue. Instead, the total weight of all the evidence taken together is used to evaluate significant contributions to nonattainment or interference with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in another state. Our proposed action takes into account the Washington 2006 $PM_{2.5}$ Interstate Transport submittal, a supplemental evaluation of monitors in other states that are appropriate ''nonattainment receptors'' or ''maintenance receptors,'' and a review of monitoring data considered representative of background. Based on the analysis in our TSD in the docket for this action, we believe that it is reasonable to conclude that emissions from sources in Washington do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any other state.

A. Identification of Nonattainment and Maintenance Receptors

The EPA evaluated data from existing monitors over three overlapping three-year periods (*i.e.,* 2009–2011, 2010–2012, and 2011–2013) to determine which areas were violating the 2006 24-hour $PM_{2.5}$ NAAQS and which areas might have difficulty maintaining the standard. If a monitoring site measured a violation of the 2006 24-hour $PM_{2.5}$ NAAQS during the most recent three-year period (2011–2013), then this monitor location was evaluated for purposes of the significant contribution to nonattainment element of CAA section 110(a)(2)(D)(i)(I). If, on the other hand, a monitoring site showed attainment of the 2006 24-hour $PM_{2.5}$ NAAQS during the most recent three-year period (2011–2013) but a violation in at least one of the previous two three-year periods (2009–2011 or 2010–2012), then this monitor location was evaluated for purposes of the interference with maintenance element of the statute.

The State of Washington was not covered by the modeling analyses available for the CAIR and the Transport Rule. The approach described above is similar to the approach utilized by the EPA in promulgating the CAIR and the Transport Rule. By this method, the EPA has identified those areas with monitors to be considered ''nonattainment receptors'' or ''maintenance receptors'' for evaluating whether the emissions from sources in another state could significantly contribute to nonattainment in, or interfere with maintenance in, that particular area.

B. Evaluation of Significant Contribution to Nonattainment

The EPA reviewed the Washington 2006 $PM_{2.5}$ Interstate Transport submittal and additional technical information to evaluate the potential for emissions from sources in Washington to contribute significantly to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS at specified monitoring sites in the western United States.[11] The EPA first identified as ''nonattainment receptors'' all monitoring sites in the western states that had recorded $PM_{2.5}$ design values above the level of the 2006 24-hour $PM_{2.5}$ NAAQS (35 $\mu g/m^3$) during the years 2011–2013.[12] Please see the TSD in the docket for a more detailed description of the EPA's methodology for selection of nonattainment receptors. All of the nonattainment receptors we identified in western states are in California, Idaho, Montana, Oregon, and Utah.[13]

Based on the analysis in our TSD, we believe it is reasonable to conclude that emissions from sources in Washington do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS in any other western state. We also evaluated nonattainment receptors in eastern states, as detailed in the TSD, and we believe it is reasonable to conclude that emissions from sources in Washington do not significantly contribute to nonattainment of the 2006 24-hour $PM_{2.5}$ NAAQS in any eastern state. Based on the analysis in our TSD, we are proposing to determine that Washington's SIP adequately addresses the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS.

C. Evaluation of Interference With Maintenance

The EPA reviewed the Washington 2006 $PM_{2.5}$ Interstate Transport SIP and additional technical information to evaluate the potential for Washington emissions to interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS at specified monitoring sites in the western United States. The EPA first identified as ''maintenance receptors'' all monitoring sites in the western states that had recorded $PM_{2.5}$ design values above the level of the 2006 24-hour $PM_{2.5}$ NAAQS (35 $\mu g/m^3$) during the 2009–2011 and/or 2010–2012 periods but below this standard during the 2011–2013 period. Please see our TSD for more information regarding the EPA's methodology for selection of maintenance receptors. All of the maintenance receptors we identified in western states are located in California, Montana, and Utah.

As detailed in the TSD, we believe it is reasonable to conclude that emissions from sources in Washington do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in these states. We also evaluated maintenance receptors in eastern states, as detailed in the TSD, and we believe it is reasonable to conclude that emissions from sources in Washington do not interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in any eastern state.

IV. Proposed Action

The EPA is proposing to find that Washington has adequately addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2006 24-hour $PM_{2.5}$ NAAQS.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of

[11] The EPA has also considered potential $PM_{2.5}$ transport from Washington to the nearest nonattainment and maintenance receptors located in the eastern, midwestern, and southern states covered by the Transport Rule and believes it is reasonable to conclude that, given the significant distance from Washington to the nearest such receptor (in Illinois) and the relatively insignificant amount of emissions from Washington that could potentially be transported such a distance, emissions from Washington sources do not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS at this location. These same factors also support a finding that emissions from Washington sources neither contribute significantly to nonattainment nor interfere with maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS at any location further east. *See* TSD at Section II.C.

[12] Because CAIR did not cover states in the western United States, these data are not significantly impacted by the remanded CAIR at the time and thus could be considered in this analysis.

[13] As this analysis is focused on *interstate* transport, the EPA did not evaluate the impact of Washington emissions on nonattainment or maintenance receptors within Washington.

the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land in Washington except for as specifically noted below and is also not approved to apply in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Washington's SIP is approved to apply on non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: May 29, 2015.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2015–14225 Filed 6–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0299; FRL–9928–91-Region 7]

Approval and Promulgation of Air Quality Implementation Plans; State of Kansas Regional Haze State Implementation Plan Revision and 2014 Five-Year Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Kansas State Implementation Plan (SIP) revision submitted to EPA by the State of Kansas on March 10, 2015, documenting that the State's existing plan is making adequate progress to achieve visibility goals by 2018. The Kansas SIP revision addressed the Regional Haze Rule (RHR) requirements under the Clean Air Act (CAA or Act) to submit a report describing progress in achieving reasonable progress goals (RPGs) to improve visibility in Federally designated areas in nearby states that may be affected by emissions from sources in Kansas. EPA is proposing to approve Kansas' determination that the existing RH SIP is adequate to meet the visibility goals and requires no substantive revision at this time.

DATES: Comments must be received on or before July 10, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2015–0299, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: krabbe.stephen@epa.gov.*
3. *Mail or Hand Delivery:* Stephen Krabbe, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2015–0299. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Stephen Krabbe, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913–551–7991, or by email at *krabbe.stephen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What is being addressed in this document?
A. Background on Regional Haze
B. Background on Regional Haze Plans
C. Requirements for Regional Haze Progress Reports
II. Have the requirements for approval of a SIP revision been met?
A. EPA's Evaluation of Kansas' Progress Report
1. Status of Control Measures
2. Emissions Reductions and Progress
3. Visibility Progress
4. Emissions Tracking
5. Assessment of Changes Impeding Visibility Progress
6. Assessment of Current Strategy
7. Review of Current Monitoring Strategy
B. Determination of Adequacy of Existing Regional Haze Plan
C. Consultation With Federal Land Managers
III. What action is EPA taking?

I. What is being addressed in this document?

EPA is proposing to approve the Kansas Department of Health and Environment's (KDHE) determination that the existing Kansas RH SIP is adequate to achive the established Reasonable Progress Goals (RPGs) for Class I areas affected by Kansas sources, and therefore requires no substantive revision at this time. EPA's proposed approval is based on the Kansas State Implementation Plan Revision for the Attainment and Maintenance of NAAQS for Regional Haze (2014 Progress Report) (''Progress Report or ''Report'') submitted by KDHE to EPA on March 10, 2015, that addresses 51.308(g) and (h) of the RHR. The Progress Report demonstrates that the emission control measures in the existing RH SIP are sufficient to enable other states with Class I areas affected by emissions from sources in Kansas to meet all established RPGs for 2018. We are also proposing to find that Kansas fulfilled the requirements in 51.308(i)(2), (3), and (4) to provide Federal Land Managers (FLMs) with an opportunity to consult on the RH SIP revision, describe how KDHE addressed the FLMs' comments, and provide procedures for continuing consultation.

A. Background on Regional Haze

Regional haze is a visibility impairment produced by many sources and activities located across a broad geographic area that emit fine particulates that impair visibility by scattering and absorbing light, thereby reducing the clarity, color, and visible distance that one can see. These fine particles also can cause serious health effects and mortality in humans and contribute to environmental impacts, such as acid deposition and eutrophication of water bodies.

The RHR uses the deciview as the principle metric for measuring visibility and for the RPGs that serve as interim visibility goals toward meeting the national visibility goal of reaching natural conditions by 2064. A deciview expresses uniform changes in haziness in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions. Deciviews are determined by using air quality measurements to estimate light extinction, and then transforming the value of light extinction using a logarithmic function. Deciview is a more useful measure for tracking progress in improving visibility than light extinction because each deciview change is an equal incremental change in visibility perceived by the human eye. Most people can detect a change in visibility at one deciview.

B. Background on Regional Haze Plans

In section 169A(a)(1) of the CAA amendmnets of 1977, Congress created a program to protect visibility in designated national parks and wilderness areas, establishing as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.'' In accordance with section 169A of the CAA and after consulting with the Departmnet of Interior, EPA promulgated a list of 156 mandatory Class I Federal areas where visibility is identified as an important value (44 FR 69122, November 30, 1979). In this notice, we refer to mandatory Class I Federal areas as ''Class I areas.'' Kansas does not have any Class I areas within the state.

With the CAA amendments of 1990, Congress added section 169B to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999, known as the Regional Haze Rule (64 FR 35713). The RHR revised the existing visibility regulations in 40 CFR 51.308 to integrate provisions addressing regional haze impairment and to establish a comprehensive visibility protection program for Class I areas.

KDHE submitted its initial RH SIP to EPA on October 26, 2009, in accordance with the requirements of 40 CFR 51.308 for the first regional haze planning period ending in 2018. EPA approved the Kansas RH SIP for the first planning period on December 27, 2011 (76 FR 80754). The Progress Report from KDHE is the first evaluation of whether the existing Kansas RH SIP is sufficient to enable other states affected by emissions from sources in Kansas to meet the established visibility goals for 2018.

C. Requirements for Regional Haze Progress Reports

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP. 40 CFR 51.308(h). The first progress report SIP is due five years after submittal of the initial regional haze SIP. In summary,[1] the seven elements are: (1) A description of the status of measures in the approved regional haze SIP; (2) a summary of emissions reductions achieved; (3) an assessment of visibility conditions for each Class I area in the state; (4) an analysis of changes in emissions from sources and activities within the state; (5) an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded progress in Class I areas impacted by the state's sources; (6) an assessment of the sufficiency of the approved regional haze SIP; and (7) a review of the state's visibility monitoring strategy.

Under 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. In summary,[2] these actions are to: (1) Submit a negative declaration to EPA that no further substantive revision to the state's existing regional haze SIP is needed; (2)

[1] Please refer to 40 CFR 51.308(g) for the exact Rule requirements.

[2] Please refer to 40 CFR 51.308(h) for the exact Rule requirements.

provide notification to EPA (and other state(s) that participated in the regional planning process) if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in other state(s) that participated in the regional planning process, and collaborate with these other state(s) to develop additional strategies to address deficiencies; (3) provide notification with supporting information to EPA if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in another country; or (4) revise its regional haze SIP to address deficiencies within one year if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress in one or more Class I areas due to emissions from sources within the state.

A state must document that it provided FLMs with an opportunity for consultation prior to holding a public hearing on an RH SIP or plan revision as required in 40 CFR 51.308(i)(2). In addition, a state must include a description of how it addressed any comments from the FLMs, and provide procedures for continuing consultation with the FLMs as required in 40 CFR 51.208(i)(3) and (4).

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

A. EPA's Evaluation of Kansas' Progress Report

This section describes Kansas' Progress Report and EPA's evaluation of the Report in relation to the seven elements listed in 40 CFR 51.308(g) and the determination of adequacy in 40 CFR 51.308(h). We also review the requirement in 40 CFR 51.308(i)(2) for state and FLM coordination on a plan revision.

1. Status of Control Measures

40 CFR 51.308(g)(1) requires a description of the status of implementation of all measures included in the regional haze SIP for achieving RPGs for Class I areas both within and outside the state. Kansas evaluated the status of all measures included in its 2009 regional haze SIP in accordance with 40 CFR 51.308(g)(1). In its Progress Report, Kansas summarizes the long-term strategy for emissions reductions of all air pollutants that may affect visibility. The state notes that Nitrogen Oxides (NO_X) and Sulfur Dioxide (SO_2) are the most important pollutants in reducing visibility and includes details of the strategies implemented to reduce those pollutants. The measures include both state and Federal programs. The state programs include unit-specific emissions limits for the five electric generating units that are subject to BART and were included in agreements between KDHE and the owners of the EGU's, which were later modified by an enforcement settlement between EPA and Westar Energy. The measures also include applicable Federal programs (*e.g.,* Maximum Achievable Control Technology (MACT) standards, the 2007 Heavy-Duty Highway Rule, Tier 2 Vehicle and Gasoline Sulfur Program, and the Clean Air Nonroad Diesel Rule). The state documents the implementation status of measures from its regional haze SIP as well as describes significant measures resulting from EPA regulations other than the regional haze program as they pertain to the state's sources. Kansas describes the implementation status of measures from its regional haze SIP, including the status of control measures to meet BART and reasonable progress requirements, as well as the status of significant measures resulting from EPA regulations.

EPA proposes to find that Kansas' analysis adequately addresses 40 CFR 51.308(g)(1) for reasons discussed above.

2. Emissions Reductions and Progess

40 CFR 51.308(g)(2) requires a summary of the emissions reductions achieved in the state through the measures subject to 40 CFR 51.308(g)(1). In its regional haze SIP and Progress Report, Kansas focuses its assessment on NO_X and SO_2 emissions from stationary sources because the state determined that these sources accounted for the majority of the visibility-impairing pollution from Kansas. SO_2 emissions from subject-to-BART facilities decreased in Kansas from 80,828 tons in 2003 to 17,026 tons in 2012, a 79 percent decrease. Also, NO_X emissions decreased from 60,936 tons in 2002 to 16,434 tons in 2012, a 73 percent decrease. Kansas noted that reasonable progress units declined 60 percent for NO_X and 77 percent for SO_2 from 2002 to 2012. Much of these reductions were not mandated by the Regional Haze SIP, but by the 2010 Westar Energy settlement [3] and closure of the Lafarge Midwest–Fredonia Portland cement kilns.

EPA proposes to conclude that Kansas has adequately addressed 40 CFR 51.308(g)(2). The state provides actual emissions reductions of NO_X and SO_2 from EGUs and other large NO_X and SO_2 sources in Kansas that have occurred since Kansas submitted its regional haze SIP. The state also provides estimates of emissions of NO_X and SO_2 for 2018. Kansas appropriately focused on NO_X and SO_2 emissions from its EGUs and other stationary sources in its progress report SIP because it previously identified these emissions as the most significant contributors to visibility impairment at those Class I areas that Kansas sources impact.

Given the large NO_X and SO_2 reductions at subject-to-BART EGUs and other sources that have actually occurred, further analysis of emissions from other sources or other pollutants was ultimately unnecessary in this first implementation period. Because no additional controls were found to be necessary for reasonable progress for the first implementation period for evaluated sources in Kansas, EPA proposes to find that no further discussion of emissions reductions from controls was necessary in the Progress Report.

3. Visibility Progress

40 CFR 51.308(g)(3) requires that states with Class I areas provide the following information for the most impaired and least impaired days for each area, with values expressed in terms of five-year averages of these annual values: current visibility conditions; the difference between current visibility conditions and baseline visibility conditions; and the change in visibility impairment over the past five years.

Kansas does not have any Class I areas within its boundaries, and as this section pertains only to states containing Class I areas, therefore, no further discussion is necessary. However, Kansas noted in its Progress Report that it is beneficial to have a record of visibility conditions at the Class I areas that are most affected by Kansas sources. The state analyzed four Class I areas, with a focus on the Wichita Mountains Wilderness area (the nearest Class I area to Kansas and most impacted by Kansas sources). The state compared the slope of the glide path of

[3] U.S. v. Westar Energy, Inc. 09–CV–2059 (D. Kan.)

natural visibility conditions in 2064 to the slope of the best-fit line of five-year visibility averages from 2002 to 2011 (in deciviews) for the 20 percent worst days and 20 percent best days. The analysis showed that visibility at all four Class I areas was improving at a rate faster than the glide path for the 20 percent worst days. Only the Wichita Mountains Wilderness area was not improving faster than the glidepath for the 20 percent best days, although visibility was still improving in the area.

EPA proposes to conclude that Kansas has adequately addressed 40 CFR 51.308(g)(3).

4. Emissions Tracking

40 CFR 51.308(g)(4) requires an analysis tracking emissions changes of visibility-impairing pollutants from the state's sources by type or category over the past five years based on the most recent updated emissions inventory. In its Progress Report, Kansas presents data from a statewide emissions inventory developed for the year 2002 and compares this data to the National Emissions Inventory (NEI) 2011 version 1 (dated September 30, 2013), or simply the 2011 NEIv1. For both the 2002 dataset and the 2011 NEIv1 data, pollutants inventoried include NO_X, Fine Particulate Matter ($PM_{2.5}$), Coarse Particulate Matter (PM_{10}), Ammonia (NH_3), and SO_2. The emissions inventories from both the 2002 dataset and the 2011 NEIv1 include all point, nonpoint, onroad, and nonroad sources. The state interpolated values for 2009 through 2013 based on emissions inventory data. This shows that emissions of the key visibility-impairing pollutants identified by Kansas, NO_X and SO_2, continued to drop from 2009 to 2013 (decreasing 32,227 and 64,359 tons, respectively). Kansas noted that emissions of NO_X and SO_2, the primary contributors to visibility impairment from anthropogenic sources, are down significantly (10 percent for NO_X and 59.6 percent for SO_2). However, the state noted that NH_3 and particulate matter (PM) emissions were reported up from the 2002 to 2011 inventories and need to be addressed. The state cited changes in the way that these pollutants were reported for each inventory as the reason for most of the reported increases in NH_3 and PM. Accounting for the differing reporting methods shows that $PM_{2.5}$ and PM_{10} emissions from fires is slightly up by 2011, however, this pollutant source is highly variable.

While ideally the five-year period to be analyzed for emissions inventory changes is the time period since the current regional haze SIP was submitted, there is an inevitable time lag in developing and reporting complete emissions inventories once equality-assured emissions data becomes available. Therefore, EPA believes that there is some flexibility in the five-year time period that states can select. Kansas tracked changes in emissions of visibility-impairing pollutants using the 2011 NEIv1, which was the most recent updated inventory of actual emissions for the state at the time that it developed the progress report SIP. EPA believes that Kansas's use of the five-year period from 2009 to 2013 reflects an accurate picture of the actual emissions realized between 2002–2013, and as in many cases, Kansas had already reached or surpassed their 2018 goals by 2013. EPA proposes to conclude that Kansas has adequately addressed 40 CFR 51.308(g)(4).

5. Assessment of Changes Impeding Visbility Progress

40 CFR 51.308(g)(5) requires an assessment of any significant changes in anthropogenic emissions within or outside the state that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the state's sources.

In its Progress Report, Kansas addresses the changes in anthropogenic emissions between 2009 and 2013 throughout the Midwest, especially due to sources installing controls to comply with present and near-future air quality standards (the Mercury and Air Toxics Standards Rule and the Clean Air Interstate Rule). Kansas noted that there have been significant reductions among anthropogenic emissions source categories, especially EGU's, with decreases in SO_2 of 17.5 percent and NO_X of 30.9 percent in Kansas and bordering states combined.

Kansas demonstrated that there are no significant changes in anthropogenic emissions that have impeded progress in reducing emissions and improving visibility in Class I areas impacted by Kansas and bordering state sources. The state referenced its analyses in the progress report SIP identifying an overall downward trend in these emissions from 2009 to 2013 in Kansas. Further, the progress report SIP shows that Kansas is on track to meeting its 2018 emissions projections.

EPA proposes to find that Kansas has adequately addressed 40 CFR 51.308(g)(5).

6. Assessment of Current Strategy

40 CFR 51.308(g)(6) requires an assessment of whether the current regional haze SIP is sufficient to enable Kansas, or other states, to meet the RPGs for Class I areas affected by emissions from the state. In its Progress Report, Kansas states that it believes that the elements and strategies outlined in its original regional haze SIP are sufficient to enable Kansas and other neighboring states to meet all of the established RPGs and no further revision to the initial Kansas Regional Haze SIP is needed at this time. To support this conclusion, Kansas notes that anthropogenic emissions of NO_X has dropped 10 percent and SO_2 has dropped 59.6 percent.

EPA views this requirement as a qualitative assessment that should evaluate emissions and visibility trends and other readily available information, including expected emissions reductions associated with measures with compliance dates that have not yet become effective. Kansas referenced the improving visibility trends at affected Class I areas and the downward emissions trends in the state, with a focus on NO_X and SO_2 emissions from Kansas' EGUs that support Kansas' determination that its regional haze SIP is sufficient to meet RPGs for Class I areas outside the state impacted by Kansas sources. EPA believes that Kansas' conclusion regarding the sufficiency of the regional haze SIP is appropriate because of the calculated visibility improvement using the latest available data and the downward trend in NO_X and SO_2 emissions from sources in Kansas. EPA proposes to conclude that Kansas has adequately addressed 40 CFR 51.308(g)(6).

7. Review of Current Monitoring Strategy

40 CFR 51.308(g)(7) requires a review of the state's visibility monitoring strategy and an assessment of whether any modifications to the monitoring strategy are necessary. In its progress report SIP, Kansas summarizes the existing IMPROVE monitoring network and its intended continued reliance on IMPROVE for visibility planning. Kansas operates two IMPROVE Protocol sampling sites, one at Cedar Bluff State Park in Trego County and the other at Tallgrass Prairie National Preserve in the Flint Hills region of eastern Kansas. Kansas has updated its monitoring plan annually and will consider the need to operate two IMPROVE sites with increasingly constrained finances.

EPA proposes to conclude that Kansas has adequately addressed the sufficiency of its monitoring strategy as required by 40 CFR 51.308(g)(7).

B. Determination of Adequacy of Existing Regional Haze Plan

Under 40 CFR 51.308(h), states are required to take one of four possible actions based on the information gathered and conclusions made in the progress report SIP. The following section summarizes: (1) The action taken by Kansas under 40 CFR 51.308(h); (2) Kansas's rationale for the selected action; and (3) EPA's analysis and proposed determination regarding the state's action.

In its Progress Report, Kansas took the action provided for by 40 CFR 51.308(h)(1), which allows a state to submit a negative declaration to EPA if the state determines that the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the state's sources. The basis for Kansas' negative declaration is the findings from the progress report (as discussed in section II. A. of this action), including the findings that: NO_X and SO_2 emissions from Kansas's sources have decreased beyond original projections; and the NO_X and SO_2 emissions from EGUs in Kansas are already below the levels projected for 2018 in the regional haze SIP and are expected to continue to trend downward for the next five years.

Based on these findings, EPA proposes to agree with Kansas' conclusion under 40 CFR 51.308(h) that no further substantive changes to its regional haze SIP are required at this time.

C. Consultation With Federal Land Managers

On November 25, 2014, KDHE provided to the FLMs, a revision to Kansas' SIP reporting on progress made during the first implementation period toward RPGs for Class I areas in the state and Class I areas outside the state that are affected by emissions from Kansas's sources. Notification was published in the Kansas Register, regional newspapers, and the KDHE Web site on October 23, 2014. A public hearing was not held because KDHE received no requests for a public hearing and the public comment period ended on November 21, 2014. On March 10, 2015, KDHE submitted the SIP to EPA.

Kansas' Progress Report includes the FLMs comments and KDHE's response to those comments in Appendix I to the Progress Report. In the section 3.8 Federal Land Manager (FLM) Coordination, KDHE commits to continuing policy discussions with the FLMs.

EPA proposes to find that KDHE has addressed the requirements in 51.308(i)(2), (3), and (4) to provide FLMs with an opportunity for consultation in person and at least 60 days prior to a public hearing on the SIP revision; include a description in the SIP revision of how it addressed any comments from the FLMs; and provide procedures for continuing consultation between the State and FLMs.

III. What action is EPA taking?

EPA is proposing approval of a revision to the Kansas SIP, submitted by the State of Kansas on March 10, 2015, as meeting the applicable regional haze requirements as set forth in 40 CFR 51.308(g) and 51.308(h). We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 10, 2015. Filing a petition for reconsideration by the Administrator of this proposed rule does not affect the finality of this rulemaking for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such future rule or action. This proposed action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead,

Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 28, 2015.

Mark Hague,

Acting Regional Administrator, Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart R—KANSAS

■ 2. In § 52.870 the table in paragraph (e) is amended by adding new entry (40) at the end of the table to read as follows:

§ 52.870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KANSAS NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or Nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	*
(40) State Implementation Plan (SIP) Revision for the Attainment and Maintenance of National Ambient Air Quality Standards for Regional Haze (2014 Five-Year Progress Report)	Statewide	3/10/15	6/10/15 [Insert **Federal Register** citation].	

[FR Doc. 2015–13943 Filed 6–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2014–0390; FRL–9927–60]

RIN 2070–AB27

Significant New Use Rule on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 30 chemical substances which were the subject of premanufacture notices (PMNs). This action would require persons who intend to manufacture (including import) or process any of the chemical substances for an activity that is designated as a significant new use by this proposed rule to notify EPA at least 90 days before commencing that activity. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit the activity before it occurs.

DATES: Comments must be received on or before July 10, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2014–0390, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.*

Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

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

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

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this proposed rule. 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:

• Manufacturers (including importers) or processors of one or more subject chemical substances (NAICS codes 325 and 324110), *e.g.*, chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance to a proposed or final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

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. Background

A. What action is the Agency taking?

EPA is proposing these SNURs under TSCA section 5(a)(2) for 30 chemical substances which were the subject of PMNs P–13–793, P–14–72, P–14–89, P–14–90, P–14–91, P–14–92, P–14–158, P–14–159, P–14–161, P–14–162, P–14–163, P–14–173, P–14–175, P–14–176, P–14–177, P–14–178, P–14–179, P–14–180, P–14–181, P–14–182, P–14–183, P–14–184, P–14–185, P–14–186, P–14–187, P–14–188, P–14–190, P–14–191, P–14–192, and P–14–193. These SNURs would require persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity. In accordance with the procedures at § 721.160(c)(3)(i), in the **Federal Register** publication of October 27, 2014 (79 FR 63821) (FRL–9914–56) EPA issued direct final SNURs on these chemical substances, which are the subject of PMNs. EPA received notices of intent to submit adverse comments on these SNURs. Therefore, as required by § 721.160(c)(3)(ii), EPA withdrew the direct final SNURs in the **Federal Register** of December 23, 2014 (79 FR 76900) (FRL–9920–6325), and is now issuing this proposed rule on these 30 chemical substances. The records for the direct final SNURs on these 30 chemical substances were established as docket EPA–HQ–OPPT–2014–0390. Those records include information considered by the Agency in developing the direct final rule. Adverse comments received regarding these substances and the direct final rule are discussed in Unit IV.

B. What is the Agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use. Persons who must report are described in § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to This Proposed Rule

EPA is proposing significant new use and recordkeeping requirements for 30 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (assigned for non-confidential chemical identities).
- Public comments and EPA's response to comments on the 30 direct final SNURs subject to PMNs P–13–793, P–14–72, P–14–89, P–14–90, P–14–91, P–14–92, P–14–158, P–14–159, P–14–161, P–14–162, P–14–163, P–14–173, P–14–175, P–14–176, P–14–177, P–14–178, P–14–179, P–14–180, P–14–181, P–14–182, P–14–183, P–14–184, P–14–185, P–14–186, P–14–187, P–14–188, P–14–190, P–14–191, P–14–192, and P–14–193
- Basis for the TSCA non-section 5(e) SNURs (*i.e.*, SNURs without TSCA section 5(e) consent orders).
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VII. for more information).
- CFR citation assigned in the regulatory text section of this proposed rule.

The regulatory text section of this proposed rule specifies the activities designated as significant new uses. Certain new uses, including production volume limits (*i.e.*, limits on manufacture and importation volume) and other uses designated in this proposed rule, may be claimed as CBI.

PMN Number P–13–793

Chemical name: Functionalized carbon nanotubes (generic).

CAS number: Claimed confidential.

Public comment: A notice of intent to adversely comment has been submitted.

EPA response: EPA awaits the adverse comment during the open comment

period for this notice of proposed rulemaking.

Basis for action: The PMN states that the substance will be used as a thin film for electronic device applications. Based on structure activity relationship (SAR) analysis of test data on analogous carbon nanotubes and other respirable poorly soluble particulates, EPA identified potential lung effects, developmental toxicity, and dermal toxicity from exposure to the PMN substance via inhalation, dermal, and oral routes. Further, EPA predicts toxicity to aquatic organisms via releases of the PMN substance to surface water. Although there is potential for dermal exposure, EPA does not expect significant occupational exposures due to the use of impervious gloves, and because the PMN is used in liquid form and is not spray applied. Further, EPA does not expect environmental releases during the use identified in the PMN submission. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk human health or the environment. EPA has determined, however, that any use of the substance without the use of impervious gloves, where there is a potential for dermal exposure; manufacturing the PMN substance for use other than as a thin film for electronic device applications; manufacturing, processing, or using the PMN substance in a form other than a liquid; use of the PMN substance involving an application method that generates a mist, vapor, or aerosol; or any release of the PMN substance into surface waters may cause serious health effects or significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria in § 721.170 (b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of an oral and inhalation pharmacokinetic test (OPPTS Test Guideline 870.7485); a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); an algal toxicity test (OCSPP Test Guideline 850.4500); and a surface charge by electrophoresis by either the (ASTM Test Guideline E2865–12) or measuring the zeta potential of nanoparticles (Nanotechnology Characterization Library (NCL) Method PCC–2) (located in the Docket under Docket ID number EPA–HQ–OPPT–2014–0390); would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10776.

PMN Number P–14–72

Chemical name: Propaneperoxoic acid, 2,2-dimethyl-, 1,1,3,3-tetramethylbutyl ester.

CAS number: 22288–41–1.

Public comment: A notice of intent to adversely comment has been submitted.

EPA response: EPA awaits the adverse comment during the open comment period for this notice of proposed rulemaking.

Basis for action: The PMN states that the use of the substance will be as a polymerization initiator for the production of polyvinyl chloride (PVC) and polyethylene resin. Based on test data on the PMN substance, as well as ecological SAR analysis of test data on analogous peroxy esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 3 parts per billion (ppb) of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 3 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface waters concentrations exceeding 3 ppb may result in significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (Organisation for Economic Co-operation and Development (OECD) Test Guideline 301C) with product-specific chemical analytics to validate the degradation products (including intermediate products) and the rates of degradation (including intermediate degradation rates); and a hydrolysis as a function of pH and temperature test (OPPTS Test Guideline 835.2130) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10780.

PMN Numbers P–14–89, P–14–90, P–14–91, and P–14–92

Chemical names: Fatty acid amide hydrochlorides (generic).

CAS numbers: Claimed confidential.

Public comment: A notice of intent to adversely comment has been submitted, by the PMN submitter. The comment expressed concern that EPA's approach for these SNURs changed from that transmitted in writing by EPA during the PMN review period. As a result, the PMN submitter was not given the opportunity to discuss, provide pertinent information on, respond to, or comment on this change.

EPA response: EPA met with the PMN submitter on December 17, 2014 to discuss procedural and policy issues raised in connection with the withdrawn SNURs. EPA awaits formal comment during the open comment period for this proposed rule.

Basis for action: The consolidated PMN states that the substances will be used as surfactants for use in asphalt emulsions. Based on ecological SAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed the following values of the PMN substances in surface waters:

PMN No.	Concentration of concern
P–14–89, P–14–92	110 ppb.
P–14–90	240 ppb.
P–14–91	53 ppb.

For the use described in the PMNs, releases of the substances are not expected to result in surface water concentrations that exceed these values. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substances resulting in surface water concentrations exceeding the aforementioned concentrations of concern may result in significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substances. EPA also recommends that the guidance document on aquatic toxicity testing of difficult substances and mixtures (OECD Test Guideline 23) be followed.

CFR citation: 40 CFR 721.10781.

PMN Numbers P–14–158, P–14–159, P–14–161, P–14–162, and P–14–163

Chemical names: Fatty acid amides (generic).

CAS numbers: Claimed confidential.

Public comment: A notice of intent to adversely comment has been submitted,

by the PMN submitter. The comment expressed concern that EPA's approach for these SNURs changed from that transmitted in writing by EPA during the PMN review period. As a result, the PMN submitter was not given the opportunity to discuss, provide pertinent information on, respond to, or comment on this change.

EPA response: EPA met with the PMN submitter on December 17, 2014 to discuss procedural and policy issues raised in connection with the withdrawn SNURs. EPA awaits formal comment during the open comment period for this proposed rule.

Basis for action: The consolidated PMN states that the substances will be used as chemical intermediates and additives for flotation products. Based on ecological SAR analysis of test data on analogous amides and aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed the following values of the PMN substances in surface waters:

PMN No.	Concentration of concern
P–14–158, P–14–159, P–14–161, P–14–163.	1 ppb.
P–14–162	140 ppb.

For the use described in the PMNs, releases of the substances are not expected to result in surface water concentrations that exceed these values. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substances resulting in surface water concentrations exceeding the aforementioned concentrations of concern may result in significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of (1) a water solubility: Column elution method; shake flask method test (OPPTS Test Guideline 830.7840) or a water solubility generator column method test (OPPTS Test Guideline 830.7860); and (2) a determination of the partition coefficient (n-octanol/water) by shake flask method (OPPTS Test Guideline 830.7550), or generator column method (OPPTS Test Guideline 830.7560), or estimation by liquid chromatography (OPPTS Test Guideline 830.7570) would help characterize the physical/chemical properties of the PMN substances. Depending upon the results of these data, the results of a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) may be recommended to help characterize the environmental effects of the PMN substances.

CFR citation: 40 CFR 721.10782.

PMN Numbers P–14–173, P–14–175, P–14–176, P–14–177, P–14–178, P–14–179, P–14–180, P–14–181, P–14–182, P–14–183, P–14–184, P–14–185, P–14–186, P–14–187, P–14–188, P–14–190, P–14–191, P–14–192, and P–14–193

Chemical names: Fatty acid amide acetates (generic).

CAS numbers: Claimed confidential.

Public comment: A notice of intent to adversely comment has been submitted, by the PMN submitter. The comment expressed concern that EPA's approach for these SNURs changed from that transmitted in writing by EPA during the PMN review period. As a result, the PMN submitter was not given the opportunity to discuss, provide pertinent information on, respond to, or comment on this change.

EPA response: EPA met with the PMN submitter on December 17, 2014 to discuss procedural and policy issues raised in connection with the withdrawn SNURs. EPA awaits formal comment during the open comment period for this proposed rule.

Basis for action: The PMNs state that the substances will be used as flotation additives for use in mineral processing. Based on ecological SAR analysis of test data on analogous amides and aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed the following values of the PMN substances in surface waters:

PMN No.	Concentration of concern
P–14–173, P–14–175, P–14–178, P–14–179, P–14–181, P–14–183, P–14–184, P–14–192, P–14–193.	1 ppb.
P–14–176, P–14–180, P–14–185, P–14–186, P–14–187, P–14–190.	2 ppb.
P–14–177, P–14–188	3 ppb.
P–14–191	4 ppb.
P–14–182	140 ppb.

For the use described in the PMNs, releases of the substances are not expected to result in surface water concentrations that exceed these values. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substances resulting in surface water concentrations exceeding the aforementioned concentrations of concern may result in significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) on P–14–184, and any one of the remaining PMN substances, would help characterize the environmental effects of the PMN substances. Further, EPA determined that the results of a fish acute toxicity mitigated by humic acid test (OPPTS Test Guideline 850.1085) on PMN P–14–184 would help characterize the environmental effects of the PMN substance. EPA also recommends that the guidance document on aquatic toxicity testing of difficult substances and mixtures (OECD Test Guideline 23) be followed.

CFR citation: 40 CFR 721.10783.

V. Rationale and Objectives of the Proposed Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA determined that one or more of the criteria of concern established at § 721.170 were met. For additional discussion on these chemical substances, see Units II. and IV. of this proposed rule.

B. Objectives

EPA is proposing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this proposed rule:

- EPA would receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- EPA would have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- EPA would be able to regulate prospective manufacturers or processors of a listed chemical substance before the

described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Applicability of the Proposed Rule to Uses Occurring Before the Effective Date of the Final Rule

To establish a significant new use, EPA must determine that the use is not ongoing. The chemical substances subject to this proposed rule have undergone premanufacture review. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no person may commence such activities without first submitting a PMN. Therefore, for chemical substances for which an NOC has not been submitted EPA concludes that the designated significant new uses are not ongoing.

When chemical substances identified in this proposed rule are added to the TSCA Inventory, EPA recognizes that, before the rule is effective, other persons might engage in a use that has been identified as a significant new use. The identities of 29 of the 30 chemical substances subject to this proposed rule have been claimed as confidential and EPA has received no post-PMN *bona fide* submissions (per §§ 720.25 and 721.11). Based on this, the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this proposed rule are ongoing.

Therefore, EPA designates June 10, 2015 as the cutoff date for determining whether the new use is ongoing. Persons who begin commercial manufacture or processing of the chemical substances for a significant new use identified as of that date would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until the notice review period, including any extensions, expires. If such a person met the conditions of advance compliance under § 721.45(h), the person would be considered exempt from the requirements of the SNUR. Consult the **Federal Register** document of April 24, 1990 (55 FR 17376) for a more detailed discussion of the cutoff date for ongoing uses.

VII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.'' The Organisation for Economic Co-operation and Development (OECD) test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or SourceOECD at *http://www.sourceoecd.org.* ASTM International standards are available at *http://www.astm.org/Standard/index.shtml.*

The recommended tests specified in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VIII. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E–PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

IX. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors of the chemical substances subject to this proposed rule, during the development of the direct final rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2014–0390.

X. Statutory and Executive Order Reviews

A. Executive Order 12866

This proposed rule would establish SNURs for 30 chemical substances that were the subject of PMNs. 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).

B. Paperwork Reduction Act (PRA)

According to PRA (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 that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to this proposed rule have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This proposed rule would not impose any burden requiring additional OMB approval. If an entity were to

submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
2. The SNUR submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this proposed rule.

This proposed rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit IX. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government would be impacted by this proposed rule. As such, EPA has determined that this proposed rule would not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This proposed rule would not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This proposed rule would not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This proposed rule would not significantly nor uniquely affect the communities of Indian Tribal governments, nor would it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this proposed rule.

G. Executive Order 13045

This proposed rule is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this proposed rule does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This proposed rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because this proposed rule is not expected to affect energy supply, distribution, or use and because this proposed rule is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this proposed rule would not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), would not apply to this proposed rule.

J. Executive Order 12898

This proposed rule does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 1, 2015.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Add § 721.10776 to subpart E to read as follows:

§ 721.10776 Functionalized carbon nanotubes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as functionalized carbon nanotubes (PMN P–13–793) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the PMN substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), and (a)(3). When determining which persons are reasonably likely to be exposed as required for § 721.63 (a)(1), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (a significant new use is use other than as a thin film for electronic device applications), (v)(1), (v)(2), (w)(1), (w)(2), (x)(1), (x)(2), and (y)(1).

(iii) *Release to water.* Requirements as specified in § 721.90(a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e), (i), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 3. Add § 721.10780 to subpart E to read as follows:

§ 721.10780 Propaneperoxoic acid, 2,2-dimethyl-, 1,1,3,3-tetramethylbutyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as propaneperoxoic acid, 2,2-dimethyl-, 1,1,3,3-tetramethylbutyl ester (PMN P–14–72; CAS No. 22288–41–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (N=3).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 4. Add § 721.10781 to subpart E to read as follows:

§ 721.10781 Fatty acid amide hydrochlorides (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fatty acid amide hydrochlorides (PMNs P–14–89, P–14–90, P–14–91 and P–14–92) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 110 for PMNs P–14–89 and P–14–92; N = 240 for PMN P–14–90; N = 53 for PMN P–14–91).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 5. Add § 721.10782 to subpart E to read as follows:

§ 721.10782 Fatty acid amides (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fatty acid amides (PMN P–14–158, P–14–159, P–14–161, P–14–162, and P–14–163) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = 1 for PMNs P–14–158, P–14–159, P–14–161, and P–14–163; N = 140 for PMN P–14–162).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 6. Add § 721.10783 to subpart E to read as follows:

§ 721.10783 Fatty acid amide acetates (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fatty acid amide acetates (PMNs P–14–173, P–14–175, P–14–176, P–14–177, P–14–178, P–14–179, P–14–180, P–14–181, P–14–182, P–14–183, P–14–184, P–14–185, P–14–186, P–14–187, P–14–188, P–14–190, P–14–191, P–14–192 and P–14–193) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = concentration of concern as follows):

PMN No.	Concentration of concern
P–14–173, P–14–175, P–14–178, P–14–179, P–14–181, P–14–183, P–14–184, P–14–192, P–14–193.	1 ppb.
P–14–176, P–14–180, P–14–185, P–14–186, P–14–187, P–14–190.	2 ppb.
P–14–177, P–14–188	3 ppb.
P–14–191	4 ppb.
P–14–182	140 ppb.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), and (k) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2015–13941 Filed 6–9–15; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 10–210; FCC 15–58]

Relay Services for Deaf-Blind Individuals

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to amend its rules to continue the National Deaf-Blind Equipment Distribution Program (NDBEDP) on a permanent basis. The NDBEDP is currently a pilot program that supports the distribution of communications devices to low-income individuals who are deaf-blind.

DATES: Comments are due July 27, 2015 and reply comments are due August 10, 2015.

ADDRESSES: You may submit comments, identified by CG Docket No. 10–210, by any of the following methods:

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site *http://fjallfoss.fcc.gov/ecfs2/.* Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the

transmittal screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket No. 10–210.

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Rosaline Crawford, Consumer and Governmental Affairs Bureau, Disability Rights Office, at 202–418–2075 or email *Rosaline.Crawford@fcc.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.

• Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

This is a summary of the Commission's document FCC 15–58, Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, Notice of Proposed Rulemaking (NPRM), adopted on May 21, 2015 and released on May 27, 2015, in CG Docket No. 10–210. The full text of document FCC 15–58 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Document FCC 15–58 can also be downloaded in Word or Portable Document Format (PDF) at *http://www.fcc.gov/ndbedp.*

This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Initial Paperwork Reduction Act of 1995 Analysis

Document FCC 15–58 seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Public Law 104–13, 109 Stat. 163; 44 U.S.C. 3501–3520. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Public Law 107–198, 116 Stat. 729; 44 U.S.C. 3506(c)(4).

Synopsis

I. Introduction

1. In the (*NPRM*), the Commission seeks comment on proposed rules to govern the NDBEDP on a permanent basis. The NDBEDP supports programs that distribute communications equipment to low-income individuals who are deaf-blind. The NDBEDP has operated as a pilot program since July 2012.

II. Background

2. Section 105 of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) added section 719 to the Communications Act of 1934, as amended, which directed the Commission to establish rules to provide up to $10 million annually from the Interstate Telecommunications Relay Service Fund (TRS Fund) to support programs that distribute communications equipment to low-income individuals who are deaf-blind. Public Law 111–260, 124 Stat. 2751 (2010); Public Law 111–265, 124 Stat. 2795 (2010); 47 U.S.C. 620. In 2011, the Commission established the NDBEDP as a two-year pilot program, with an option to extend it for an additional year. *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* CG Docket No. 10–210, Report and Order, published at 76 FR 26641, May 9, 2011 (*NDBEDP Pilot Program Order*); 47 CFR 64.610 (NDBEDP pilot program rules). The Consumer and Governmental Affairs Bureau (CGB or Bureau) launched the pilot program on July 1, 2012. To implement the program, the Bureau certified 53 entities to participate in the

NDBEDP—one entity to distribute equipment in each state, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, hereinafter referred to as ''state programs'' or ''certified programs''—and selected a national outreach coordinator to support the outreach and distribution efforts of these state programs. On February 7, 2014, the Bureau extended the pilot program for a third year, until June 30, 2015. Many individuals who received communications devices through the NDBEDP have reported that this program has vastly improved their daily lives, significantly enhancing their ability to live independently and expanding their educational and employment opportunities.

3. On August 1, 2014, the Bureau released a Public Notice inviting comment on which rules governing the NDBEDP pilot program should be retained and which should be modified to make the permanent NDBEDP more effective and more efficient. *Consumer and Governmental Affairs Bureau Seeks Comment on the National Deaf-Blind Equipment Distribution Program,* CG Docket No. 10–210, Public Notice, 29 FCC Rcd 9451 (CGB 2014). Comments filed in response to the Public Notice helped to inform the preparation of the *NPRM.* The Commission proposes to retain the NDBEDP pilot program rules for the permanent program, except as discussed in the *NPRM.*

4. On May 21, 2015, the Commission extended the pilot program for one additional year, until June 30, 2016. *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* CG Docket No. 10–210, Order, FCC 15–57 (rel. May 27, 2015). The Commission commits to continue the pilot NDBEDP as long as necessary to ensure a seamless transition between the pilot and permanent programs to ensure the uninterrupted distribution of equipment to this target population. When the Commission adopts final rules for the permanent program it will consider the extent to which the pilot program needs to be extended further. The Commission invites comment on the need to extend the pilot program beyond June 30, 2016.

5. In establishing a permanent NDBEDP, the Commission also seeks comment on performance goals for all elements of the program along with performance measures that are clearly linked to each performance goal. Specifically, the Commission proposes the following goals: (1) Ensuring that the program effectively increases access to covered services by the target population; (2) ensuring that the program is administered efficiently; and (3) ensuring that the program is cost-effective. Funds available through the program come from contributions made by telecommunications service providers to the TRS Fund, and the Commission has a responsibility to ensure these funds are spent efficiently and effectively. Ensuring that certified programs use available funds in cost-effective ways maximizes the impact of program funds and helps ensure that as many eligible recipients as possible are able to receive the support they need. The Commission believes that clear performance goals and measures will enable it to determine whether the program is being used for its intended purpose and whether the funding for the program is accomplishing the intended results. To the extent that these proposed goals or other goals that commenters may propose may be in tension with each other, commenters should suggest how the Commission should prioritize or balance them. The Commission invites comment on what performance measures it should adopt to support these proposed goals, and whether it should adopt measures based on the information that certified programs are required to report to the Commission. The Commission also seeks comment on ways to manage and share data to track our progress in meeting these goals. Finally, the Commission proposes to periodically review whether it is making progress in addressing these goals by measuring the specific outcomes.

III. Program Structure

A. Certified Programs

6. Under the NDBEDP pilot program, the Commission certifies one entity per state as the sole authorized entity to participate in the NDBEDP and receive support from the TRS Fund for the distribution of equipment and provision of related services to low-income individuals who are deaf-blind. Certified programs have primary oversight and responsibility for compliance with program requirements, but may fulfill their responsibilities directly or through collaboration, partnership, or contract with other individuals or entities within or outside of their states or territories. Services related to the distribution of equipment include outreach, assessment, installation, and training. Certified programs also perform administrative functions, including submitting reimbursement claims and reports, and conducting annual audits.

7. The Commission proposes to retain the current structure of the NDBEDP, certifying one entity to be responsible for the administration of the program, distribution of equipment, and provision of related services within each of the states and territories covered by the NDBEDP. The Commission believes that the localized approach that has been in place for almost three years has been successful in meeting the needs of eligible low-income individuals who are deaf-blind and that state entities are more likely to be familiar with their unique demographics and their available resources, and consequently are in a better position to respond to the localized needs of their residents. The Commission also believes that greater efficiencies and expanded capabilities can be achieved through a centralized database for reporting and reimbursement and through greater support for training, discussed further in the *NPRM,* without having to restructure the program from a state-based to a national system. The Commission seeks comment on this approach.

8. Thus far, 10 of the 53 state programs have relinquished their certifications, requiring the Commission to seek replacements in those states. The Commission recognizes that some adjustments have had to be made during the pilot program, a result that was not unexpected given that the NDBEDP is an entirely new program. However, on balance, the Commission believes that the success of NDBEDP, as evidenced by the delivery of equipment and services to thousands of deaf-blind individuals, shows that the system has been working well. To help reduce the incidence of program departures, as discussed further in the *NPRM,* the Commission proposes to establish a centralized database to facilitate the filing of reimbursement claims and semi-annual reports to the Commission. In addition, to minimize the risk of a lapse in service to deaf-blind individuals that might result during any future transitions from one certified state program to another, the Commission proposes that a certified program seeking to relinquish its certification provide written notice to the Commission at least 90 days in advance of its intent to do so. Further, the Commission proposes that such entities be required to transfer NDBEDP-purchased equipment, information, files, and other data to the newly-certified entity in its state within 30 days after the effective date of its certification to ensure a smooth transition and reduce any potential for a lapse in service. Finally, the

Commission proposes requiring that all entities relinquishing their certifications comply with NDBEDP requirements necessary for the ongoing functioning of the program that they are exiting, including the submission of final reimbursement claims and six-month reports. The Commission seeks comment on these proposals, as well as other steps that the Commission should take to reduce the number of entities that relinquish their certifications and measures the Commission should adopt to minimize the impact on consumers when this occurs.

9. For the pilot program, the Bureau selected entities to participate in the NDBEDP that were located within and outside of the states that they served. Currently, of the 53 certified programs, 33 are administered by entities located within the states they serve and 20 are administered by entities located outside those states. For all but three of these 20 programs, the out-of-state entity selected was the sole applicant. The Commission proposes to continue allowing qualified out-of-state entities, in addition to in-state entities, to apply for certification to administer the NDBEDP, in collaboration with individuals or entities within or outside of their states or territories. It believes that this flexible approach assists those states that may not have sufficient resources on their own to provide the services required by the NDBEDP. The Commission seeks comment on this proposal and any alternatives that would ensure that the NDBEDP is able to serve the residents of each state.

10. The Commission authorized the NDBEDP pilot program to operate in each of the 50 states, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands, noting that each of these jurisdictions administered an intrastate TRS program. The Commission reached this result because, like the TRS state programs, the NDBEDP certified programs are supported by the TRS Fund. Because residents of American Samoa, Guam, and the Northern Mariana Islands are also eligible to make and receive calls through one or more forms of relay services that are supported by the TRS Fund, the Commission proposes to expand the operation of the NDBEDP to these jurisdictions. The Commission seeks comment on this proposal, particularly from interested stakeholders who reside in these three territories, including entities that provide services to deaf-blind individuals.

B. Certification Criteria

11. Pursuant to the Commission's rules, the Bureau reviews applications and determines whether to grant NDBEDP certification based on the ability of a program to meet the following qualifications, either directly or in coordination with other programs or entities, as evidenced in the application and any supplemental materials, including letters of recommendation: (i) expertise in the field of deaf-blindness; (ii) the ability to communicate effectively with people who are deaf-blind; (iii) staffing and facilities sufficient to administer the program; (iv) experience with the distribution of specialized customer premises equipment; (v) experience in how to train users on how to set up and use the equipment; and (vi) familiarity with the telecommunications, Internet access, and advanced communications services that will be used with the distributed equipment. The Commission believes that these criteria have been effective in informing the Bureau's selection of qualified entities and proposes to retain these criteria to evaluate an entity's qualifications for certification as a state program. The Commission seeks comment on this proposal.

12. In addition, the Commission seeks comment on how it can supplement these criteria to better ensure that certain certified programs serve the full spectrum of people who are deaf-blind. Should the Commission establish minimum standards for the personnel providing services in these programs? For example, should individuals providing service have certain levels of linguistic competency? The Commission asks commenters to describe any difficulties they have experienced securing equipment or services from their state's certified program resulting from a lack of expertise in deaf-blindness or communications skills, and to be specific in recommending changes that may be necessary in the Commission's certification criteria to reduce these difficulties.

13. The Commission also seeks comment on the addition of certification criteria that address the ability of certified programs to administer a statewide program, the capacity to manage the financial requirements of a state program, expertise in assistive technology, and experience with equipment distribution capabilities. In particular, the Commission proposes to add administrative and financial management experience to the requirements for certification. The Commission seeks comment on this proposal. Should applicants also be required to demonstrate that they are capable of operating a statewide program or that they follow standard financial principles? To what extent would such requirements strengthen the NDBEDP? For example, would these reduce the likelihood of selected entities relinquishing their certification before completion of their terms? Conversely, would requiring such skills exclude too many otherwise qualified applicants? Finally, the Commission seeks comment on any other criteria that should be added to ensure the selection of certified entities that will be both responsive to the deaf-blind community's needs and capable of achieving full compliance with the Commission's NDBEDP rules.

14. Under the NDBEDP pilot program, the Commission prohibited certified programs from accepting financial arrangements from a vendor that could incentivize the purchase of particular equipment. The Commission continues to believe that such incentives could impede a certified program's ability to provide equipment that fully meets the unique needs of the deaf-blind persons it is serving. In addition to this rule, the Commission also requested that applicants for NDBEDP certification disclose in their initial certification application and thereafter, as necessary, any actual or potential conflicts of interest with manufacturers or providers of equipment that may be distributed under the NDBEDP. The Commission proposes to require such disclosures in applications for initial and continued certification under the permanent NDBEDP. To the extent that financial arrangements in which the applicant is a part create the risk of impeding the applicant's objectivity in the distribution of equipment or compliance with NDBEDP requirements—such as when the applicant is partially or wholly owned by an equipment manufacturer or vendor—the Commission proposes that it reject such applicant for NDBEDP certification. The Commission seeks comment on this proposal.

C. Duration of Certification

15. At present, all NDBEDP programs are certified for the duration of the pilot program. Consistent with the TRS certification rules for state TRS providers, to improve program accountability, and avoid unnecessary administrative burdens that may result from a certification period of two or three years, the Commission proposes that NDBEDP programs be certified for a period of five years. The Commission seeks comment on alternative timeframes other than five years including shorter timeframes, and asks about the pros and cons of opening the window up earlier than every five years.

In the event that a certified program decides not to seek re-certification at the end of its five-year term, the Commission proposes requiring that such entities transfer NDBEDP-purchased equipment, information, files, and other data to the newly-certified entity in its state within 30 days after the effective date of certification of the new entity to ensure a smooth transition and reduce any potential for a lapse in service. This is consistent with the Commission's proposal to require the transfer of such materials when a certified program relinquishes its certification during its five-year term, discussed in the *NPRM.* The Commission seeks comment on this proposal.

D. Certification Renewals

16. Because the permanent NDBEDP may have some rule modifications, the Commission believes that it is appropriate to require each such entity to demonstrate its ability to meet all of the selection criteria anew, and to affirm its commitment to comply with all Commission rules governing the permanent program. Accordingly, the Commission proposes requiring that each entity certified under the pilot program re-apply for certification or notify the Commission of its intent not to participate under the permanent program within 30 days after the effective date of the permanent rules. The rules will be effective upon notice in the **Federal Register** announcing Office of Management and Budget (OMB) approval of the information collection requirements subject to the Paperwork Reduction Act. The Commission seeks comment on this proposal. Alternatively, should the Commission require each entity to certify that it continues to satisfy all current certification criteria that the Commission retains under the permanent NDBEDP, to demonstrate its ability to meet any new criteria the Commission may establish, and to affirm its commitment to comply with the permanent NDBEDP rules that the Commission adopts? In addition, the Commission proposes to permit other entities to apply for certification as the sole authorized entity for a state to distribute equipment under the NDBEDP during the 30-day time period following the effective date of the permanent rules. The Commission seeks comment on this proposal.

17. Consistent with the Commission's requirements for TRS providers, the Commission proposes to require each state program, once certified, to report any substantive change to its program within 60 days of when such change occurs. The Commission proposes that substantive changes include those that might bear on the qualifications of the entity to meet the Commission's criteria for certification, such as changes in the entity's ability to distribute equipment across its state or significant changes in its staff and facilities. The Commission seeks comment on this proposal and the types of substantive changes that should trigger such notice to the Commission. The Commission also seeks comment on the extent to which this requirement would help to ensure that programs continue to meet the Commission's criteria for certification when substantial changes are made.

18. Finally, the Commission proposes that one year prior to the expiration of each five-year certification period, a certified program intending to stay in the NDBEDP be required to request renewal of its certification by submitting to the Commission an application with sufficient detail to demonstrate its continued ability to meet all criteria required for certification, either directly or in coordination with other programs or entities. This approach is consistent with the TRS certification rules for state TRS providers. The Commission seeks comment on this proposal. In addition, the Commission proposes to permit other entities to apply for certification as the sole authorized entity for a state to distribute equipment under the NDBEDP one year prior to the expiration of a certified entity's five-year certification period. The Commission seeks comment on this proposal.

E. Notifying Consumers About State Program Changes

19. Under the pilot program rules, the Commission may suspend or revoke a certification if it determines that such certification is no longer warranted after notice and opportunity for hearing. The Commission seeks comment on whether, in place of an opportunity for an administrative hearing, there are alternatives that would provide programs an opportunity to be heard, such as a reasonable time to present views or objections to the Commission in writing before suspension or decertification. The Commission's interest in finding an alternative stems from its concern that a requirement for a hearing could unintentionally result in eligible residents being denied equipment pending this administrative action. Would providing a program with reasonable time to present its views and objections to the Commission in writing satisfy due process requirements and enable the Commission to take action without undue delay?

20. The Commission has not initiated any decertification proceedings under the pilot program. When state programs have voluntarily relinquished their certifications, the Bureau has released public notices to invite applications to replace these entities, selected replacements after careful review of the applications received, and released a second public notice announcing the newly-certified entities. In addition to releasing such public notices, should the Commission take other measures to notify consumers in the affected states when a certified entity exits the program and a replacement is selected? For example, should the Commission require the formerly certified entity to notify consumers in their states who received equipment or who have applied to receive equipment about the newly-certified entity? The Commission seeks comment on how best to ensure that consumers are aware when these changes are made to their state NDBEDP programs.

F. NDBEDP Centralized Database for Reporting and Reimbursement

21. Under the NDBEDP pilot program, state programs must submit reimbursement claims to the TRS Fund Administrator and reports to the Commission. Currently, reports from state programs are presented to the Commission with inconsistent formatting, making aggregation of data difficult and inefficient. The Commission proposes that a centralized national database be created to assist state programs in the generation of their reports to the Commission, to enable the submission of those reports electronically to the NDBEDP Administrator, and to allow for the aggregation and analysis of nationwide data on the NDBEDP. To ensure that all of the information collected can be aggregated and analyzed for the effective and efficient operation of the NDBEDP, the Commission further proposes that, if the Commission adopts this approach, all certified programs be required to use the centralized database for their reporting obligations. The Commission seeks comment on these proposals. Do NDBEDP stakeholders agree that these advantages would accrue from utilizing a centralized database? The Commission also seeks comment generally on the costs and any other benefits or disadvantages that would be associated with both the establishment and maintenance of such a database. Further, the Commission seeks comment on any lessons learned from other experiences setting up databases and whether a centralized database

could be used for other purposes or programs.

22. Much of the data needed to generate reimbursement claims is also required to generate the required reports. Because the data overlap, the Commission also proposes that the centralized database be available to assist state programs in generating their reimbursement claims for submission to the TRS Fund Administrator. The Commission seeks comment on this proposal. Would having the centralized database available to generate reimbursement claims lead to faster reimbursement and benefit state programs in other ways? The TRS Fund Administrator is currently able to aggregate reimbursement claim data, even in the absence of a centralized database. For this reason, the Commission proposes to enable and permit, but not require, certified programs to use the centralized database to generate reimbursement claims. Alternatively, would requiring all certified programs to use the centralized database for their claims make the process of aggregating reimbursement claim data more efficient? Could reimbursement claim data be transmitted electronically from the centralized database to the TRS Fund Administrator, along with the necessary supporting documentation? The Commission seeks comment on the costs and benefits of utilizing the centralized database to facilitate the creation of reimbursement claims, as well as the best approach for utilizing this database to ensure the effective and efficient oversight of the permanent NDBEDP.

23. The Commission also seeks comment about the type of data that state programs should be required to input into a centralized database. In order for state programs to generate reimbursement claims under the pilot NDBEDP, they must submit the costs of equipment and related expenses (including maintenance, repairs, warranties, refurbishing, upgrading, and replacing equipment distributed to consumers); assessments; equipment installation and consumer training; loaner equipment; state outreach efforts; and program administration. Should this same data be entered into the database? Are there other types of data that should be populated into the database for the purpose of generating reimbursement claims? Similarly, what data should be input by state programs to the database to effectively generate reports about state program activities? Under the Commission's current rules, state programs must report to the Commission information about equipment recipients and the people attesting that those individuals are deaf-blind; the equipment distributed; the cost, time and other resources allocated to various activities; the amount of time between assessment and equipment delivery; the types of state outreach undertaken; the nature of equipment upgrades; a summary of equipment requests denied and complaints received; and the number of qualified applicants on waiting lists to receive equipment. To the extent that the Commission continues requiring that such data be reported in the permanent NDBEDP, should certified programs be required to input all of this data into the centralized database?

24. Should certain data be excluded from the centralized database, and if so, why? For example, even though the Commission complies with the requirements of the Privacy Act with respect to the protection of personally identifiable information that the Commission receives in connection with the NDBEDP, would it be more appropriate for state programs to maintain records of names and addresses of their equipment recipients, along with the identity of the people who attest that those recipients are deaf-blind, rather than put this information into a centralized location? Should individuals who receive equipment instead be given a unique identifying number, which could be entered into the database in lieu of their names and other personally identifiable information? Additionally, the Commission seeks comment on whether any certified program may be prohibited by state regulation from storing data out of state and whether these prohibitions would prevent the input of the types of data described above—or any other related types of data—into a centralized database. Are there any other reasons that any of the currently certified programs would not be able to comply with requirements for the submission of such data into a centralized system? What are the costs and benefits of gathering the categories of information listed above?

25. The Commission proposes to permit the NDBEDP Administrator and other appropriate FCC staff to search this database and generate reports to analyze nationwide data on the NDBEDP, and seeks comment on this proposal. To what extent should a certified program also be permitted access to the database to execute searches of data that it did not input into the database? For example, if the Commission permits entry of data on deaf-blind individuals receiving equipment, should a certified program be permitted to conduct a search to determine whether the applicant is receiving equipment and services from another state? Similarly, should a certified program be permitted to access the database to determine the types of equipment being distributed by other states or the length of time typically used for assessments and training by other certified programs? The Commission proposes that access to the NDBEDP centralized database be limited to authorized entities, and be permitted only under tightly controlled conditions. To ensure the privacy and confidentiality of financial and other sensitive information about consumers that may be entered into the database, the Commission seeks comment on which entities and under what conditions those entities should be permitted access to the database. The Commission proposes that the database administrator be tasked with establishing procedures, protocols, and other safeguards, such as password protection and encryption, to ensure database access is in fact restricted according to the Commission's guidelines. The Commission seeks comment on this approach, and the extent to which the NDBEDP Administrator should be given some discretion to determine when entities other than the Administrator or FCC staff can access the database.

26. Decisions regarding information to be included in a centralized database used for administration of the program and the individuals who may be granted access to the database can raise questions regarding compliance with Government-wide statutory and regulatory guidance with respect to privacy issues and the use of information technology. Parties commenting on the centralized database should ensure that their recommendations are consistent with Government-wide privacy and information technology statutory and regulatory guidance.

27. The Perkins School for the Blind (Perkins), which provides database services for 32 certified programs, estimated that the cost of establishing and maintaining an NDBEDP centralized database will be between $285,000 and $380,000 annually. The Commission seeks comment on whether this amount of funding will be sufficient to perform the proposed functions of the database, and whether there will be start-up costs that result in higher costs during the first year of the database's operations. If the Commission does not develop its own database for the NDBEDP, the Commission proposes to authorize the Bureau to set aside up to

$380,000 per year from the NDBEDP's annual allocation for the development of the database during the last year of the pilot program to enable the implementation of the database functions for the permanent NDBEDP in a timely manner. If this approach is adopted, certified programs now paying to use an existing database, the costs of which are currently assessed against their 15% cap on administrative costs, would no longer need to do so. At the same time, the Commission proposes that certified programs continue to be permitted to seek reimbursement for the time spent entering data into and generating reports and reimbursement claims from the database as part of their administrative costs, up to the 15% cap. The Commission seeks comment on these various proposals.

28. As an alternative to undertaking the development and maintenance of an NDBEDP database using existing staff and resources, the Commission will also consider a variety of approaches to satisfy the program requirements. For example, the Commission could engage another agency with information technology experience to provide administrative support for the program including database development and maintenance through an Interagency agreement. The Commission could also procure the database through a competitive procurement. In addition, the Commission may evaluate whether to modify a contract with an existing contractor to satisfy the program requirements—either through direct performance by the main contractor or a subcontractor. Or the Commission may wish to invite entities, via a public notice, to submit applications for the development and maintenance of a centralized database, from which the Commission would then select a database administrator. The Commission will consider using a combination of any of these in-house, regulatory, or procurement strategies where efficient and lawful to do so.

29. Regardless of the precise mechanism chosen for obtaining a centralized database for the program, the Commission seeks input on the performance goals along with performance measures that should be used for this project. Other issues on which the Commission seeks input include the implementation schedule for the work; budget for the first three years of work related to the development and maintenance of the database; prerequisite experience needed for staff employed in creating and managing a complex database capable of receiving large amounts of data. The Commission also seeks input regarding database query and data mining capabilities; and database design best practices to ensure that certified programs can generate reimbursement claims and submit them electronically to the TRS Fund Administrator using the database. The Commission also seeks input on the report functionality required for the database; and best practices with respect to data management, security, privacy, confidentiality, backup, and accessibility, including compliance with section 508 of the Rehabilitation Act.

IV. Consumer Eligibility

A. Definition of Individuals Who Are Deaf-Blind

30. To participate in the NDBEDP, the CVAA requires that individuals must be ''deaf-blind,'' as that term is defined in the Helen Keller National Center Act (HKNC Act). 29 U.S.C. 1905(2). The Commission's NDBEDP pilot program rules also direct NDBEDP certified programs to consider an individual's functional abilities with respect to using telecommunications, advanced communications, and Internet access services in various environments when determining whether an individual is ''deaf-blind.'' The Commission proposes to retain this definition and seeks comment on this proposal.

B. Verification of Disability

31. The NDBEDP pilot program rules require that individuals seeking equipment under the NDBEDP must provide disability verification from a professional (*e.g.,* community-based service provider, vision or hearing related professional, vocational rehabilitation counselor, educator, and medical or health professional) who has direct knowledge of and can attest to the individual's disability. Such professionals must attest, either to the best of their knowledge or under penalty of perjury, that the applicant is an individual who is deaf-blind, as that term is defined in the Commission's rules. A disability verification must include the attester's name, title, and contact information, including address, phone number, and email address. As verification of disability, certified programs may also accept documentation already in the applicant's possession, such as individualized education programs and Social Security determination letters. The Commission tentatively concludes that the Commission should retain the current requirements for verification of disability from a professional with direct knowledge or through documentation already in the applicant's possession, and seeks comment on this tentative conclusion. Nonetheless, the Commission seeks comment on whether a professional's attestation that an individual is deaf-blind should include the basis of the attesting professional's knowledge. The Commission also proposes that the disability verification must include the professional's full name, title, and contact information, including business address, phone number, and email address. The Commission seeks comment on this proposal. Finally, the Commission asks whether certified programs should be required to re-verify an individual's disability eligibility each time the recipient applies for new equipment, or whether there is a period of time after an initial verification that such verification should be deemed sufficient to prove disability in the event that the recipient seeks additional equipment. For this purpose, the Commission proposes to require certified programs to re-verify an individual's disability eligibility when the individual applies for new equipment three years or more after the program last verified the individual's disability. The Commission seeks comment on this proposal.

C. Income Eligibility

32. To participate in the NDBEDP, the CVAA requires that individuals must be ''low income.'' The NDBEDP pilot program rules define low-income individuals as having ''an income that does not exceed 400% of the Federal Poverty Guidelines (FPG).'' 47 CFR 64.610(d)(2). In addition, the Bureau has provided guidance to state programs that defines ''income'' as all income received by all members of a household, and defines a ''household'' as any individual or group of individuals who are living together at the same address as one economic unit.

33. The Commission seeks comment on how to define the ''low income'' threshold for purposes of eligibility in the permanent program. Should it, for example, continue to use a threshold of 400% of the FPG like it did in the pilot program? The Commission is sensitive to concerns about the high cost of medical and disability-related expenses for this population, as well as the high cost of the equipment that these consumers need. In the *NDBEDP Pilot Program Order,* the Commission concluded ''that the unusually high medical and disability-related costs incurred by individuals who are deaf-blind . . . together with the extraordinarily high costs of specialized [customer premises equipment] typically needed by this population,

support an income eligibility rule of 400 percent of the FPG for the NDBEDP pilot program. In order to give this program the meaning intended by Congress—'to ensure that individuals with disabilities are able to utilize fully the essential advanced technologies that have developed since the passage of the ADA and subsequent statutes addressing communications accessibility'—we must adopt an income threshold that takes into account these unusually high medical and disability-related expenses, which significantly lower one's disposable income.''

34. The Commission notes that, in 2013, the median household income in the United States was $52,250. Can the Commission define a household as ''low income'' if its income exceeds the median? Should the Commission use the median as a cap on eligibility, or just adopt the median as a threshold? Alternatively, how do other federal programs define ''low income'' households? For example, the FCC's low-income universal service program (known as Lifeline) defines a household as low income only if it is below 135% of the FPG (or the household qualifies for one of several federal low-income programs). Should the Commission adopt that threshold here? What effect would adjusting the income eligibility threshold have on otherwise-eligible deaf-blind individuals? As the program approaches the maximum funding level each year, what effect would adjusting the income eligibility threshold have on prioritizing scarce resources?

35. The Commission seeks comment on whether ''taxable income''—rather than total, gross, or net income—be used to determine eligibility, while retaining the limitation that such income not be greater than 400% of the FPG. For these purposes, the Commission seeks comment on whether the term ''taxable income'' should be defined as gross income minus allowable deductions, as defined by the U.S. Tax Code. In other words, taxable income for the purposes of the NDBEDP would be the amount that is used to compute the amount of tax due. The amount of tax due may be offset further by tax credits, but tax credits do not alter the amount of your taxable income. The Commission seeks comment on how to address non-disability related exemptions or exclusions in the tax code. For example, should otherwise-non-taxable municipal-bond income be included in a household's taxable income for purposes of eligibility? Should mortgage-interest deductions or state-income-tax deductions be included? The Commission asks whether this modification appropriately considers an applicant's disability-related and medical expenses, given that taxable income includes allowable deductions for such expenses for individuals who itemize their deductions. For those individuals who do not itemize deductions, in addition to the basic standard deduction, an additional standard deduction is permitted for individuals who are blind, which may help to ameliorate the burden of additional expenses incurred by such individuals and result in less taxable income. The Commission asks for comment as to whether this would address these cost concerns, without conflicting with statutory limitations and congressional intent, or if there are other proposals that might achieve this goal. The Commission also asks whether this approach will impose any additional administrative burdens on either the certified programs or consumers, and whether those burdens are justified by the benefits of adopting these financial eligibility criteria. The Commission also seeks comment on how other federal programs define income for determining whether a household is ''low income'' and whether any other federal program uses ''taxable income'' for that purpose.

36. The Commission also addresses concerns about its use of household income in lieu of personal income to determine income eligibility for the NDBEDP, because the former can result in disqualification of adult applicants who live in multi-person households and other adult applicants who are not dependent financially. The Commission proposes to clarify that multiple adults living together as roommates or in a multi-person home are not an ''economic unit'' and therefore not a ''household'' for purposes of determining income eligibility. An ''economic unit'' consists of all adult individuals contributing to and sharing in the income and expenses of a household. In situations where an adult applicant lives in a multi-person home but does not have access to the financial resources of others, he or she is not ''contributing to and sharing in the income and expenses'' of the group but instead maintaining financially distinct identities despite a shared living space. In contrast, where an adult applicant is financially dependent on another adult or their finances are intertwined (as with a spouse), the incomes of all members of that household must be considered. The Commission asks for comment on this approach or alternatives to this approach that would be consistent with the congressional mandate requiring the NDBEDP to serve only low-income individuals.

D. Verification of Income Eligibility

37. The NDBEDP pilot program rules allow automatic income eligibility for individuals enrolled in federal subsidy programs with income thresholds that do not exceed 400% of the FPG. When applicants are not already enrolled in a qualifying low-income program, low-income eligibility must be verified by the certified program using appropriate and reasonable means, for example, by reviewing the individual's most recent income tax return.

38. The Commission tentatively concludes that it should continue permitting individuals enrolled in federal subsidy programs with income thresholds lower than 400% of the FPG to be deemed income eligible for the NDBEDP. The Commission believes that this approach is reasonable and reliable, simplifies the income verification process for applicants and certified programs, and is consistent with the approach adopted for its Universal Service low-income program. Further, the Commission proposes to continue to require certified programs to verify low-income eligibility using appropriate and reasonable means, for example, by reviewing the individual's most recent income tax return, when applicants are not already enrolled in a qualifying low-income program. The Commission seeks comment on these proposals. The Commission seeks comment on whether a third-party should determine income eligibility just as the Commission proposes to retain the requirement for a third party to verify an individual's disability. If the Commission decides to use a third party to verify income, it seeks comment on whether this should be done by a state agency, such as during the time of enrollment in other programs, or through another mechanism. The Commission seeks comment on the potential impact on program applicants and the potential costs and benefits of doing so, including the potential administrative savings to the programs of relieving them of this responsibility. The Commission further notes that it's Universal Service low-income program lists, as acceptable documentation to prove income eligibility, ''the prior year's state, federal, or Tribal tax return; current income statement from an employer or paycheck stub; a Social Security statement of benefits; a Veterans Administration statement of benefits; a retirement/pension statement of benefits; an Unemployment/Workers' Compensation statement of benefit; federal or Tribal notice letter of

participation in General Assistance; or a divorce decree, child support award, or other official document containing income information.'' 47 CFR 54.410(b)(1)(i)(B). Would these forms of documentation be appropriate to prove income eligibility for NDBEDP equipment recipients? Additionally, the Universal Service low-income program rules specify that, if the documentation presented ''does not cover a full year, such as current pay stubs, the [applicant] must present the same type of documentation covering three consecutive months within the previous twelve months.'' 47 CFR 54.410(b)(1)(i)(B). Should such eligibility criteria be applied across all certified programs nationwide? Finally, the Commission asks whether certified programs should be required to re-verify an equipment recipient's income eligibility when that individual applies for new equipment. Is there is a period of time following an initial verification that such income verification should be deemed sufficient if the recipient seeks additional equipment? For this purpose, the Commission proposes to require certified programs to re-verify an individual's income eligibility when the individual applies for new equipment one year or more after the program last verified the individual's income. The Commission seeks comment on this proposal.

E. Other Eligibility Criteria

39. To ensure that the equipment provided will be usable, the Commission proposes to continue, under the permanent NDBEDP, to permit certified programs to require that NDBEDP equipment recipients demonstrate that they have access to the telecommunications, advanced communications, or Internet access services (Internet or phone service) that the equipment is designed to use and make accessible. Considering the unemployment and underemployment challenges of the population sought to be served by the NDBEDP, the Commission also proposes, under the permanent NDBEDP, to prohibit certified programs from imposing employment-related eligibility requirements for individuals to participate in the program. The Commission seeks comment on these proposals.

40. In the pilot NDBEDP, the Commission granted states considerable flexibility in deciding how best to distribute equipment and provide related services to as many of their eligible residents as possible, given their jurisdiction's demographics and the inherent constraints of NDBEDP funding allocations, qualified personnel, time, and other limited resources. The Commission proposes to continue following this approach because it believes it has been effective in allowing states to address the wide range of variability that exists within and between state populations and resources, as well as the diversity within the population of individuals who are deaf-blind. The Commission seeks comment on this proposal. Should the Commission take measures to prioritize the use of funding in the event that demand for funding exceeds the $10 million funding limitation? If so, for what purpose and when should priorities be set? For example, should priorities be designed to maximize the number of equipment recipients per year or the number of new equipment recipients per year or both? Should the Commission consider taking measures to target the lowest-income individuals? For example, should the Commission consider lowering the income eligibility threshold? Should the Commission consider establishing caps on the amount of equipment or related services an individual may receive to achieve that goal? The Commission seeks comment on these or other alternatives the Commission should consider to maximize the number of low-income consumers who can receive equipment under the permanent program.

41. At the same time, the Commission acknowledges a need for greater transparency with respect to any unique criteria or priorities used by state programs for the distribution of equipment and related services. The Commission, therefore, proposes that each certified program be required to make public on its Web site, if one is maintained by the certified program, or as part of its other local outreach efforts, a brief narrative description of any criteria or priorities that it uses to distribute equipment, as well as strategies established to ensure the fair distribution of equipment to eligible applicants within its jurisdiction. The Commission seeks comment on whether this proposal would assist consumers to better understand what benefits they may be able to secure from their state programs. The Commission also seeks comment on whether the administrative burdens of such an approach would be outweighed by its benefits.

42. The Commission cautions, however, that strategies to serve eligible applicants in a state must be consistent with the NDBEDP rules. For example, a certified program whose state education department provides deaf-blind students with all of the communications equipment and related services they need may determine that it should focus its NDBEDP resources to meet the needs of low-income deaf-blind adults. The Commission believes this would be consistent with the principle, adopted in the *NDBEDP Pilot Program Order,* that the NDBEDP is supplementing rather than supplanting other resources. However, a program restriction disallowing the distribution of equipment to any persons under the age of 18 could exclude otherwise eligible deaf-blind individuals in need of this equipment. The Commission tentatively concludes that state programs generally should not be permitted to adopt such sweeping limitations, and seeks comment on this tentative conclusion. In addition, the Commission proposes to require certified programs to serve eligible applicants of any age whose communications equipment needs are not being met through other available resources and the Commission seeks comment on this proposal. Finally, the Commission seeks comment on whether it should address in its rules for the permanent NDBEDP any other specific state program restrictions that currently exclude individuals who may otherwise qualify for NDBEDP equipment and related services.

V. Equipment and Related Services

A. Outreach

1. National Outreach

43. During each year of the pilot program, the Commission has set aside $500,000 of the $10 million available annually for national outreach efforts to promote the NDBEDP. Significant initial funding for outreach was necessary to launch the pilot program, because eligible individuals needed to become informed about the availability of the program before distribution of equipment could take place. Accordingly, in addition to permitting the state programs to use some of their funding for outreach to their communities, the Commission authorized national outreach efforts to supplement those local efforts. The Bureau selected Perkins to conduct this national outreach. This outreach effort by Perkins, in partnership with others, has resulted in an NDBEDP (''iCanConnect'') Web site that promotes the NDBEDP, provides information about and referral to state programs, shares news about the program and personal stories of equipment recipients, and includes an overview of the types of communications equipment the program can provide. The national outreach effort has also resulted in the establishment of an 800 number and a call center for program inquiries and

referrals, marketing materials for and monthly conference calls with state programs, social media presence, and public service announcements (PSAs), as well as advertisements on billboards and in magazines.

44. Based on both the extensive efforts of the national outreach program to alert and educate consumers about the availability of NDBEDP equipment through state programs, and the generally high praise for these efforts conveyed by others, the Commission proposes to continue funding for national outreach efforts as part of the permanent program and for the NDBEDP Administrator to oversee these efforts. The Commission will consider a variety of approaches to satisfy the national outreach requirements for the program including using existing Commission staff and resources, engaging another agency with expertise in this area through an Interagency agreement, acquiring these services through a competitive procurement, evaluating whether to modify a contract with an existing contractor to satisfy the program requirements—either through direct performance by the main contractor or a subcontractor. The Commission may also wish to invite entities, via a public notice, to submit applications for the role of national outreach coordinator. The Commission will consider using a combination of any of these in-house, regulatory, or procurement strategies where efficient and lawful to do so. Regardless of the precise approach used to obtain national outreach services, the Commission seeks input on the performance goals along with performance measures that would be helpful in facilitating oversight of national outreach efforts.

45. At the same time, the Commission believes that, because national outreach efforts, combined with state and local outreach efforts conducted by certified programs, have made significant progress in publicizing the NDBEDP, less national outreach may be needed going forward. The Commission therefore proposes to reduce the amount of money spent on national outreach to $250,000 for each of the first three years of the permanent program, and seeks comment on this proposal. Do commenters agree that this reduction in the national outreach allocation is appropriate given the limited amount of annual funding available to the NDBEDP and, if so, would $250,000 per year be an appropriate level of funding? What effect would such a reduction in funds have on the types of national outreach efforts that were made under the pilot program? For example, will this amount of money be sufficient to continue the outreach activities that Perkins identifies as ''critical,'' including maintenance of the iCanConnect Web site; the 800 number and call center; marketing materials; monthly conference calls; and support to states to gather and promote success stories? How can the Commission ensure that these or other national outreach efforts undertaken under the permanent program are cost effective? Should the Commission conduct an assessment during the third year to determine whether and to what extent to continue such funding support beyond this period? Will two years be sufficient to gather the data necessary to make this determination during the third year? If the Commission takes this approach, it seeks comment on how it should, in the third year, evaluate the efficacy of national outreach efforts for this purpose.

46. The Commission seeks comment on whether national outreach efforts should target specific groups, such as American Sign Language users, non-English language users, and medical and elder service professionals and, if so, why. Would the proposed reduction in funding limit national outreach to these targeted groups? Should other populations be targeted? What specific methods of communication or activities should be used to reach these groups? How can the Commission ensure that outreach reaches eligible consumers who do not specifically identify as deaf-blind? The Commission also seeks comment on whether and to what national outreach should be coordinated with the state program efforts, including the costs and benefits of having to take such measures.

47. Finally, performance goals should be defined for the national outreach program along with performance measures that are clearly linked to each performance goal. Evaluating a program against quantifiable metrics is part of the Commission's normal oversight functions. As such, the Commission seeks input on the data it should collect in order to effectively oversee the outreach efforts. Should the Commission collect data on factors such as increases in the number of program participants, inquiries through the 800 number/call center, referrals through the iCanConnect Web site, consumer applications to state programs, the proportion of consumers in specified groups, such as by age or language spoken, Web site traffic, growth in social channels, and media impressions? If so, at what intervals are reports on such data useful?? What are the costs and benefits of collecting and evaluating this data? Commenters should explain the connection between performance measures proposed and clearly defined program goals.

2. Local Outreach

48. In addition to setting aside $500,000 per year for national outreach during the pilot program, the Commission has required certified programs participating in the pilot program to conduct local outreach to inform state residents about the NDBEDP, and has provided reimbursement for the reasonable costs of this outreach. Given the overwhelming endorsement of such efforts in the record, the Commission tentatively concludes that it should continue to require certified programs participating in the permanent NDBEDP to conduct outreach to state residents, and to reimburse these programs for the reasonable costs of such outreach. The Commission seeks comment on this tentative conclusion.

49. The Commission also seeks comment on the level of funding for state and local outreach that should be considered reasonable for purposes of reimbursement under the permanent NDBEDP. Overall, certified programs spent a combined average of approximately 10% of their total fund allocations on state and local outreach during the second year of the pilot program. Given that outreach activities at the state level have made significant progress in publicizing the NDBEDP, the Commission proposes that such outreach expenditures be capped at 10% of each state's funding allocation during the first two years of the permanent program, after which the Commission proposes that the NDBEDP Administrator be required to reassess this level of funding authorization. The Commission seeks comment on these proposals, as well as the specific metrics and criteria that should be used to evaluate the success of these outreach efforts, such as the percentage of a state program's funding allocation actually used. How can the Commission ensure that local outreach efforts undertaken under the permanent program have met such metrics, and are cost effective? Are there other criteria, including the criteria proposed above for the assessment of national outreach activities, that can be applied to evaluating the success of state outreach efforts?

50. Finally, in the *NDBEDP Pilot Program Order,* the Commission explained that state and local outreach may include the development and maintenance of a program Web site that contains information about the NDBEDP certified program, contact information

and information about available equipment, as well as ways to apply for that equipment and related services provided by the program. The Commission believes such Web sites have been very helpful in both informing state residents about the existence of the NDBEDP and instructing them on how to apply for equipment and related services from their local programs. The Commission tentatively concludes that its rules should continue to allow reimbursement for the development and maintenance of a program Web site. The Commission also required that the outreach information and materials that a certified program disseminates to potential equipment recipients be provided in accessible formats and it tentatively concludes that its rules should continue to require accessible outreach materials. The Commission notes that certified programs already are required to ensure accessibility under the Americans with Disabilities Act. *See* 42 U.S.C. 12131–12134 (state and local government services), 12181–12189 (public accommodations and services operated by private entities). The Commission seeks comment on these proposals and any other matters regarding state and local outreach.

B. Assessments

51. Under the NDBEDP pilot program, the Commission's rules permit reimbursement for the reasonable costs of individualized assessments of a deaf-blind individual's communications needs by qualified assistive technology specialists. Reimbursable assessment costs under the pilot program include the reasonable travel costs of state program staff and contractors who conduct assessments and provide support services (such as qualified interpreters). Individual assessments are needed to ensure an appropriate match between the particular type of technology distributed and the unique accessibility needs of each consumer, given the wide range of abilities and hearing and vision disabilities across the deaf-blind population. Further, the Commission continues to believe that reimbursement of the reasonable costs of travel by program staff and contractors to conduct assessments of individuals located in rural or remote areas is necessary to achieve the goal of accessible communications under the CVAA. The Commission tentatively concludes that the permanent NDBEDP should continue to permit reimbursement for these assessment and related travel costs, and seeks comment on this tentative conclusion. The Commission asks commenters who do not believe that such funding support should be continued to explain why it should be discontinued. Further, the Commission asks how it can ensure that conducting assessments under the permanent program is cost effective or how it can improve the cost effectiveness of such assessments. The Commission also seeks comment on any other matters related to conducting individualized assessments under the NDBEDP.

52. The Commission presently does not allow reimbursement for the costs of deaf-blind consumers traveling to the assessor's location. The record shows that, in some instances, it would be preferable for consumers to travel to a location away from their homes, such as to the state program's office, to have their needs assessed before receiving equipment. The Commission proposes to allow but not require certified programs to pay for and request reimbursement for the reasonable costs of in-state travel for consumers (and their support service providers, if needed) when doing so would be more efficient and effective than conducting the assessment in the consumer's home. Would allowing such coverage benefit consumers, for example, by making a wideessors or support services? Should there be a cap on the amount a state program can spend on assessment-related cr array of communication devices available for such assessments? To what extent would allowing these costs provide consumers with access to more skilled assonsumer travel? To what extent should the Commission's rules define the permissible costs that would be considered reasonable for such travel, and what costs should be considered ''reasonable''? Are there other federal programs that are instructive with respect to addressing similar travel costs? The Commission assumes that most travel could occur from the consumer's location to the NDBEDP center and back to the consumer's location within a single day, given that travel is within a single state, and seeks comment on whether this assumption is correct. For example, what is the average distance and duration for consumers to travel to the assessment location? How likely is it that a consumer would need overnight lodging for the purpose of completing such assessment, and if such lodging is necessary, should this be covered by NDBEDP funds? To what extent have consumers traveled to another location for the purpose of obtaining assessments at their own expense during the pilot program, and to what extent are they likely to need such travel in the future? Are certified programs already paying for consumer travel, without seeking reimbursement for those costs? Are state programs able to estimate projected costs for future consumer travel if the Commission's proposal to permit these costs is adopted? Are any of these expenses able to be reimbursed by other federal programs?

53. Although the Commission believes that reimbursing programs for the reasonable costs of consumer travel and support service providers, when needed and appropriate, can benefit both consumers and certified programs, given the limited NDBEDP funding available to each certified program, the Commission is hesitant to allow such compensation without the careful review and prior approval of each program pursuant to clearly defined guidelines. The Commission therefore proposes that a consumer's travel costs be reimbursed only if those costs are first pre-approved by the certified program, which should occur only after a determination by the program that the reasonable costs of this travel would be more efficient and effective than having the assessor travel to the consumer. Moreover, the Commission seeks comment on specific guidelines certified programs should follow or factors they should consider to make such determinations. For example, how should certified programs weigh possible benefits to a consumer that travels to receive an assessment (*e.g.,* to try out a variety of equipment or receive a more timely assessment), against a comparison of program personnel travel versus consumer travel costs? Finally, the Commission proposes that pre-approval for such travel costs by the NDBEDP Administrator not be required, but may be requested by state programs, particularly if they have questions as to whether the requested travel would comport with the established guidelines. The Commission suggests this approach because it believes that state programs are in the best position to know when consumer travel is either necessary or will achieve the best efficiencies for its program. The Commission seeks comment on these and any other matters related to the reimbursement for the cost of consumers' in-state travel for purposes of obtaining assessments.

54. The Commission seeks comment on the reasons that a consumer may need to travel out-of-state for an assessment, and the number of consumers who already do so or are likely to do so, if reimbursement were allowed. Because the costs of traveling greater distances are likely to be higher than for in-state travel, should certified

programs be required to seek pre-approval from the NDBEDP Administrator for out-of-state travel to ensure that the costs are reasonable? The Commission seeks comment on these and any other matters related to the need for and appropriateness of having the NDBEDP reimburse state programs for the out-of-state travel expenses of consumers relating to assessments.

C. Equipment

55. The NDBEDP provides support for the distribution of specialized customer premises equipment needed to make telecommunications services, Internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services accessible to people who are deaf-blind. Under the NDBEDP pilot program, the Commission reimburses certified programs for the reasonable cost of equipment, which may be hardware, software, or applications, separate or in combination, mainstream or specialized, as long as it meets the needs of the deaf-blind individual to achieve access to NDBEDP covered services. Certified programs may not impose restrictions on the types of communications technology that a recipient may receive, disable features or functions needed to access covered services, or accept financial arrangements from a vendor that could incentivize the purchase of particular equipment. Certified programs may lend or transfer ownership of the distributed equipment to eligible recipients, but must prohibit recipients from transferring equipment received under the NDBEDP to another person through sale or otherwise. Certified programs are permitted to distribute multiple pieces of equipment to eligible consumers, as needed. Equipment-related expenses, including maintenance, repairs, warranties, returns, maintaining an inventory of loaner equipment, as well as refurbishing, upgrading, and replacing equipment distributed to consumers are also reimbursable. When a recipient relocates to another state, certified programs must permit the transfer of the recipient's account and any control of the distributed equipment to the new state's certified program. The Commission did not establish equipment or funding caps for individual recipients during the pilot program. Rather, certified programs may distribute more than one device to an individual, within the constraints of the state's annual funding allocation and the desire to make communications accessible for as many individuals who are deaf-blind as possible.

56. The Commission tentatively concludes that it should retain all of the equipment distribution provisions of the NDBEDP pilot program noted above. The Commission believes that placing restrictions on the number of devices that each recipient should be permitted to receive or the frequency with which they should be allows to receive them at this time would be inconsistent with the goal of the program to ensure access to communications services to all eligible low-income individuals who are deaf-blind. The better approach, the Commission believes, is to continue allowing the flexibility inherent in the existing provisions, which permits each certified program to determine how many pieces of equipment to provide and with what frequency, to meet the varied needs of the individuals in their communities. The Commission seeks comment on this approach. The commission also seeks comment on how it can ensure that the purchase of equipment under the permanent program is cost effective or how it can improve the cost effectiveness of such equipment purchases. The Commission further invites comment on whether certified programs should be required to reassess the communications needs of an equipment recipient when new issues, such as developmental, medical, or other changes, result in equipment no longer meeting the recipient's needs. The Commission also seeks comment on alternatives that might address these concerns.

57. The record reflects a desire that the centralized database contain a functionality that lists and frequently updates types of compensable equipment, and that allows certified programs, consumers, and industry to post suggestions for new equipment for consideration and evaluation, as well as comments, information, instructions or suggestions regarding existing equipment. The Commission notes that the database proposed in the *NPRM,* if established, will be populated with information about equipment that has been distributed by certified programs across the country. If the Commission extends its pilot program reporting rules, this information will include the equipment's name, serial number, brand, function, and cost, the type of communications service with which it is used, and the type of relay service it can access. The Commission seeks comment on whether certified programs should be permitted to query the proposed database to generate a list of equipment that has been provided through the NDBEDP. In addition, the iCanConnect Web site, which is maintained as part of the NDBEDP national outreach effort, provides general information about different kinds of equipment that may be provided under the NDBEDP. The iCanConnect Web site also provides consumers with examples of specific communication devices commonly used by people who are deaf-blind, and therefore are likely to be reimbursable through the NDBEDP. Given the speed with which technology evolves, the Commission proposes that this list be kept reasonably up to date, though it need not be exhaustive. The Commission seeks comment on this approach and whether the iCanConnect Web site should provide other functionalities for state programs and consumers to aid in their equipment selection, such as the ability to compare and contrast different communication devices used by people who are deaf-blind. Should consumers be able to comment on equipment and, if so, to what extent should the comments be moderated, and by whom? How can the information about specific devices be kept up to date? Should equipment updates be provided by the Web site administrator, certified programs, consumers, industry, or all of the above? What are the costs and benefits of such functionalities, and would they be achievable with the amount of national outreach funding proposed in the *NPRM*?

58. The Commission cautions, however, that the appearance of a specific piece of equipment in the centralized database or on the iCanConnect Web site will not automatically make it eligible for reimbursement for all applicants. Rather, because equipment distribution determinations must be made based on individual case-by-case assessments, it is difficult, if not impossible, to identify specific types of equipment that will be reimbursable for all eligible applicants. Indeed, the same piece of equipment may be suitable for one individual, yet inappropriate for another. Thus, the Commission proposes that equipment reports produced by the centralized database, as well as equipment listings on the iCanConnect Web site, include a clear and conspicuous notice that the selection of and reimbursement for any piece of equipment distributed under the NDBEDP must be based on an individual case-by-case assessment and consistent with the NDBEDP rules. Consistent with this principle, under the pilot program, when it is not obvious that the equipment can be or is commonly used by individuals who are

deaf-blind to access covered services, certified programs have been required to support their reimbursement claims with documentation that describes how the equipment they distribute makes telecommunications, advanced communications, or the Internet accessible to the individual who is deaf-blind. The Commission proposes that this requirement be carried into the permanent program. The Commission further proposes that certified programs be permitted to continue consulting with the NDBEDP Administrator about whether the NDBEDP will reimburse the cost of a particular piece of equipment for an eligible individual before purchasing the equipment. The Commission seeks comment on these proposals.

59. Finally, the Commission asks how certified programs can ensure that the individuals they serve do not sell or otherwise transfer the equipment they receive under the NDBEDP to another person. The Commission proposes that equipment recipients be required to execute a standard attestation that they will not sell, give, lend, or transfer their interest in any equipment they receive under this program. For this purpose, and to ensure the truthfulness and accuracy of each consumer's application for equipment, the Commission seeks comment on the following uniform attestation that it proposes to be included on all consumer application forms. Commenters who believe alternate attestation language is appropriate should explain why such alternatives are appropriate in lieu of this proposal:

> I certify that all information provided on this application, including information about my disability and income eligibility to receive equipment, is true, complete, and accurate to the best of my knowledge. Program officials have my permission to verify the information provided. If I am eligible for services, I agree to use these services solely for the purposes intended. I further understand that I may not sell, give, lend, or transfer interest in any equipment provided to me. Falsification of any records or failure to comply with these provisions will result in immediate termination of service. In addition, I understand that if I purposely provide false information I may be subject to legal action. I certify that I have read, understand, and accept all conditions associated with iCanConnect, the National Deaf-Blind Equipment Distribution Program.

60. Should programs be required to verify on a regular basis that the equipment continues to reside in the recipient's possession? Would a requirement for such verification be burdensome or impractical, given the rapid evolution of technology, which frequently requires equipment to be upgraded or replaced on a regular basis, such as every few years?

D. Installation and Training

61. The NDBEDP pilot program permits reimbursement for the reasonable costs of installing NDBEDP distributed equipment, individualized consumer training on how to use such equipment, and the reasonable travel costs of trainers and support services. Having equipment set-up and providing training in person are essential to ensuring that deaf-blind individuals effectively benefit from the NDBEDP and to prevent the underutilization or abandonment of equipment. Given its critical importance to the success of the NDBEDP and the recognition that the amount of time it takes to train individuals who are deaf-blind on new communications equipment depends on a variety of factors, including a wide range of capabilities and experiences with communications technologies, the Commission refrained from establishing caps on such training. For these same reasons, the Commission concluded that reimbursable installation and training costs under the pilot program would include the reasonable travel costs of trainers and individuals providing support services, such as qualified interpreters. The Commission proposes to continue to permit reimbursement for the reasonable costs of equipment installation, consumer training, and travel by trainers and support services, such as qualified interpreters. The Commission seeks comment on its proposal to continue providing compensation for these costs. The Commission also seeks comment on how it can ensure that installation and training conducted under the permanent program is cost effective or how it can improve the cost effectiveness of such installation and training.

62. The Commission did not permit reimbursement under the pilot program for the costs of having consumers travel to receive training. The record shows, however, that, in some instances, it is preferable for consumers to travel to a location away from their homes to get their equipment installed or to receive training. The Commission proposes that a consumer's travel costs be reimbursed only if those costs are first pre-approved by the consumer's certified program, which should occur only after a determination by the program that the reasonable costs of this travel would be more efficient and effective than in-home installation and training. The Commission seeks comment on this approach, as well as a proposal that pre-approval by the NDBEDP Administrator not be required but may be requested. The Commission also seeks comment on specific guidelines certified programs should follow or factors they should consider to make such determinations. For example, how should certified programs weigh possible benefits to a consumer that travels to receive training, against a comparison of program personnel travel versus consumer travel costs? Would allowing reimbursement for consumer travel benefit consumers, for example, by increasing training opportunities for consumers? To what extent would allowing these costs provide consumers with access to more skilled trainers or support services? Should there be a cap on the amount a state program can spend on training-related consumer travel? To what extent should the Commission's rules define the permissible costs that would be considered reasonable for such travel, and what costs should be considered ''reasonable''? Are there other federal programs that are instructive with respect to addressing similar travel costs? Would consumers need to travel on more than one day for training and, if so, why? What is the average distance and duration for consumers to travel to the training location? To the extent that training needs to occur over a series of days, or the travel distance is considerable (even within the same state), should the costs of lodging and or meals be covered, or just the costs of transportation? The Commission requests certified programs to share any information they may have on the extent to which consumers have traveled to another location at their own expense, the extent to which state programs presently reimburse consumers for these costs, and to what extent they expect consumers are likely to need such travel in the future. Are state programs able to estimate projected costs for future consumer travel if the Commission's proposal to permit these costs is adopted? Are any of these expenses able to be reimbursed by other federal programs? The Commission seeks comment on these and any other matters related to the need for and appropriateness of reimbursing state programs for consumers' travel expenses relating to installation and training.

63. The Commission seeks comment on the reasons that a consumer may need to travel out-of-state for training, and the number of consumers who already do so or would do so, if reimbursement were allowed. Because the costs of traveling greater distances are likely to be higher than for in-state travel, should certified programs be required to seek pre-approval from the

NDBEDP Administrator for out-of-state travel for training to ensure that the costs are reasonable? The Commission seeks comment on these and any other matters related to the need for and appropriateness of having the NDBEDP reimburse state programs for the out-of-state travel expenses of consumers relating to training.

E. Training Trainers

64. In the *NDBEDP Pilot Program Order,* the Commission declined to set aside NDBEDP pilot program funds to cover the cost of teaching NDBEDP personnel how to train NDBEDP equipment recipients on the use of their equipment—*i.e.,* a ''train-the-trainer'' program—because of the limited funding available. At the time, the Commission understood that there was a shortage of qualified individuals who could carry out this training function, particularly with respect to training NDBEDP equipment recipients who communicate receptively and/or expressively in Braille or American Sign Language. The Commission continues to believe that training individuals who are deaf-blind how to use the equipment they receive under the NDBEDP promotes access to communication and furthers the purposes of the CVAA. The current record confirms the critical importance of having sufficient numbers of qualified trainers, but notes that the current number of qualified trainers is inadequate. To address these concerns, the Commission proposes to authorize up to 2.5% of the $10 million annual funding allocation ($250,000) for each of the first three years of the permanent program to support train-the-trainer programs, including the reasonable costs of travel for such training, and the Commission seeks comment on this proposal.

65. One of the purposes of the CVAA is to help ensure that individuals with disabilities are able to fully utilize communications services and equipment. To give full effect and meaning to this purpose, and in particular to the mandate contained in section 105 of the CVAA and section 719 of the Communications Act, directing the Commission to address the unmet communications access needs of persons who are deaf-blind through a national equipment distribution program, the Commission has allowed some of the funding support provided for this program to be used for assessments, equipment installation, and consumer training. The Commission found their financial support necessary because they are essential to the efficient and effective distribution of equipment for use by people who are deaf-blind. Similarly, because equipment training cannot be achieved in the absence of qualified personnel to conduct such training, it would appear that the Commission can use its authority to financially support programs that distribute specialized customer premises equipment to low-income individuals who are deaf-blind by mitigating the current shortage of qualified training personnel through the allocation of funding for this purpose. The Commission seeks comment on the use of its authority under section 719 of the Communications Act for such purpose. Is such financial support necessary to give full effect and meaning to the CVAA's objectives and to achieve the purpose of section 719?

66. During the pilot program, the Helen Keller National Center for Deaf-Blind Youth and Adults (HKNC) established a train-the-trainer program using a grant from a private foundation, which some certified programs are using, but others cannot afford. Are additional funds available from public or private sources other than the NDBEDP for this purpose? Besides HKNC, are any other entities offering train-the-trainer programs to more than one certified program? Do such entities provide individual training, group training, and distance training through online resources, or other forms of training? Approximately how often do these programs provide training seminars or sessions? What is the cost to certified programs to attend training sessions or access training materials?

67. The Commission believes $250,000 to be reasonable and sufficient for train-the-trainer programs, and seeks comment on whether this amount is appropriate as an initial step. The Commission proposes addressing concerns about funding train-the-trainer activities to the detriment of funding for the distribution of equipment and provision of related services by re-allocating a portion of funding previously used for national outreach, discussed above in the *Notice,* which is less needed now than it was at the start of the pilot program. The Commission seeks comment on whether increasing the total number of qualified trainers nationwide may result in a reduction in overall program costs because the small number of currently available trainers would no longer have to travel to multiple states to provide training. The Commission also seeks comment on whether capping the annual funding at 2.5% of NDBEDP funding is advisable to preserve remaining funds for other program activities related directly to the distribution of consumer equipment. The Commission seeks comment on any other matters related to the amount of funding that should be set aside to train trainers under the permanent program.

68. The Commission seeks comment on whether providing funding support for the first three years of the permanent program will be sufficient to accomplish the desired objectives. If the Commission moves forward with this approach, should it conduct an assessment during the third year to determine whether and to what extent to continue such funding support beyond this period? Will two years be sufficient to gather the data necessary to make this determination during the third year? If the Commission takes this approach, it seeks comment on how it should, in the third year, evaluate the efficacy of train-the-trainer programs for this purpose.

69. *State Allocations for Train-the-Trainer Programs.* Next, the Commission seeks comment on how NDBEDP support can be used to teach individuals how to train NDBEDP equipment recipients on the use of their equipment. The Commission proposes to allow certified programs to use a portion of their NDBEDP funding allocations for train-the-trainer activities as they deem appropriate. For example, under this approach, each certified program could use approximately 2.5% of its annual allocation, or a maximum of $250,000 annually for all certified programs, for train-the-trainer activities. The Commission seeks comment on this proposal. Should these train-the-trainer expenditures be treated as an administrative cost and, if so, should the Commission raise the cap on administrative costs from 15% by 2.5% to 17.5% for that purpose, rather than require separate accounting for train-the-trainer activities? Should the Commission permit such reimbursement for enrolling personnel in a train-the-trainer activity conducted by HKNC or another entity, as well as for train-the-trainer activities that the certified program may develop and conduct? If the $250,000 is allocated solely to and used by certified programs for training purposes, would that influx of money to existing training programs, such as the one operated by HKNC, be sufficient to motivate the development of new training activities? Should the Commission prohibit reimbursement for training that is provided by equipment manufacturers or vendors because of the risk of having certified programs favor these manufacturers or vendors in their selection of equipment?

70. *Nationally Coordinated Train-the-Trainer Program.* Alternatively, the Commission seeks comment on whether to establish or coordinate a train-the-

trainer program at the national level, including the costs and benefits of having one or more entities provide train-the-trainer activities similar to those offered by HKNC. If the Commission adopts this approach, it seeks comment generally on how to use such funding. Should the amount of training provided to each certified program be equal across every state, should it be proportional to the program's NDBEDP annual funding allocation, or should it depend on population size, the current number of trainers in a state or region, or some other criteria? Should the funding provided cover the cost of individual participation in the train-the-trainer programs, including the reasonable costs of travel? Approximately how many hours of training can be delivered to how many personnel with a set-aside of $250,000?

71. If the Commission establishes or coordinates a train-the-trainer program at the national level, the Commission will consider a variety of approaches to satisfy the requirements for the program including using existing Commission staff and resources, engaging another agency with expertise in this area through an Interagency agreement, acquiring these services through a competitive procurement, evaluating whether to modify a contract with an existing contractor to satisfy the program requirements—either through direct performance by the main contractor or a subcontractor. The Commission may also wish to invite entities, via a public notice, to submit applications to establish or coordinate a train-the-trainer program. The Commission will consider using a combination of any of these in-house, regulatory, or procurement strategies where efficient and lawful to do.

72. If the Commission establishes or coordinates a train-the-trainer program, what are the essential criteria for the staff and/or entity selected to perform the role? HKNC recommends that the following criteria are essential: Experience with the target population; familiarity with Braille and Braille devices; familiarity with emerging communications technologies and end user equipment; staff who are skilled in American Sign Language as well as other communication methodologies; and a track record of multi-modal training and ability to maintain pace with the technology? Are these criteria appropriate and sufficient to make such selection? If not, what other criteria should the Commission use?

73. Regardless of whether the Commission supports a nationally coordinated train-the-trainer program or allocates funds to certified programs for train-the-trainer activities, or some combination of both, should the Commission require or permit training in a variety of formats, such as individual training, group training, and distance training through online resources? Should NDBEDP funding be used for that purpose? Should national or state entities providing training be required to establish a system for evaluating the outcomes of the training? It appears that train-the-trainer activities could ultimately lead to the increased employment of individuals with disabilities. Are there actions that the Commission could take to promote such efforts? Should the Commission encourage either national or state entities to train individuals who are deaf-blind, including NDBEDP equipment recipients, as trainers? The Commission invites comments on how best to establish and support train-the-trainer activities for the permanent NDBEDP.

VI. Funding

A. Allocation of Funding

74. In the *NDBEDP Pilot Program Order,* the Commission set aside $500,000 of the $10 million available annually for the NDBEDP for national outreach efforts during each year of the pilot program. The remaining $9.5 million of the $10 million was divided among each of the NDBEDP certified programs by allocating a minimum base amount of $50,000 for each jurisdiction plus an amount in proportion to each state's population. The Commission generally proposes to maintain the current mechanism for allocating NDBEDP funds—setting aside funds first for certain national efforts, allocating a minimum of $50,000 for each certified program, and allocating the remaining funds to the certified programs in proportion to each state's population. National efforts may include a centralized database, national outreach, and train-the-trainer activities. The Commission invites comment on its proposal to maintain the current allocation mechanism.

75. In addition, the Commission takes this opportunity to remind program participants and commenters that TRS funds, are permanent and indefinite appropriations and, like other appropriated funds, come with certain restrictions. While some of these restrictions are longstanding and codified in the United States Code, other restrictions on use of appropriated funds (including permanent indefinite appropriations) may be included in annual appropriation acts. Parties commenting on the proposals in this *Notice* should ensure that their recommendations are consistent with Government-wide statutory and regulatory restrictions on the use of appropriated funds.

B. Reallocation of Funding

76. Under the pilot program, the Commission delegated authority to the Bureau to reduce, raise, or reallocate funding allocations to any certified program as it deemed necessary and appropriate. During the first year of the pilot program, almost 70% of the $10 million available to support the NDBEDP was used by certified programs and for national outreach. Approximately 90% of the $10 million annual allocation was used during the second year of the pilot program. During each of the first two years of the pilot program, the NDBEDP Administrator reviewed funding data as it became available and worked with certified programs and the Bureau to reallocate funding between state programs when necessary to maximize the use of available funding.

77. During the first year of the pilot program, few entities reached or exceeded their annual allocation of funds. Only three entities requested and received additional funds. In the first half of the second year of the pilot program, the NDBEDP Administrator approved several requests for reallocations of funds from one certified entity to another (''voluntary'' reallocations). During the third quarter of the second year, after notice, the NDBEDP Administrator reduced the allocations of certified programs that had not used at least half of their annual allocation and reallocated those funds to satisfy requests from certified programs that reached or exceeded their annual allocations (''involuntary'' reallocations). Specifically, the formula currently used by the NDBEDP Administrator reduces by 50% the allocations of programs that have spent less than 25% during the first half of the year, and reduces by 25% the allocations of programs that have spent more than 25% but less than 50% during the first half of the year. Certified programs have an opportunity to request that the NDBEDP Administrator consider increasing or reducing the proposed change in allocation. The Commission seeks comment on this method and formula, or any alternative methods or formulas for making involuntary reallocations in the permanent NDBEDP. Commenters that suggest alternatives should explain how these would lead to effective results for the intended community and how such

standards would add to the efficiency of the program. The Commission tentatively concludes that these reallocations have helped requesting programs meet their needs and have not prevented programs with decreased funding from satisfying the needs of their constituents.

78. Approximately one month after the first half of the Fund year ends, the Bureau has the requisite data from all certified programs to determine whether and to what extent involuntary funding reallocations may be appropriate. This is because, as discussed further the *Notice,* state programs have the option of filing their reimbursement claims on a monthly, quarterly, or semi-annual basis. The Bureau needs full information on the amounts requested by every program through the first half of the Fund year to determine the amount of remaining funds available for involuntary reallocations. Accordingly, the Commission proposes to allow voluntary reallocations between certified programs at any time during the Fund year with the approval of the NDBEDP Administrator, in consultation with the TRS Fund Administrator, as needed. The Commission also proposes to continue making involuntary reallocations as necessary when individual program performance indicates that NDBEDP funds could be more fully utilized by other certified programs. Further, the Commission proposes to continue its current practice of notifying and coordinating with the potentially impacted certified programs prior to making involuntary reallocations of funding. The Commission seeks comment on these reallocation proposals.

C. Reimbursement Mechanism

79. When it established the NDBEDP pilot program, the Commission considered two funding mechanisms: (1) Distributing funds to certified programs at the start of each Fund year and letting the programs use the funds as they saw fit; or (2) reimbursing programs up to each state's allocation for the equipment they distribute. The Commission concluded that the reimbursement approach was more appropriate both because it would provide incentives for certified programs to actively locate eligible participants and would achieve greater accountability and protection against fraud, waste, and abuse. Under the NDBEDP pilot program, the Commission reimburses programs for the costs incurred for authorized equipment and related services, up to each certified program's initial or adjusted allocation. Each reimbursement claim must be accompanied by a declaration made under penalty of perjury attesting to the truth and accuracy of the submission. Certified programs may elect to seek reimbursement monthly, quarterly, or semi-annually.

80. The Commission proposes to continue using the present reimbursement mechanism to fund equipment distribution and related services under the permanent NDBEDP because a system that advances funds presents challenges relating to returning or reallocating unspent funds and would result in more complicated recordkeeping, and a reimbursement mechanism is more likely to keep certified programs accountable and deter fraud, waste, and abuse. The Commission further proposes that the current requirement for certified programs to support their reimbursement claims with documentation, a reasonably detailed explanation of incurred costs, and a declaration be carried into the permanent program. The Commission seeks comment on these proposals and other guidelines that may be needed with respect to the submission and processing of reimbursement claims to ensure that certified programs operate in a cost-efficient manner and maintain the financial integrity of the program. The record reflects that there was some frustration with delays in the processing of reimbursement claims at the start of the pilot program, but the timeliness of payments has since improved. The Commission does not propose a specific period by which reimbursement claims must be paid, but notes that, when a claim is submitted with sufficient documentation and does not require further clarification, it expects the Bureau and the TRS Fund Administrator to be able to process that claim within 30 days, and claims requiring additional documentation or clarification generally will be processed within 60 days. As discussed in the *Notice,* the Commission proposes to permit each certified program to populate a centralized database with claim-related data, from which it may generate its reimbursement claims. Timely reimbursement is more likely to occur for claims submitted in such a uniform manner.

81. To continue meeting the individualized needs of these programs, the Commission proposes to continue allowing certified entities to elect, upon certification and at the beginning of each Fund year, whether to submit claims on a monthly, quarterly, or semi-annual basis and to require submission within 30 days after each elected period. The TRS Fund Administrator recommends that certified programs be required to submit monthly claims and to request a waiver to submit claims less frequently. Only 10 programs have elected to submit claims monthly, with the other 43 programs opting for quarterly or semi-annual schedules. The Commission seeks comment on the reasons that these 43 programs have not elected to submit claims on a monthly basis and whether all programs should be required to begin filing monthly, for example, for the sake of program consistency. Alternatively, is each certified program best suited to determine the frequency with which it needs to be reimbursed? The Commission seeks comment on the advantages and disadvantages of maintaining the current practice or whether the Commission should revise its rules to require all programs to adhere to a single schedule for filing reimbursement claims. In particular the Commission asks parties to comment on the extent to which a requirement to follow a single filing schedule would be more efficient or impose difficulties on programs with limited resources.

D. Administrative Costs

82. Under the Commission's rules for the NDBEDP pilot program, certified programs may be compensated for administrative costs up to 15% of their total reimbursable costs (*i.e.,* not their total allocation) for equipment and related services. The Commission has defined administrative costs to include reporting requirements, accounting, regular audits, oversight, and general administration. To track and ensure that appropriate administrative costs are reimbursed, the TRS Fund Administrator has procedures to ''bank'' reimbursement claims for administrative costs that exceed 15% of reimbursable costs and to pay those claims later if the amount of reimbursable costs increases with later submissions.

83. Given the general accomplishments of the 53 certified programs in distributing communications equipment to their deaf-blind residents, the Commission is no longer concerned that basing the cap of administrative costs on the full funding allocation for each certified program will eliminate the necessary incentives to carry out the NDBEDP's objectives. Accordingly, the Commission proposes to reimburse administrative costs as they are incurred and claimed, based on the annual allocation rather than the amount of reimbursable costs, thereby eliminating the need for the TRS Fund Administrator to ''bank'' unearned

administrative costs. The Commission seeks comment on that proposal.

84. The Commission further acknowledges that some programs have reported operating at a loss as a result of the 15% cap on administrative expenses, and recognizes that this could potentially act as a disincentive to participate in the NDBEDP. During the second year of the pilot program, certified programs that exceeded the 15% cap had about 3% more administrative costs than were allowed by the cap. To respond to these concerns, rather than raise the cap by the 3% needed to cover those overages, the Commission believes that its proposal to create a centralized database for certified programs to generate reports and reimbursement claims may alleviate the administrative burdens for certified programs operating in the permanent NDBEDP. If adopted, certified programs that have been incurring costs associated with the use of a database, such as the Perkins database discussed in the *NPRM,* would no longer need to do so, nor have those costs assessed against their 15% cap on administrative costs. Other programs that have expended funds to develop databases on their own to generate reports and reimbursement claims may also similarly experience a reduction in the costs associated with these tasks. The Commission seeks comment on this proposal and, in particular, asks whether it will help to meet the financial needs of certified programs, particularly programs that have found the 15% cap on administrative costs to be a barrier to their effective participation in the NDBEDP. The Commission also seeks comment on whether its proposal regarding administrative costs, including the types of costs included in this category of expenses (such as costs associated with reporting requirements, accounting, regular audits, oversight, and general administration) is consistent with other similar programs. Similarly, the Commission seeks comment on whether there are any best practices that should be employed in this area.

VII. Oversight and Reporting

A. Reporting

85. The NDBEDP pilot program rules require all certified programs to report certain information to the Commission in an electronic format every six months. The report must include, among other things, information about NDBEDP equipment recipients; distributed equipment; the cost, time and other resources allocated to outreach activities, assessment, equipment installation and training, and for equipment maintenance, repair, refurbishment, and upgrades; equipment requests that have been rejected; complaints; and waiting lists. Each report must be accompanied by a declaration made under penalty of perjury attesting to the truth and accuracy of the submission. In the *NDBEDP Pilot Program Order,* the Commission concluded that such reporting is necessary for the effective administration of the NDBEDP pilot program, to assess the effectiveness of the program, to ensure the integrity of the TRS Fund, to ensure compliance with the NDBEDP pilot program rules, and to inform the Commission's rulemaking for the permanent NDBEDP.

86. The Commission proposes to retain the six-month reporting requirement. During the pilot program, it has been useful for the Commission to gather the required information to effectively evaluate NDBEDP operations. The Commission believes that continuing to receive this data will be useful to the permanent program as well, because this will allow the Commission to ensure that NDBEDP certified programs continue to operate efficiently and that they effectively meet consumer needs. As discussed in the *NPRM,* the Commission proposes to require certified programs to submit report-related data to and generate reports from a centralized database, which will enable the Commission to examine the data from all certified programs in the aggregate. With all program data bundled together in a uniform report generated by the database, the Commission believes that it will be better able to assess and manage the NDBEDP. The Commission invites comment on its proposal to retain the reporting requirement.

87. The Commission seeks comment on whether it should modify the information these reports should include. In particular, are there differences in the pilot and permanent programs that should cause the Commission to change the nature of the data required by these reporting obligations? The Commission also seeks comment on ways that the provision of data required for reimbursement claims and reporting requirements can be streamlined through the design of a centralized database or by other means. For example, should state programs be permitted to submit reports at the same frequency as reimbursement claims to streamline these requirements further? What are the advantages or disadvantages of allowing certified programs to submit reimbursement claims and reports on a monthly, quarterly, or biannual basis? Should the reporting period be the same for all certified programs to ensure consistency of data? If so, what should that period be? Alternatively, now that the Commission is transitioning the NDBEDP to a permanent program, would it serve the program just as well if submission of the reports were required annually instead of every six months?

88. Under the NDBEDP pilot program, the Commission requires certified programs to submit a certification with each report executed by ''the chief executive officer, chief financial officer, or other senior executive of the certified program, such as a director or manager, with first-hand knowledge of the accuracy and completeness of the information provided in the report,'' as follows:

> I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity and that I have examined the foregoing reports and that all requested information has been provided and all statements of fact are true and an accurate statement of the affairs of the above-named certified program.

89. Consistent with the Commission's Universal Service low-income program rules, and to clarify what ''affairs'' means in this context, the Commission propose to amend the certification as follows:

> I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity, and that the entity has policies and procedures in place to ensure that recipients satisfy the NDBEDP eligibility requirements, that the entity is in compliance with the Commission's NDBEDP rules, that I have examined the foregoing reports and that all requested information has been provided, and all statements of fact are true and an accurate statement of the business activities conducted pursuant to the NDBEDP by the above-named certified program.

90. Similarly, the Commission proposes to amend the certification required with reimbursement claims to clarify that the ''affairs'' of the certified program means the ''business activities conducted pursuant to the NDBEDP'' by the certified program. The Commission seeks feedback on this and any other matters pertaining to the reporting obligations not discussed above, including the costs and benefits of retaining these requirements.

B. Audits

91. During the pilot program, certified programs have been required to engage an independent auditor to perform annual audits designed to detect and prevent fraud, waste, and abuse.

Certified programs must also make their NDBEDP-related records available for review or audit by appropriate officials of the Commission. The Commission proposes to continue to require certified programs to engage an independent auditor to perform annual audits. As recommended by the TRS Fund Administrator, the Commission also proposes that each certified program submit a copy of its annual audit to the TRS Fund Administrator and the NDBEDP Administrator. The Commission seeks comment on these proposals.

92. Further, the Commission proposes to clarify that NDBEDP certified programs are not required to conduct their annual audits using a more rigorous audit standard, such as a forensic standard, specifically designed to prevent and detect fraud, waste, and abuse. The Commission seeks comment on its proposal to affirm the following guidance provided by the Bureau in November 2012 to certified programs regarding their annual audit requirement:

> For purposes of complying with the NDBEDP audit rule, an independent auditor must conduct a program audit that includes a traditional financial statement audit, as well as an audit of compliance with the NDBEDP rules that have a direct and material impact on NDBEDP expenditures and a review of internal controls established to ensure compliance with the NDBEDP rules.
>
> Compliance areas to be audited include, but are not limited to, allowable costs, participant eligibility, and reporting. The audit report must describe any exceptions found, such as unallowable costs, lack of participant eligibility documentation, and missing reports. The report also must include the certified program's view as to whether each compliance exception is material and whether any internal control deficiencies are material.
>
> If the auditor finds evidence of fraud, waste, or abuse, the auditor must take appropriate steps to discuss it with the certified program management and the FCC and report the auditor's observations as required under professional auditing standards. This program audit standard is comparable to that required for Office of Management and Budget (OMB) Circular A–133 audits. The Commission believes that such audits of NDBEDP certified programs, conducted annually by an independent auditor, will detect and prevent fraud, waste, and abuse, which will satisfy the NDBEDP audit rule.

93. Commenters note that the Commission should provide guidance with respect to whether certified programs must comply with OMB Circular A–133 audit requirements. Because the program audit criteria described above are similar to that of an OMB Circular A–133 audit, the Commission proposes to require that audits under the permanent NDBEDP be performed in accordance with OMB Circular A–133. The Commission invites comment on this proposal. Commenters that disagree with this proposal are asked to explain why.

94. In addition, the Commission proposes to continue to require each program to submit to an audit at any time deemed necessary by the Commission or its delegated authorities. This proposal is consistent with the Commission's TRS rules. This approach could also be implemented by performing audits either as needed or on a regular basis at intervals longer that one year. A full audit of an NDBEDP certified entity, as directed by the Commission or a delegated authority may be appropriate, for example, to obtain financial information needed for the FCC's consolidated annual financial audit, which also includes the financial results for the TRS Fund. As another example, a full audit may also be appropriate when the TRS Fund Administrator and the NDBEDP Administrator agree that reimbursement claims submitted by a certified program contain a pattern of errors or indicia reflecting a lack of accountability, fraud, waste, or abuse. The Commission further proposes that any program that fails to fully cooperate in such audits, for example, by failing to provide documentation necessary for verification upon reasonable request, be subject to an automatic suspension of NDBEDP payments until sufficient documentation is provided. The Commission believes that this automatic suspension policy, which is currently applied to the TRS program, would promote transparency and accountability in the compensation process. The Commission seeks comment on the costs and benefits of adopting this approach.

95. To further prevent and detect fraud, waste, and abuse, and ensure compliance with the NDBEDP rules, the Commission proposes to retain the provision in the pilot program rules requiring certified programs to submit documentation demonstrating ongoing compliance with the Commission's rules. Because the Commission may choose to initiate an investigation at its discretion and on its own motion, the Commission proposes to eliminate the example that appears in the pilot program rules from the permanent NDBEDP rules that suggests that ''evidence that a state program may not be in compliance with those rules'' is a prerequisite to such an investigation. 47 CFR 64.610(j)(3). The Commission seeks comment on these proposals.

96. Finally, to further prevent and detect fraud, waste, and abuse, the Commission proposes to retain the whistleblower protections in the NDBEDP rules. Those protections require certified programs to permit individuals to disclose to appropriate officials, without reprisal, known or suspected violations of the Commission's rules or any other activity the individual believes to be unlawful, wasteful, fraudulent, or abusive, or that could result in the improper distribution of equipment, provision of services, or billing to the TRS Fund. Certified programs must include these whistleblower protections with the information they provide about the program in any employee handbooks or manuals, on their Web sites, and in other appropriate publications. The Commission seeks comment on this proposal.

C. Record Retention

97. As part of the pilot program, the Commission adopted a rule requiring all certified programs to retain all records associated with the distribution of equipment and provision of related services under the pilot program for two years following the termination of the pilot program, without specifying the format in which they must be retained, but with the goal of promoting greater transparency and accountability. Consistent with the Commission's TRS rules, the Commission proposes to require certified programs to retain all records associated with the distribution of equipment and provision of related services under the permanent program for a minimum of five years. The Commission seeks comment on this proposal and whether such records should be retained for a longer or shorter period of time. Certified programs need such records to support their reimbursement claims, to generate reports required to be filed with the Commission, and to comply with audit requirements. The Commission has also found that such records are needed for responding to inquiries and complaints. As such, and consistent with the Commission's Universal Service low-income program rules and the NDBEDP pilot program rules, the Commission also proposes that certified programs document compliance with all Commission requirements governing the NDBEDP and provide this documentation to the Commission upon request. Record retention is also necessary in the event that questions arise about a program's compliance with NDBEDP rules or the propriety of requests for payment. The Commission seeks comment on this proposal.

98. The Commission believes that records also are needed to transfer information to another certified program when an eligible consumer moves to another state or to transfer information to a newly-certified program when a certified entity either relinquishes its certification or decides not to seek re-certification. Should the Commission's rules require NDBEDP applications to include a release that would permit disclosure of information about the applicant by the certified program, as needed, to minimize any interruption in service if such individual moves to another state or a new entity takes over certification for that individual's state? Alternatively, if the Commission adopts a centralized database for processing reimbursement claims or reporting purposes, the Commission seeks comment on whether it will continue to be necessary for certified programs to retain a copy of these records. If so, which records should be retained by certified programs and for what period of time? Should the Commission specify that records must be retained in paper or electronic format, or should it allow each certified program to decide the format in which to retain its records? The Commission seeks comment on these and any other matters related to the retention of records under the permanent program.

VIII. Logistics and Responsibilities

99. The Bureau designated an NDBEDP Administrator, who has been responsible for, among other things, reviewing applications from entities for certification to receive NDBEDP funding, allocating NDBEDP funding, reviewing reimbursement claims, maintaining the NDBEDP Web site, resolving stakeholder issues, and serving as the Commission point of contact for the NDBEDP. The NDBEDP Administrator has worked with the current TRS Fund Administrator, who has been responsible for, among other things, reviewing cost submissions and releasing funds under the NDBEDP for distributed equipment and related services, including outreach efforts.

100. The Commission seeks comment on whether the Bureau should continue to implement and administer the permanent NDBEDP, and to retain authority over NDBEDP policy matters and the functions of the NDBEDP Administrator. For example, the Bureau may task the NDBEDP Administrator with oversight of the development and maintenance of a centralized database, as well as the support for train-the-trainer programs that may be authorized under the Commission's final rules in this proceeding. The Commission also seeks comment on whether the administration of the NDBEDP should be consolidated with the administration of the other TRS programs in order to achieve greater efficiencies and cost savings. The Commission recognizes that after adoption of rules establishing the pilot program in 2011, in 2013, the Commission delegated financial oversight of the TRS Fund to the Office of Managing Director (OMD). Thus, the Commission also seeks comment on ensuring that administration of the permanent NDBEDP be conducted in a manner that ensures the Bureau's continued oversight over policy matters relating to the program while at the same time ensuring that the Commission satisfies its financial management responsibilities for the TRS program as a whole, complies with all Government-wide financial requirements, and achieves efficiencies and savings in the administrative costs of the NDBEDP.

101. For the permanent NDBEDP, like other TRS programs, financial oversight must be consistent with TRS orders, rules, and policies, and that OMD should consult with the Bureau on issues that potentially could impact the availability, provision, and continuity of services to consumers. Consistent with such direction, the Commission proposes that financial oversight of the NDBEDP be required to be consistent with NDBEDP orders, rules, and policies, and that OMD and the Bureau closely coordinate on any issues that could potentially impact the distribution of equipment or provision of related services to consumers under the NDBEDP. Finally, consistent with the current practice under the NDBEDP pilot program, the Commission proposes that the Bureau remain responsible for advising the TRS Fund Administrator on funding allocations and reallocations; payments; and any payment withholdings under the permanent NDBEDP, to the extent that such actions can be made consistently with Government-wide financial requirements and existing contractual obligations and requirements. Currently, the TRS Fund Administrator conducts a quantitative review to determine if the requested dollar amount is accurate and recommends payment, and the NDBEDP Administrator conducts a qualitative review to ensure that the claimed costs are consistent with the NDBEDP rules and approves payment. The Commission seeks comment on these proposals. The Commission also seeks comment on whether it should establish a process for certified programs to appeal payment withholdings, denials, or suspensions by the NDBEDP Administrator. If so, what should that process be? For example, should a certified program be permitted to appeal such decisions to the Chief of the Consumer and Governmental Affairs Bureau? The Commission presently maintains a process for the handling of appeals in response to the suspension or withholding of TRS payments, and asks commenters whether a similar or alternative appeals process should be applied to compensation withheld, suspended, or denied under the NDBEDP.

IX. Other Considerations

A. Complaints

102. Under the NDBEDP pilot program, the NDBEDP Administrator is responsible for responding to consumer complaints filed directly with the Commission. Complaints might be filed for various reasons, such as complaints about unskilled trainers or interpreters, or to appeal a certified program's eligibility determination or denial of equipment. The Commission proposes to adopt rules for the permanent NDBEDP to facilitate the receipt and processing of such consumer complaints and appeals.

103. For this purpose, the Commission proposes to adopt informal and formal complaint procedures, modeled after the Commission's processes for the handling of complaints against telecommunications and TRS providers, as follows. First, the Commission proposes that an informal complaint filed with the Commission must include the name and contact information of the complainant; the name of the NDBEDP certified program; a statement describing how the NDBEDP certified program violated the Commission's rules; what the complainant wants the NDBEDP certified program to do to resolve the complaint; and the complainant's preferred format or method of response, such as by letter, fax, telephone, TTY, or email. The Commission will forward complete complaints to the NDBEDP certified program for a response. When it appears that an informal complaint has been resolved, the Commission may consider the matter closed. In all other cases, the Commission will inform the complainant and the NDBEDP certified program about its review and disposition of the complaint. If a complainant is not satisfied with the NDBEDP certified program's response and the Commission's disposition of the informal complaint, the complainant may file a formal complaint with the Commission in accordance with the

Commission's rules for filing formal complaints. *See* 47 CFR 1.720–1.736. The Commission may also conduct inquiries and hold proceedings that it deems necessary to enforce the NDBEDP requirements. The Commission seeks comment on these proposed informal and formal complaint procedures.

B. Research and Development

104. In the *NDBEDP Pilot Program Order,* the Commission declined to allocate funds for research and development (R&D) efforts. Although the Commission recognized the need to stimulate innovation to fill existing equipment and technology gaps to meet the communications technology access needs of individuals who are deaf-blind, it concluded that R&D funding was not appropriate because of insufficient information about those gaps and the kinds of research and funding needed to fill them. Likewise, because the amount of NDBEDP funding available each year is very limited, and because the potential gaps between existing technology and technology needed to meet the communications needs of individuals who are deaf-blind are not apparent on the record at this time, the Commission tentatively concludes that funding is more appropriately allocated to the distribution of equipment to consumers and related services than to R&D and seeks comment on this tentative conclusion.

C. Advisory Group

105. The Commission recently announced the formation of a Disability Advisory Committee, which will provide advice and recommendations to the Commission on a wide array of disability matters, including the NDBEDP. In addition, the Commission's rulemaking proceedings are open to the public for comment, and feedback from administrators of certified programs is always welcome. For example, during the NDBEDP pilot program, the sharing of expertise and ideas for the NDBEDP has been accomplished through informal monthly conference calls among certified programs that the Commission proposes to continue under the permanent program. For these reasons, the Commission does not see the need to establish a separate workgroup of state NDBEDP programs to advise the Commission at this time. The Commission seeks comment on this approach.

Initial Regulatory Flexibiity Certification

106. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 5 U.S.C. 601(3). A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). 15 U.S.C. 632.

107. In the *NPRM,* the Commission seeks comment on its proposal to further implement section 105 of the CVAA that requires the Commission to take various measures to ensure that people with disabilities have access to emerging communications technologies in the 21st Century. Section 105 of the CVAA adds section 719 to the Communications Act of 1934, as amended, and is codified at 47 U.S.C. 620. Pursuant to section 105, in 2011, the Commission established the NDBEDP as a pilot program to provide up to $10 million annually from the TRS Fund for the distribution of communications devices to low-income individuals who are deaf-blind. 47 CFR 64.610 (NDBEDP pilot program rules). A person who is ''deaf-blind'' has combined vision and hearing loss, as defined in the Helen Keller National Center Act. 47 U.S.C. 620(b); 29 U.S.C. 1905(2). The Commission authorized up to 53 certified programs to participate in the pilot program—one entity to distribute equipment in each state, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands—and selected Perkins School for the Blind as the national outreach coordinator to support the outreach and distribution efforts of these state programs. Through the pilot program, thousands of low-income individuals who are deaf-blind have received equipment used for distance communications or the Internet and training on how to operate this equipment.

108. On August 1, 2014, the Commission released a Public Notice inviting comment on which rules governing the NDBEDP pilot program should be retained and which should be modified to make the permanent NDBEDP more effective and more efficient. On May 21, 2015, the Commission extended the pilot program until June 30, 2016. *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals,* CG Docket No. 10–210, Order, FCC 15–57 (rel. May 27, 2015). The Commission commits to continue the pilot NDBEDP as long as necessary to ensure a seamless transition between the pilot and permanent programs to ensure the uninterrupted distribution of equipment to this target population. When the Commission adopts final rules for the permanent program it will consider the extent to which the pilot program needs to be extended further.

109. Currently, programs are certified to distribute equipment in all the states and the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. The *NPRM* proposes to expand NDBEDP programs and funding to the U.S. territories of American Samoa, Guam, and the Northern Mariana Islands because residents of these territories are also eligible for services supported by the TRS Fund.

110. The *NPRM* proposes that current programs and other entities that want to apply for certification seek certification for a five-year period and every five years after that. The *NPRM* proposes that, if a current program seeks to renew its certification or another entity wants to apply for certification, it must, one year prior to the expiration of a certification, submit an application explaining why it is still eligible to participate in the NDBEDP.

111. The *NPRM* proposes that the Commission create, by itself or by engaging a third party, a centralized database that would assist the programs in performing two functions. First, all programs would be able to submit information into the database and use the database to generate the reports that must be submitted to the Commission every six months. Second, all programs would be able to submit data regarding their expenses into the database and generate reimbursement claims that must be submitted to the TRS Fund Administrator. Submission of data into a central database in a uniform manner would diminish administrative costs for the programs. Collecting data in a uniform manner from the programs would enable the Commission to analyze aggregate data. The *NPRM* invites comment on the development and functions of the database, and estimates that the database will cost between $285,000 and $380,000 annually.

112. The *NPRM* proposes that each certified program be required to make public on its Web site, if one is

maintained by the certified program, or as part of its other local outreach efforts a brief narrative description of any criteria, priorities, or strategies it uses to ensure the fair distribution of equipment to low-income residents who are deaf-blind. The *NPRM* invites comment on whether any burdens placed on the program by such a requirement would be outweighed by the benefits.

113. In the *NDBEDP Pilot Program Order,* the Commission concluded that without training recipients on how to use the communications equipment they receive, such as Braille readers, recipients will not be able to use the equipment, and the equipment will be underutilized or abandoned. The NDBEDP pilot program permits reimbursement for the reasonable costs of installing NDBEDP-distributed equipment and individualized consumer training on how to use such equipment. To help address a shortage of qualified trainers, the *NPRM* proposes to set aside 2.5% of the $10 million annual funding allocation ($250,000) for each of the first three years of the permanent program to support train-the-trainer activities, including the reasonable costs of travel for such training, and seeks comment on this proposal. The *Notice* invites comment on whether to support train-the-trainer programs provided by one or more entities, or to reimburse state programs for train-the-trainer activities they select.

114. Under the Commission's rules for the NDBEDP pilot program, certified programs are compensated for 100% of their expenses, up to each program's annual allocation set by the NDBEDP Administrator. Within this annual allocation amount, the Commission did not establish any caps for costs associated with outreach, assessments, equipment, installation, or training, but did establish a cap for administrative costs. The *NPRM* proposes to limit local outreach conducted by certified programs to 10% of their annual allocations. The Commission, in a previous NDBEDP order, defined administrative costs to include reporting requirements, accounting, regular audits, oversight, and general administration. Programs may be compensated for administrative costs up to 15% of their total reimbursable costs (*i.e.,* not their total allocation) for equipment and related services actually provided. The 15% cap does not apply to, and there is no cap for, costs associated with outreach, assessments, equipment, installation, or training. The *NPRM* proposes to reimburse certified programs for administrative costs up to 15% of their annual allocation, regardless of the amount of equipment and related services they actually provide. The *NPRM* recognizes that during the first two years of the NDBEDP pilot, some programs' administrative costs exceeded the allowable 15% reimbursable amount. To respond to these concerns, the *NPRM* proposes the creation of a centralized database to be used by certified programs for generating reports and reimbursement claims, which may alleviate the administrative burdens for certified programs operating in the permanent NDBEDP by making it easier to operate without a loss within the 15% administrative cap. If adopted, certified programs would no longer have these costs and therefore would have more money under their 15% cap on administrative costs.

115. During each year of the pilot program, the Commission has set aside $500,000 of the $10 million available annually for Perkins School for the Blind, as the outreach coordinator selected by the Consumer and Governmental Affairs Bureau (CGB or Bureau), to perform national outreach to promote the NDBEDP. As the Commission explained in the *NDBEDP Pilot Program Order,* significant initial funding for outreach was necessary to inform eligible individuals about the availability of the program so that distribution of equipment could take place. Based on the successful efforts of the national outreach program, the *NPRM* proposes to continue funding for national outreach efforts at a reduced level. The *NPRM* therefore proposes to reduce the amount of money spent on national outreach to $250,000 for each of the first three years of the permanent program, and seeks comment on this proposal.

116. The NDBEDP pilot program rules require all certified programs to report their status every six months. The *NPRM* finds that continuing to receive this data will be useful to the permanent program as well because this will allow the Commission to ensure that NDBEDP certified programs continue to operate efficiently and that they effectively meet consumer needs. The *NPRM* finds that any current reporting burden on the certified programs will be diminished by the creation of a centralized database.

117. During the pilot program, certified programs have been required to engage an independent auditor to perform annual audits designed to detect and prevent fraud, waste, and abuse. The *NPRM* proposes to continue to require certified programs to engage an independent auditor to perform annual audits. It also proposes that each certified program submit a copy of its annual audit to the TRS Fund Administrator and the NDBEDP Administrator and to continue to require each program to submit to an audit at any time deemed necessary by the Commission or its delegated authorities. The *NPRM* invites comments on this proposal and any alternative proposals.

118. Under the current NDBEDP, 53 certified programs provide communications equipment to low-income individuals who are deaf-blind. Under the *NPRM,* this number may be expanded to 56 certified programs. One entity performs national outreach to promote the NDBEDP and serve as a resource to the certified programs. The *NPRM* proposes to create a centralized database and the Commission may engage a third-party for that purpose. The *NPRM* also proposes that the Commission may select an entity to train the certified programs' trainers. The Commission will pay all of these entities for their costs to perform these duties from the TRS Fund so that all their NDBEDP costs are reimbursed up to the annual funding allocations established for these purposes.

119. The Commission finds that the rules proposed in the *NPRM* will not have a significant economic impact on these entities because the Commission will reimburse them for all of their NDBEDP expenses from the TRS Fund, up to their annual funding allocations. The proposals in the *NPRM* are intended to reduce the administrative burden on certified programs. The changes the Commission proposes are of an administrative nature, and will not have a significant economic impact on small entities. If there is an economic impact on small entities as a result of these proposals, however, the Commission expects the impact to be a positive one.

120. The Commission therefore certifies, pursuant to the RFA, that the proposals in the *NPRM,* if adopted, will not have a significant economic impact on a substantial number of small entities.

121. The Commission will send a copy of the *NPRM,* including a copy of this initial certification, to the Chief Counsel for Advocacy of the SBA

Ordering Clauses

Pursuant to the authority contained in sections 1, 4(i), 4(j), and 719 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 620, that document FCC 15–58 IS ADOPTED.

The Commission's Consumer and Governmental Affairs Bureau, Reference

Information Center, SHALL SEND a copy of document FCC 15–58, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Individuals with disabilities; Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons stated in the preamble, the Federal Communications Commission proposes to amend Title 47 of the Code of Federal Regulations as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); 403(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 227, 228, 254(k), 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

■ 2. Revise § 64.610 to read as follows:

§ 64.610 National Deaf-Blind Equipment Distribution Program.

(a) The National Deaf-Blind Equipment Distribution Program (NDBEDP) is established to distribute specialized customer premises equipment (CPE) used for telecommunications service, Internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services, to low-income individuals who are deaf-blind.

(b) *Certification to receive funding.* For each state, including the District of Columbia and U.S. territories, the Commission will certify a single program as the sole authorized entity to participate in the NDBEDP and receive reimbursement for its program's activities from the Interstate Telecommunications Relay Service Fund (TRS Fund). Such entity will have full oversight and responsibility for distributing equipment and providing related services, such as outreach, assessments, installation, and training, in that state, either directly or through collaboration, partnership, or contract with other individuals or entities in-state or out-of-state, including other NDBEDP certified programs.

(1) Public programs, including, but not limited to, equipment distribution programs, vocational rehabilitation programs, assistive technology programs, or schools for the deaf, blind or deaf-blind; or private entities, including but not limited to, organizational affiliates, independent living centers, or private educational facilities, may apply to the Commission for certification as the sole authorized entity for the state to participate in the NDBEDP and receive reimbursement for its activities from the TRS Fund.

(2) The Commission shall review applications and determine whether to grant certification based on the ability of a program to meet the following qualifications, either directly or in coordination with other programs or entities, as evidenced in the application and any supplemental materials, including letters of recommendation:

(i) Expertise in the field of deaf-blindness, including familiarity with the culture and etiquette of people who are deaf-blind, to ensure that equipment distribution and the provision of related services occurs in a manner that is relevant and useful to consumers who are deaf-blind;

(ii) The ability to communicate effectively with people who are deaf-blind (for training and other purposes), by among other things, using sign language, providing materials in Braille, ensuring that information made available online is accessible, and using other assistive technologies and methods to achieve effective communication;

(iii) Administrative and financial management experience;

(iv) Staffing and facilities sufficient to administer the program, including the ability to distribute equipment and provide related services to low-income individuals who are deaf-blind throughout the state, including those in remote areas;

(v) Experience with the distribution of specialized CPE, especially to people who are deaf-blind;

(vi) Experience in training consumers on how to use the equipment and how to set up the equipment for its effective use; and

(vii) Familiarity with the telecommunications, Internet access, and advanced communications services that will be used with the distributed equipment.

(3) Certification granted under this section shall remain in effect for five years. One year prior to the expiration of the certification, a program may apply for renewal of its certification as prescribed by paragraph (a)(2) of this section.

(4) A certified program must notify the Commission within 60 days of any substantive change that bears on its ability to meet the qualifications necessary for certification under paragraph (a)(2) of this section.

(5) A program may relinquish its certification by providing written notice to the Commission at least 90 days in advance of its intent to do so. This program must transfer NDBEDP-related data and equipment to the newly-certified state program within 30 days of its certification and comply with the reimbursement and reporting requirements prescribed by paragraphs (f) and (g) of this section.

(c) *Definitions.* For purposes of this section, the following definitions shall apply:

(1) *Equipment.* Hardware, software, and applications, whether separate or in combination, mainstream or specialized, needed by an individual who is deaf-blind to achieve access to telecommunications service, Internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services, as these services have been defined by the Communications Act.

(2) *Individual who is deaf-blind.*

(i) Any person:

(A) Who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

(B) Who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

(C) For whom the combination of impairments described in paragraphs (c)(2)(i)(A) and (B) of this section cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation.

(ii) The definition in this paragraph also includes any individual who, despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives. An applicant's functional abilities with respect to using telecommunications, Internet access, and advanced communications services in various environments shall be

considered when determining whether the individual is deaf-blind under paragraphs (c)(2)(i)(B) and (C) of this section.

(3) *Specialized customer premises equipment (CPE).* For purposes of this section, specialized CPE means equipment employed on the premises of a person, which is commonly used by individuals with disabilities to achieve access to telecommunications service, Internet access service, or advanced communications.

(d) *Eligibility criteria.*

(1) *Verification of disability.* Individuals claiming eligibility under the NDBEDP must provide verification of disability from a professional with direct knowledge of the individual's disability.

(i) Such professionals may include, but are not limited to, community-based service providers, vision or hearing related professionals, vocational rehabilitation counselors, educators, audiologists, speech pathologists, hearing instrument specialists, and medical or health professionals.

(ii) Such professionals must attest, either to the best of their knowledge or under penalty of perjury, that the applicant is an individual who is deaf-blind (as defined in paragraph (c)(2) of this section). Such professionals may also include, in the attestation, information about the individual's functional abilities to use telecommunications, Internet access, and advanced communications services in various settings.

(iii) Existing documentation that a person is deaf-blind, such as an individualized education program (IEP) or a statement from a public or private agency, such as a Social Security determination letter, may serve as verification of disability.

(iv) The verification of disability must include the attesting professional's full name, title, and contact information, including business name, address, phone number, and email address.

(2) *Verification of low income status.* An individual claiming eligibility under the NDBEDP must provide verification that he or she has taxable income that does not exceed 400 percent of the Federal Poverty Guidelines or that he or she is enrolled in a federal program with an income eligibility requirement that is less than 400 percent of the Federal Poverty Guidelines, such as the Federal Public Housing Assistance or Section 8; Supplemental Nutrition Assistance Program, formerly known as Food Stamps; Low Income Home Energy Assistance Program; Medicaid; National School Lunch Program's free lunch program; Supplemental Security Income; or Temporary Assistance for Needy Families. The NDBEDP Administrator may identify state or other federal programs with income eligibility thresholds that do not exceed 400 percent of the Federal Poverty Guidelines for determining income eligibility for participation in the NDBEDP. Where an applicant is not already enrolled in a qualifying low-income program, low-income eligibility may be verified by the certified program using appropriate and reasonable means.

(3) *Prohibition against requiring employment.* No program certified under the NDBEDP may impose a requirement for eligibility in this program that an applicant be employed or actively seeking employment.

(4) *Access to communications services.* A program certified under the NDBEDP may impose, as a program eligibility criterion, a requirement that telecommunications, Internet access, or advanced communications services are available for use by the applicant.

(5) *Age.* A program certified under the NDBEDP may not establish criteria that exclude low-income individuals who are deaf-blind of a certain age from applying for or receiving equipment when the needs of such individuals are not being met through other available resources.

(e) *Equipment distribution and related services.*

(1) Each program certified under the NDBEDP must:

(i) Distribute specialized CPE and provide related services needed to make telecommunications service, Internet access service, and advanced communications, including interexchange services or advanced telecommunications and information services, accessible to individuals who are deaf-blind;

(ii) Obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind contained in paragraph (c)(2) of this section at least once every three years and the income eligibility requirements contained in paragraph (d)(2) of this section at least once each year;

(iii) Permit the transfer of a recipient's account and any control of the distributed equipment to another state's certified program when a recipient relocates to that state;

(iv) Permit the transfer of a recipient's account and any control of the distributed equipment from another state's NDBEDP certified program when a recipient relocates to its state;

(v) Prohibit recipients from transferring equipment received under the NDBEDP to another person through sale or otherwise, and include the following attestation on all consumer application forms:

> I certify that all information provided on this application, including information about my disability and income eligibility to receive equipment, is true, complete, and accurate to the best of my knowledge. Program officials have my permission to verify the information provided.
>
> If I am eligible for services, I agree to use these services solely for the purposes intended. I further understand that I may not sell, give, lend, or transfer interest in any equipment provided to me. Falsification of any records or failure to comply with these provisions will result in immediate termination of service. In addition, I understand that if I purposely provide false information I may be subject to legal action. I certify that I have read, understand, and accept all conditions associated with iCanConnect, the National Deaf-Blind Equipment Distribution Program;

(vi) Conduct outreach, in accessible formats, to inform their state residents about the NDBEDP, which may include the development and maintenance of a program Web site;

(vii) Include a brief narrative description on its Web site of any criteria, priorities, or strategies to ensure the fair distribution of equipment to low-income residents who are deaf-blind;

(viii) Engage an independent auditor to conduct an annual audit, submit a copy of the annual audit to the TRS Fund Administrator and the NDBEDP Administrator, and submit to audits as deemed appropriate by the Commission or its delegated authorities;

(ix) Document compliance with all Commission requirements governing the NDBEDP, retain all records associated with the distribution of equipment and provision of related services under the NDBEDP, including records that support reimbursement claims as required under paragraph (f) of this section and that are needed to generate the reports required under paragraph (g) of this section, for a minimum of five years, and provide such documentation to the Commission upon request; and

(ix) Comply with the reporting requirements contained in paragraph (g) of this section.

(2) Each program certified under the NDBEDP may not:

(i) Impose restrictions on specific brands, models or types of communications technology that recipients may receive to access the communications services covered in this section;

(ii) Disable or otherwise intentionally make it difficult for recipients to use certain capabilities, functions, or features on distributed equipment that

are needed to access the communications services covered in this section, or direct manufacturers or vendors of specialized CPE to disable or make it difficult for recipients to use certain capabilities, functions, or features on distributed equipment that are needed to access the communications services covered in this section; or

(iii) Accept any type of financial arrangement from equipment vendors that could incentivize the purchase of particular equipment.

(f) *Payments to NDBEDP certified programs.*

(1) Programs certified under the NDBEDP shall be reimbursed for the cost of equipment that has been distributed to low-income individuals who are deaf blind and authorized related services, up to the state's funding allocation under this program as determined by the Commission or any entity authorized to act for the Commission on delegated authority.

(2) Upon certification and at the beginning of each Fund year, state programs may elect to submit reimbursement claims on a monthly, quarterly, or semi-annual basis;

(3) Within 30 days after the end of each reimbursement period during the Fund year, each certified program must submit documentation that supports its claim for reimbursement of the reasonable costs of the following:

(i) Equipment and related expenses, including maintenance, repairs, warranties, returns, refurbishing, upgrading, and replacing equipment distributed to consumers;

(ii) Individual needs assessments;

(iii) Installation of equipment and individualized consumer training;

(iv) Maintenance of an inventory of equipment that can be loaned to the consumer during periods of equipment repair;

(v) Outreach efforts to inform state residents about the NDBEDP;

(vi) Train-the-trainer activities, but not to exceed 2.5 percent of the certified program's funding allocation;

(vii) Travel expenses; and

(viii) Administration of the program, but not to exceed 15 percent of the certified program's funding allocation.

(4) With each request for payment, the chief executive officer, chief financial officer, or other senior executive of the certified program, such as a manager or director, with first-hand knowledge of the accuracy and completeness of the claim in the request, must certify as follows:

I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity, and that I have examined all cost data associated with equipment and related services for the claims submitted herein, and that all such data are true and an accurate statement of the business activities conducted pursuant to the NDBEDP by the above-named certified program.

(g) *Reporting requirements.*

(1) Each program certified under the NDBEDP must submit the following data electronically to the Commission, as instructed by the NDBEDP Administrator, every six months:

(i) For each piece of equipment distributed, the full name of the equipment recipient and contact information, including the recipient's residential street and email addresses, and personal phone number;

(ii) For each piece of equipment distributed, the full name of the professional attesting to the disability of the individual who is deaf-blind and business contact information, including street and email addresses, and phone number;

(iii) For each piece of equipment distributed, the model name, serial number, brand, function, and cost, the type of communications service with which it is used, and the type of relay service it can access;

(iv) For each piece of equipment distributed, the amount of time, following any assessment conducted, that the requesting individual waited to receive that equipment;

(v) The cost, time and any other resources allocated to assessing an individual's equipment needs;

(vi) The cost, time and any other resources allocated to installing equipment and training deaf-blind individuals on using equipment;

(vii) The cost, time and any other resources allocated to maintain, repair, cover under warranty, and refurbish equipment;

(viii) The cost, time and any other resources allocated to outreach activities related to the NDBEDP, and the type of outreach efforts undertaken;

(ix) The cost, time and any other resources allocated to upgrading the distributed equipment, along with the nature of such upgrades;

(x) To the extent that the program has denied equipment requests made by their deaf-blind residents, a summary of the number and types of equipment requests denied and reasons for such denials;

(xi) To the extent that the program has received complaints related to the program, a summary of the number and types of such complaints and their resolution; and

(xii) The number of qualified applicants on waiting lists to receive equipment.

(2) With each report, the chief executive officer, chief financial officer, or other senior executive of the certified program, such as a director or manager, with first-hand knowledge of the accuracy and completeness of the information provided in the report, must certify as follows:

I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity, and that the entity has policies and procedures in place to ensure that recipients satisfy the NDBEDP eligibility requirements, that the entity is in compliance with the Commission's NDBEDP rules, that I have examined the foregoing reports and that all requested information has been provided and all statements of fact are true and an accurate statement of the business activities conducted pursuant to the NDBEDP by the above-named certified program.

(h) *Administration of the program.* The Consumer and Governmental Affairs Bureau shall designate a Commission official as the NDBEDP Administrator to ensure the effective, efficient, and consistent administration of the program, and shall advise the TRS Fund Administrator on funding allocations and reallocations, payments, and any payment withholdings under the NDBEDP.

(i) *Complaints.* Complaints against NDBEDP certified programs for alleged violations of this subpart may be either informal or formal.

(1) *Informal complaints.*

(i) An informal complaint may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as letter, fax, telephone, TTY, or email.

(ii) *Content.* An informal complaint shall include the name and address of the complainant; the name of the NDBEDP certified program against whom the complaint is made; a statement of facts supporting the complainant's allegation that the NDBEDP certified program has violated or is violating section 719 of the Act and/or the Commission's rules; the specific relief or satisfaction sought by the complainant; and the complainant's preferred format or method of response to the complaint by the Commission and the NDBEDP certified program, such as by letter, fax, telephone, TTY, or email.

(iii) *Service.* The Commission shall promptly forward any complaint meeting the requirements of this subsection to the NDBEDP certified program named in the complaint and call upon the program to satisfy or answer the complaint within the time specified by the Commission.

(iv) *Review and disposition of informal complaints.*

(A) Where it appears from the NDBEDP certified program's answer, or from other communications with the parties, that an informal complaint has been satisfied, the Commission may, in its discretion, consider the matter closed without response to the complainant or NDBEDP certified program. In all other cases, the Commission shall inform the parties of its review and disposition of a complaint filed under this subpart. Where practicable, this information shall be transmitted to the complainant and NDBEDP certified program in the manner requested by the complainant.

(B) A complainant unsatisfied with the NDBEDP certified program's response to the informal complaint and the Commission's disposition of the informal complaint may file a formal complaint with the Commission pursuant to paragraph (i)(2) of this section.

(2) *Formal complaints.* Formal complaints against an NDBEDP certified program may be filed in the form and in the manner prescribed under §§ 1.720 through 1.736 of this chapter. Commission staff may grant waivers of, or exceptions to, particular requirements under §§ 1.720 through 1.736 of this chapter for good cause shown; provided, however, that such waiver authority may not be exercised in a manner that relieves, or has the effect of relieving, a complainant of the obligation under §§ 1.720 and 1.728 of this chapter to allege facts which, if true, are sufficient to constitute a violation or violations of section 719 of the Act or this subpart.

(3) *Actions by the Commission on its own motion.* The Commission may on its own motion conduct such inquiries and hold such proceedings as it may deem necessary to enforce the requirements of this subpart and section 719 of the Communications Act. The procedures to be followed by the Commission shall, unless specifically prescribed in the Act and the Commission's rules, be such as in the opinion of the Commission will best serve the purposes of such inquiries and proceedings.

(j) *Whistleblower protections.*

(1) NDBEDP certified programs shall permit, without reprisal in the form of an adverse personnel action, purchase or contract cancellation or discontinuance, eligibility disqualification, or otherwise, any current or former employee, agent, contractor, manufacturer, vendor, applicant, or recipient, to disclose to a designated official of the certified program, the NDBEDP Administrator, the TRS Fund Administrator, the Commission's Office of Inspector General and Enforcement Bureau, or to any federal or state law enforcement entity, any known or suspected violations of the Act or Commission rules, or any other activity that the reporting person reasonably believes to be unlawful, wasteful, fraudulent, or abusive, or that otherwise could result in the improper distribution of equipment, provision of services, or billing to the TRS Fund.

(2) NDBEDP certified programs shall include these whistleblower protections with the information they provide about the program in any employee handbooks or manuals, on their Web sites, and in other appropriate publications.

(k) *Suspension or revocation of certification.*

(1) The Commission may suspend or revoke NDBEDP certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted.

(2) In the event of suspension or revocation, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity of the NDBEDP for the state whose program has been suspended or revoked.

(3) The Commission may, at its discretion and on its own motion, require a certified program to submit documentation demonstrating ongoing compliance with the Commission's rules.

[FR Doc. 2015–13718 Filed 6–9–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 15, 19, and 52

[FAR Case 2014–003; Docket No. 2014–0003, Sequence No. 1]

RIN 9000–AM91

Federal Acquisition Regulation: Small Business Subcontracting Improvements

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and the National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration, which provide for a Governmentwide policy on small business subcontracting.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before August 10, 2015 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR case 2014–003 by any of the following methods:

- Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching ''FAR Case 2014–003''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2014–003.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''FAR Case 2014–003'' on your attached document.
- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F. Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR Case 2014–003, in all correspondence related to this case. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Mahruba Uddowla, Procurement Analyst, at 703–605–2868 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAR Case 2014–003.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the FAR to implement regulatory changes made by the Small Business Administration (SBA) in its final rule at 78 FR 42391, dated July 16, 2013, concerning small business subcontracting. Among other things, SBA's final rule implements the statutory requirements set forth at sections 1321 and 1322 of the Small Business Jobs Act of 2010 (Jobs Act), (Pub. L. 111–240).

- Section 1321 of the Jobs Act requires promulgation of regulations on subcontracting compliance relating to small business concerns, including assignment of compliance responsibilities between contracting offices, small business offices, and

program offices and periodic oversight and review activities.

• Section 1322 of the Jobs Act amends the Small Business Act (15 U.S.C. 637(d)(6)) to require as part of a subcontracting plan that a prime contractor make a good faith effort to utilize a small business subcontractor during performance of a contract to the same degree the prime contractor relied on the small business in preparing and submitting its bid or proposal. If a prime contractor does not utilize a small business subcontractor as described above, the prime contractor is required to explain, in writing, to the contracting officer the reasons why it is unable to do so.

SBA's final rule revised 13 CFR 125.3, and also implemented changes aimed at improving subcontracting regulations to increase small business opportunities. These changes include:

• Authorizing contracting officers to establish subcontracting goals in terms of total contract dollars in addition to the required goals in terms of total subcontracted dollars, for individual plans.

• Providing contracting officers discretion to require a subcontracting plan in instances where a prime contractor's size status changes from small to other than small business as a result of rerepresentation.

• Requiring subcontracting plans, to the extent that subcontracting opportunities exist, when a modification causes the overall contract value to exceed the subcontracting plan threshold, even if the modification's value is less than the threshold.

• Requiring prime contractors to assign North American Industry Classification System (NAICS) codes to subcontracts.

• Providing that prime contractors cannot prohibit a subcontractor from discussing payment or utilization matters with the contracting officer.

• Requiring prime contractors to resubmit a corrected subcontracting report within 30 days of receiving the contracting officer's notice of report rejection.

• Clarifying a requirement that prime contractors notify unsuccessful offerors for subcontracts in writing.

• Requiring prime contractors with individual subcontracting plans to report order level subcontracting information.

• Clarifying that failure to comply in good faith with the subcontracting plan shall be a material breach of the contract and may be considered in any past performance evaluation of the prime contractor.

The proposed rule will implement a change in the method that Federal agencies will receive small business subcontracting credit. Historically, the agency that awards the contract also receives the small business subcontracting credit. The proposed rule changes this model by allowing the funding agency to receive the small business credit. SBA implemented this change of providing funding agency credit in its final rule in deference to the concerns expressed by the users of multi-agency contracts (MACs) and Government-wide acquisition contracts (GWACs), who have long been of the opinion that the agencies using these vehicles, *i.e.*, the funding agencies, should receive the small business subcontracting credit. For consistency, this proposed FAR rule implements the requirement for funding agencies receiving small business subcontracting credit for all contract vehicles, not just MACs and GWACs.

This proposed FAR rule also changes the requirement for a prime contractor to submit Summary Subcontract Reports (SSRs) for DoD and NASA contracts to be annually rather than semi-annually, and deletes the requirement for a prime contractor to submit a separate report to each DoD component for construction and related maintenance and repair contracts.

II. Discussion and Analysis

Amendments to FAR subparts 1.1, 2.1, 15.3, 19.3, 19.7, and 52.2 are proposed by this rule. The proposed changes are summarized in the following paragraphs.

A. *FAR Subpart 1.1, Purpose, Authority, Issuance.* Section 1.106 under this subpart is amended to reflect the new Paperwork Burden OMB clearance number associated with the requirement of section 1322 of the Jobs Act.

B. *FAR Subpart 2.1, Definitions.* This subpart is amended to revise the definitions of HUBZone contract and HUBZone small business concern to clarify that HUBZone status is not a self-certification. The clarification is necessary due to instances of some small business concerns located in HUBZones identifying themselves as HUBZone small business concerns without realizing that business concerns may not self-certify as a HUBZone small business concern. A certified HUBZone small business concern is one on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration. This subpart is also amended to revise the definition of ''small business subcontractor.''

C. *FAR Subpart 15.3, Source Selection.*

• FAR 15.304, Evaluation factors and significant subfactors. This section is amended to make minor editorial changes.

D. *FAR Subpart 19.3, Determination of Small Business Status for Small Business Programs.*

• FAR 19.301–2, Rerepresentation by a contractor that represented itself as a small business concern. This subsection is amended to give contracting officers the discretionary authority to require a subcontracting plan in the event a prime contractor's size changes from small to other than small as a result of a size rerepresentation on a contract that contains FAR clause 52.219–9, Small Business Subcontracting Plan.

E. *FAR Subpart 19.7, The Small Business Subcontracting Program.*

• FAR 19.701, Definitions. This section is amended to reflect the common usage name of ''individual subcontracting plans'' instead of ''individual contract plans'' and clarify that a ''master plan'' refers to a ''master subcontracting plan.'' This section also adds a definition for the term ''total contract dollars'' which is introduced in 19.704 in this case.

• FAR 19.702, Statutory requirements. This section is amended to be more consistent with SBA's revised regulations on requiring subcontracting plans when a modification causes the value of a contract without a subcontracting plan to exceed the subcontracting threshold. This section is also amended to remove an outdated reference to clauses in contracts awarded before 1978.

• FAR 19.703, Eligibility requirements for participating in the program. This section is amended to implement SBA's regulatory changes regarding prime contractors' responsibility in assigning NAICS codes and corresponding size standards to subcontracts. In addition, new guidance is added regarding acceptable sources of information a prime contractor may use to determine a subcontractor's size and socioeconomic status and the old language is removed. This section is also amended to correct outdated information and to move language regarding protest of the disadvantaged status of a proposed subcontractor to new paragraph (e).

• FAR 19.704, Subcontracting plan requirements. This section is amended to implement various SBA regulatory changes and clarifications including—

○ Explicitly authorizing contracting officers to establish additional subcontract goals in terms of total

contract dollars for individual subcontracting plans;

○ A requirement for prime contractors to report order-level subcontracting information for multiple-award contracts intended for use by multiple agencies;

○ A requirement for prime contractors to resubmit a corrected subcontracting report within 30 days of receiving the contracting officer's notice of report rejection;

○ Changing the requirement for semi-annual submission of the SSR for DoD and NASA to be annual;

○ A requirement that prime contractors make good faith efforts to utilize the small business subcontractors to the same or greater extent they were used in preparing the bid or proposal;

○ A requirement for the prime contractor to provide the contracting officer with a written explanation if it does not use a small business subcontractor to the same extent as described in the prime contractor's bid or proposal; and

○ Restricting prime contractors from prohibiting a subcontractor from discussing payment or utilization matters with the contracting officer.

• FAR 19.705, Responsibilities of the contracting officer under the subcontracting assistance program.

○ FAR 19.705–1, General support of the program. This subsection is amended to revise the title of the subsection and to implement SBA's regulatory requirements regarding subcontracting plans for indefinite-delivery, indefinite-quantity contracts exceeding the subcontracting threshold and discretion of ordering contracting officers to establish subcontracting goals for individual orders.

○ FAR 19.705–2, Determining the need for a subcontracting plan. This subsection is amended to implement SBA's regulatory requirement to establish a subcontracting plan when a modification of any value causes the contract to exceed the subcontracting plan threshold, and there are potential subcontracting opportunities. Language is added to explicitly require the rationale to be placed in the contract file for determining that no subcontracting opportunities exist. This subsection is also amended to clarify that while changes made to an existing subcontracting plan do not apply retroactively, the contractor's achievements prior to the modification will be factored into its overall achievement on the plan. This subsection also adds language clarifying that when a subcontracting plan is required for a contract as a result of a size rerepresentation or a modification which causes the value of the contract to exceed the threshold for a subcontracting plan, the goals in the subcontracting plan apply from the date of incorporation of the plan into the contract and the contractor is to report its subcontracting achievement from the date the plan is incorporated into the contract.

○ FAR 19.705–4, Reviewing the subcontracting plan. This subsection makes conforming changes to paragraphs (b) and (c).

○ FAR 19.705–6, Postaward responsibilities of the contracting officer. This subsection implements the SBA's regulatory requirements for contracting officers to ensure prime contractors meet their obligations under their subcontracting plan. This subsection is amended as follows—

▪ New language is added clarifying that upon receipt of the prime contractor's subcontracting reports into eSRS, the contracting officer shall review the submitted reports within 60 days of the report ending date and ensure that an explanation is provided in the event the contracting officer rejects a submitted report; and

▪ New language is added to require the contracting officer to evaluate a prime contractor's written explanation concerning its failure to use a small business concern in the performance of a contract when that small business concern was used to prepare the bid or proposal.

• FAR 19.708, Contract Clauses. This section is amended to add a prescription for the newly-created Alternate IV to clause 52.219–9 Small Business Subcontracting Plan.

F. *FAR Subpart 52.2, Text of Provisions and Clauses.*

• FAR 52.212–5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items. This clause is amended to reflect the updated 52.219–8 and 52.219–9.

• FAR 52.219–8, Utilization of Small Business Concerns. This clause is amended to make conforming changes based on changes to FAR 2.101 and 19.703.

• FAR 52.219–9, Small Business Subcontracting Plan. This clause is amended to incorporate corresponding guidance and policy changes made to section 19.704 and SBA's regulatory guidance regarding inclusion of indirect costs and awards made by affiliates in ISRs and SSRs. This clause is also amended to reflect the change of DoD's and NASA's semi-annual submission requirement for Summary Subcontract Reports (SSR) and eliminate a unique DoD requirement for a separate SSR for construction contracts. In addition, an Alternate IV to the clause is created for use in contracts where a subcontracting plan will be required when a modification causes the contract to exceed the threshold for a subcontracting plan and there are subcontracting opportunities.

III. Applicability to Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule proposes to amend the clauses at 52.219–8, Utilization of Small Business Concerns, and 52.219–9, Small Business Subcontracting Plan, in order to implement sections 1321 and 1322 of the Small Business Jobs Act of 2010. The Federal Acquisition Regulatory Council, pursuant to the authority granted in 41 U.S.C. 1906 and the Administrator, Office of Federal Procurement Policy, pursuant to the authority granted in 41 U.S.C. 1907, have determined that the application of these statutory provisions to contracts for commercial items and commercially available off-the-shelf items, is in the best interests of the Federal Government.

IV. Executive Orders 12866 and 13563

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

V. Regulatory Flexibility Act

The change may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.* The Initial Regulatory Flexibility Analysis (IRFA) is summarized as follows:

DoD, GSA, and NASA are proposing to amend the FAR to provide uniform guidance consistent with SBA's final rule at 78 FR 42391, dated July 16, 2013, which implements Sections 1321 and 1322 of the Small Business Jobs Act of 2010 (Pub. L. 111–240). SBA's final rule also implements other changes intended to help small

business subcontractors by explicitly authorizing procuring agencies to consider proposed small business participation when evaluating offers from other than small business concerns and to require other than small prime contractors to report data on small business subcontracting in connection with orders.

The objectives of this proposed rule are to implement statutory requirements as well as make improvements to increase subcontracting opportunities for small businesses. The authorizing legislation for this action are sections 1321 and 1322 of the Small Business Jobs Act of 2010 (Pub. L. 111–240).

This rule may have a positive economic impact on any small business entity that wishes to participate in the Federal procurement arena as a subcontractor. Analysis of the System for Award Management (SAM) database indicates there are over 297,181 small business registrants. It is unknown how many of these concerns participate in small business subcontracting. Firms do not need to register in the SAM database to participate in subcontracting. Thus, the number of firms participating in subcontracting may be greater than or lower than the number of firms registered in the SAM database.

This rule does not impose any new reporting, recordkeeping or other compliance requirements for small businesses. This rule does not duplicate, overlap, or conflict with any other Federal rules.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule consistent with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2014–003), in correspondence.

VI. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. This proposed rule contains information collection requirements. Accordingly, the Regulatory Secretariat Division has submitted a request for approval of one new and two revised information collection requirements concerning FAR Case 2014–003 Small Business Subcontracting Improvements to the Office of Management and Budget.

A1. *Request for approval of new information collection requirement 9000–00xx.* Public reporting burden for the collection of information regarding a contractor's utilization of small business subcontractors to the same degree the prime contractor relied on the small business in preparing and submitting its bid or proposal is estimated to be $202,464. FPDS for FY 2013 lists 5,327 actions with small business subcontracting plans. However, it is estimated that at most 50 percent of these contracts with subcontracting plans may have instances of the prime contractor not using a small business subcontractor to the same extent used in preparing the bid or proposal. Using this method provides the number of respondents as 2,664. It is estimated that the average time required to read and prepare information for this collection is two hours. It is also estimated that the responses per respondent would be once a year since prime contractors have until 30 days of contract completion to submit the written explanation.

The annual reporting burden is estimated as follows:

Respondents: 2,664.
Responses per respondent: 1.
Total annual responses: 2,664.
Preparation hours per response: 2.
Total response burden hours: 5,328.
Cost per hour: $38.
Total annual burden: $202,464.

A2. *Revision to existing OMB Clearance 9000–0006.* Based on the proposed revisions to the FAR as well as a more accurate basis for estimation, an upward adjustment is being made to the average burden hours for reporting and recordkeeping per response but a downward adjustment is being made to the number of respondents (*i.e.*, subcontracting plans and the individual subcontracting reports associated with them). As a result, a downward adjustment is being made to the estimated annual reporting burden since the notice regarding an extension to this clearance published in the **Federal Register** at 78 FR 17668, on March 22, 2013.

Respondents: 59,336.
Responses per respondent: 3.
Total annual responses: 178,008.
Preparation hours per response: 13.5.
Total response burden hours: 2,403,108.
Cost per hour: $30.
Total annual burden: $72,093,240.

A3. *Revision to existing OMB Clearance 9000–0007.* Based on the proposed revisions to the FAR as well as a more accurate basis for estimation, a downward adjustment is being made to the number of respondents (*i.e.*, summary subcontracting reports). Since the proposed revisions to the FAR do not require additional information in the Summary Subcontract Report, the estimated preparation hours per response remains unchanged. As a result, a downward adjustment is being made to the estimated annual reporting burden since the notice regarding an extension to this clearance published in the **Federal Register** at 78 FR 17668, on March 22, 2013.

Respondents: 59,336.
Responses per respondent: 1.
Total annual responses: 59,336.
Preparation hours per response: 9.0.
Total response burden hours: 534,024.
Cost per hour: $30.
Total annual burden: $16,020,720.

B. *Request for Comments Regarding Paperwork Burden.* Submit comments, including suggestions for reducing this burden, no later than August 10, 2015 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F. Street NW., 2nd Floor, Washington, DC 20405.

Public comments are particularly invited on: Whether these collections of information are necessary for the proper performance of functions of the FAR, and will have practical utility; whether our estimate of the public burden of these collections of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, or clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requesters may obtain a copy of the supporting statements from the General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F. Street NW., 2nd Floor, Washington, DC 20405. Please cite OMB Control Number 9000–00XX, Utilization of Small Business Subcontractors, 9000–0006, Subcontracting Plans/Subcontract Report For Individual Contracts, or 9000–0007, Summary Subcontract Report, as applicable, in all correspondence.

List of Subjects in 48 CFR Parts 1, 2, 15, 19, and 52

Government procurement.

Dated: June 3, 2015.

William Clark

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA are proposing to amend 48 CFR parts 1, 2, 15, 19, and 52, as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 2, 15, 19, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 by removing from the table ''19.7'' and ''52.219–9'' and their corresponding OMB Control Numbers ''9000–0006 and 9000–0007'' and adding, in numerical sequence, ''19.7'' and ''52.219–9'' with their corresponding control numbers ''9000–00xx, 9000–0006, and 9000–0007'', respectively.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 3. Amend section 2.101 in paragraph (b) by—

■ a. Revising the introductory paragraph of the definition ''HUBZone Contract'';

■ b. Revising the definition ''HUBZone small business concern''; and

■ c. Revising the definition ''Small business subcontractor''.

The revised text reads as follows:

2.101 Definitions.

* * * * *

HUBZone contract means a contract awarded to a SBA certified ''HUBZone small business concern'' through any of the following procurement methods:

* * * * *

HUBZone small business concern means a small business concern, certified by the Small Business Administration, that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration (13 CFR 126.103).

* * * * *

Small business subcontractor means a concern that does not exceed the size standard for the North American Industry Classification Systems code that the prime contractor determines best describes the product or service being acquired by the subcontract.

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

■ 4. Amend section 15.304 by—

■ a. Revising paragraph (c)(3)(i); and

■ b. Removing from paragraphs (c)(3)(ii) and (c)(4) ''must'' and adding ''shall'' in their places.

The revised text reads as follows:

15.304 Evaluation factors and significant subfactors.

* * * * *

(c) * * *

(3)(i) Past performance, except as set forth in paragraph (c)(3)(iii) of this section, shall be evaluated in all source selections for negotiated competitive acquisitions expected to exceed the simplified acquisition threshold.

* * * * *

PART 19—THE SMALL BUSINESS PROGRAMS

■ 5. Amend section 19.301–2 by revising paragraph (e) to read as follows:

19.301–2 Rerepresentation by a contractor that represented itself as a small business concern.

* * * * *

(e) A change in size status does not change the terms and conditions of the contract. However, the contracting officer may require a subcontracting plan for a contract containing 52.219–9, Small Business Subcontracting Plan, if a prime contractor's size status changes from small to other than small as a result of a size rerepresentation.

19.305 [Amended]

■ 6. Amend section 19.305 by removing from paragraph (c) ''19.703(a)(2)'' and ''19.703(b)'' and adding ''19.703(e)'' and ''19.703(c)'' in their places, respectively.

■ 7. Amend section 19.701 by—

■ a. Revising the heading of the definition ''Individual contract plan'' to read ''Individual subcontracting plan'';

■ b. Revising the heading of ''Master plan'' to read ''Master subcontracting plan''; and revising the definition; and

■ c. Adding, in alphabetical order, the definition ''Total contract dollars''.

The revised and added text reads as follows:

19.701 Definitions.

* * * * *

Master subcontracting plan means a subcontracting plan that contains all the required elements of an individual subcontracting contract plan, except goals, and may be incorporated into individual subcontracting contract plans, provided the master plan has been approved.

* * * * *

Total contract dollars means the final anticipated dollar value, including the dollar value of all options.

■ 8. Amend section 19.702 by—

■ a. Removing from paragraph (a) introductory text the word ''Section'' and adding ''section'' in its place;

■ b. Removing from paragraphs (a)(1) and (a)(2) ''a contract or contract modification that individually is'' and adding ''a contract is'' in their places wherever they appear;

■ c. Adding paragraph (a)(3); and

■ d. Revising paragraph (b)(4).

The revised and added text reads as follows:

19.702 Statutory requirements.

* * * * *

(a) * * *

(3) Each contract modification that causes the value of a contract without a subcontracting plan to exceed $650,000 ($1.5 million for construction), shall require the contractor to submit an acceptable subcontracting plan for the contract, if the contracting officer determines that subcontracting opportunities exist.

(b) * * *

(4) For modifications to contracts within the general scope of the contract that do not contain the clause at 52.219–8, Utilization of Small Business Concerns.

* * * * *

■ 9. Amend section 19.703 by—

■ a. Adding a sentence to the end of paragraph (a)(1);

■ b. Revising paragraphs (a)(2) and (b);

■ c. Removing from paragraph (d)(1) ''System for Award Management'' and adding ''SAM'' in its place;

■ d. Removing from paragraph (d)(1)(i) ''or *http://www.sba.gov/hubzone*'';

■ e. Removing from paragraph (d)(1)(ii) ''HUB'' and adding ''HUBZone Program'' in its place;

■ f. Removing from paragraph (d)(2) ''13 CFR 121.411'' and adding ''13 CFR 126.801'' in its place; and

■ g. Adding paragraph (e).

The added and revised text reads as follows:

19.703 Eligibility requirements for participating in the program.

* * * * *

(a) * * *

(1) * * * For subcontracting purposes, a concern is small if it does not exceed the size standard for the NAICS code that the prime contractor determines best describes the product or service being acquired by the subcontract.

(2)(i) The prime contractor may accept a subcontractor's representations of its small business size and status as a small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a woman-owned small business in the System for Award Management (SAM) if:

(A) The subcontractor is registered in SAM; and

(B) The subcontractor represents that the size and status representations made in SAM (or any successor system) are current, accurate and complete as of the date of the offer for the subcontract.

(ii) The prime contractor may accept a subcontractor's written representations of its small business size and status as a small disadvantaged

business, veteran-owned small business, service-disabled veteran-owned small business, or a woman-owned small business if:

(A) The subcontractor is not registered in SAM; and

(B) The subcontractor represents that the size and status representations provided with its offer are current, accurate and complete as of the date of the offer for the subcontract.

(b) The contractor, the contracting officer, or any other interested party can challenge a subcontractor's size status representation by filing a protest, in accordance with 13 CFR 121.1001 through 121.1008.

* * * * *

(e) The contracting officer or the SBA may protest the disadvantaged status of a proposed subcontractor. Protests challenging a subcontractor's small disadvantaged business representation must be filed in accordance with 13 CFR 124.1007 through 124.1014. Other interested parties may submit information to the contracting officer or the SBA in an effort to persuade the contracting officer or the SBA to initiate a protest. Such protests, in order to be considered timely, must be submitted to the SBA prior to completion of performance by the intended subcontractor.

■ 10. Amend section 19.704 by—

■ a. Revising the introductory text of paragraph (a);

■ b. Revising paragraphs (a)(2) and (3);

■ c. Redesignating paragraphs (a)(10)(iii) through (vi) as paragraphs (a)(10)(iv) through (vii), respectively;

■ d. Adding new paragraph (a)(10)(iii);

■ e. Removing from the newly designated paragraph (a)(10)(iv) ''eSRS;'' and adding ''eSRS.'' in its place;

■ f. Adding a sentence to the end of the newly designated paragraph (a)(10)(iv)(A);

■ g. Revising the newly designated paragraph (a)(10)(iv)(B);

■ h. Removing from the newly designated paragraph (a)(10)(vii) ''plans.'' and adding ''plans;'' in its place;

■ i. Removing from paragraph (a)(11) ''them.'' and adding ''them;'';

■ j. Adding paragraphs (a)(12) through (14);

■ k. Removing from paragraph (b) ''master'' and ''Master'' adding ''master subcontracting'' and ''Master subcontracting'' in their places, respectively, wherever they appear; and

■ l. Revising the last sentence of paragraph (c).

The revised and added text reads as follows:

19.704 Subcontracting plan requirements.

(a) Each subcontracting plan required under 19.301–2(e) and 19.702(a)(1), (2), and (3) shall include—

(1) * * *

(2) A statement of the total dollars planned to be subcontracted and a statement of the total dollars planned to be subcontracted to small business (including ANCs and Indian tribes), veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including ANCs and Indian tribes) and women-owned small business concerns, as a percentage of total subcontract dollars. For individual subcontracting plans, a contracting officer may require the goals referenced in paragraph (a)(1) of this section to be established as a percentage of total contract dollars, in addition to the goals established as a percentage of total subcontract dollars;

(3) The NAICS code and corresponding size standard of each subcontract that best describes the principal purpose, including the supplies and services to be subcontracted, and an identification of types of supplies or services planned for subcontracting to small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business (including ANCs and Indian tribes), and women-owned small business concerns;

* * * * *

(10) * * *

(iii) Include subcontracting data for each order when reporting subcontracting achievements for multiple-award contracts intended for use by multiple agencies;

(iv) * * *

(A) * * * When a contracting officer rejects an ISR due the report being incomplete or incorrect, the contractor is required to submit a revised ISR within 30 days of receiving the notice of the ISR rejection.

(B) The SSR shall be submitted annually by October 30 for the twelve-month period ending September 30. When a contracting officer rejects an SSR due to the report being incomplete or incorrect, the contractor is required to submit a revised SSR within 30 days of receiving the notice of SSR rejection;

* * * * *

(12) Assurances that the offeror will make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that the offeror used in preparing the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal. Responding to a request for a quote does not constitute use in preparing a bid or proposal. An offeror used a small business concern in preparing the bid or proposal if—

(i) The offeror identifies the small business concern as a subcontractor in the bid or proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the contract; or

(ii) The offeror used the small business concern's pricing or cost information or technical expertise in preparing the bid or proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work if the offeror is awarded the contract;

(13) A requirement for the contractor to provide the contracting officer with a written explanation if the contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in (a)(12) of this section. This written explanation shall be submitted to the contracting officer within 30 days of contract completion; and

(14) Assurances that the contractor will not prohibit a subcontractor from discussing with the contracting officer any material matter pertaining to payment to or utilization of a subcontractor.

* * * * *

(c) * * * If a subcontracting plan is necessary and the offeror is submitting an individual subcontracting plan, the individual subcontracting plan shall contain all the elements required by paragraph (a) of this section and shall contain separate statements and goals for the basic contract and for each option.

* * * * *

■ 11. Amend section 19.705–1 by—

■ a. Revising the heading;

■ b. Redesignating the introductory paragraph as paragraph (a); and

■ c. Adding paragraph (b).

The revised and added text reads as follows:

19.705–1 General.

(a) * * *

(b)(1) Except where a contractor has a commercial plan, the contracting officer shall require a subcontracting plan for each indefinite-delivery, indefinite-quantity contract (including task or delivery order contracts, FSS, GWACs, and MACs), when the estimated value of the contract meets the subcontracting

plan thresholds at 19.702(a)(1) and small business subcontracting opportunities exist.

(2) Contracting officers placing orders may establish small business subcontracting goals for each order.

■ 12. Amend section 19.705–2 by—

■ a. Removing from the introductory text ''must'' and adding ''shall'' in its place;

■ b. Revising paragraph (a);

■ c. Adding paragraph (b)(3);

■ d. Revising paragraphs (c) and (e); and

■ e. Adding paragraph (f).

The revised and added text reads as follows:

19.705–2 Determining the need for a subcontracting plan.

* * * * *

(a)(1) Determine whether the proposed total contract dollars will exceed the subcontracting plan threshold in 19.702(a).

(2) Determine whether a proposed modification will cause the total contract dollars to exceed the subcontracting plan threshold (see 19.702(a)).

(b) * * *

(3) Whether the firm can acquire the items to be furnished by contract with minimal or no disruption of contract performance (with consideration given to the time remaining until contract completion), and at fair market value, when a determination is made in accordance with paragraph (a)(2).

(c)(1) When adding a subcontracting plan pursuant to 19.705–2(a)(2), the subcontracting goals apply from the date of incorporation of the subcontracting plan into the contract.

(2) If it is determined that there are no subcontracting possibilities, the determination shall include a detailed rationale, be approved at a level above the contracting officer, and placed in the contract file.

* * * * *

(e) A contract may have no more than one subcontracting plan. When a contract modification exceeds the subcontracting plan threshold (see 19.702(a)), or an option is exercised, the goals of an existing subcontracting plan shall be amended to reflect any new subcontracting opportunities. These goal changes do not apply retroactively.

(f) If a subcontracting plan has been added to the contract due to a modification (see 19.702(a)(3)) or a size re-representation (see 19.301–2(e)), the contractor's achievements must be reported on the ISR (or the SF–294, if applicable) on a cumulative basis from the date of incorporation of the subcontracting plan into the contract.

19.705–4 [Amended]

■ 13. Amend section 19.705–4 by removing from paragraph (b) ''11 required'' and adding ''14 required'' in its place; and removing from paragraph (c) ''11 elements'' and adding ''14 elements'' in its place.

■ 14. Amend section 19.705–6 by—

■ a. Revising the introductory paragraph;

■ b. Removing from paragraph (a) ''Notifying'' and adding ''Notify'' in its place;

■ c. Removing from paragraph (b) ''Forwarding'' and adding ''Forward'' in its place;

■ d. Removing from the introductory text of paragraph (c) ''Giving'' and adding ''Give'' in its place;

■ e. Removing from paragraph (d) ''Notifying'' and adding ''Notify'' in its place;

■ f. Removing from paragraph (e) ''Forwarding'' and adding ''Forward'' in its place;

■ g. Redesignating paragraphs (f) through (h) as paragraphs (h) through (j), respectively;

■ h. Adding new paragraphs (f) and (g);

■ i. Removing from newly redesignated paragraph (h) ''Initiating'' and adding ''Initiate'' in its place;

■ j. Removing from newly redesignated paragraph (i) ''Taking'' and adding ''Take'' in its place; and

■ k. Removing from newly redesignated paragraph (j) ''Acknowledging receipt of or rejecting'' and adding ''Acknowledge receipt of or reject'' in its place.

The revised and added text reads as follows:

19.705–6 Postaward responsibilities of the contracting officer.

After a contract or contract modification containing a subcontracting plan is awarded or an existing subcontracting plan is amended, the contracting officer shall do the following:

* * * * *

(f) Monitor the prime contractor's compliance with its subcontracting plan, to include the following:

(1) Ensure that subcontracting reports are submitted into the eSRS (or any successor system) within 30 days after the report ending date (*e.g.,* by October 30th for the fiscal year ended September 30th).

(2) Review ISRs, and where applicable, SSRs, in eSRS (or any successor system) within 60 days of the report ending date (*e.g.,* by November 30th for a report submitted for the fiscal year ended September 30th).

(3) Either acknowledge receipt of or reject the reports in accordance with subpart 19.7, 52.219–9, Small Business Subcontracting Plan, and the eSRS instructions (*www.esrs.gov*).

(i) The authority to acknowledge or reject SSRs for commercial plans resides with the contracting officer who approved the commercial plan.

(ii) If a report is rejected, the contracting officer must provide an explanation for the rejection to allow the prime contractor the opportunity to respond specifically to perceived deficiencies.

(g) Evaluate the prime contractor's compliance with its subcontracting plan, to include the following:

(1) Assess whether the prime contractor made a good faith effort to comply with its small business subcontracting plan (see 13 CFR 125.3(d)(3)).

(2) Assess the prime contractor's written explanation concerning the prime contractor's failure to use a small business concern in the performance of the contract in the same scope, amount, and quality used in preparing and submitting the bid or proposal, if applicable.

* * * * *

■ 15. Amend section 19.708 by—

■ a. Removing from paragraph (b)(1) ''facility),'' and adding ''facility)'' in its place;

■ b. Removing the period at the end of paragraphs (b)(1)(i) and (ii) and adding a semicolon in their places;

■ c. Removing from paragraph (b)(1)(iii) ''Alternate III.'' and adding ''Alternate III; or'' in its place;

■ d. Adding a new paragraph (b)(1)(iv);

■ e. Removing from paragraph (b)(2) ''Alternate I, II, or III.'' and adding ''Alternate I, II, III, or IV.'' in its place.

The added text reads as follows:

19.708 Contract clauses.

* * * * *

(b)(1) * * *

(iv) Incorporating a subcontracting plan due to a modification as provided for in 19.702(a)(3), the contracting officer shall use the clause with its Alternate IV.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 16. Amend section 52.212–5 by revising the date of the clause; and revising paragraphs (b) (16) and (17) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (Date)

* * * * *

(b) * * *

__(16) 52.219–8, Utilization of Small Business Concerns (Date) (15 U.S.C. 637(d)(2) and (3)).

__(17)(i) 52.219–9, Small Business Subcontracting Plan (Date) (15 U.S.C. 637(d)(4)).

__(ii) Alternate I (Date) of 52.219–9.

__(iii) Alternate II (Date) of 52.219–9.

__(iv) Alternate III (Date) of 52.219–9.

__(v) Alternative IV (Date) of 52.219–9.

* * * * *

■ 17. Amend section 52.219–8 by—

■ a. Revising the date of the clause;

■ b. Revising the definition in paragraph (a) of ''HUBZone small business concern'';

■ c. Revising paragraph (d)(1);

■ d. Redesignating paragraph (d)(2) as (d)(3); and

■ e. Adding a new paragraph (d)(2).

The revised and added text reads as follows:

52.219–8 Utilization of Small Business Concerns.

* * * * *

Utilization of Small Business Concerns (Date)

(a) * * *

HUBZone small business concern means a small business concern, certified by the Small Business Administration, that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

* * * * *

(d)(1) The prime Contractor may accept a subcontractor's representations of its small business size and status as a small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a woman-owned small business in the System for Award Management (SAM) if:

(i) The subcontractor is registered in SAM; and

(ii) The subcontractor represents that the size and status representations made in SAM (or any successor system) are current, accurate and complete as of the date of the offer for the subcontract.

(2) The prime Contractor may accept a subcontractor's written representations of its small business size and status as a small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a woman-owned small business if:

(i) The subcontractor is not registered in SAM; and

(ii) The subcontractor represents that the size and status representations provided with its offer are current, accurate and complete as of the date of the offer for the subcontract.

* * * * *

■ 18. Amend section 52.219–9 by—

■ a. Revising the section heading;

■ b. Revising the date of the clause;

■ c. Revising paragraphs (b), (c), and (d);

■ d. Revising paragraphs (e)(4) and (6);

■ e. Revising paragraphs (f), (i), (k), and (l);

■ f. Revising Alternates I, II, and III; and

■ g. Adding Alternate IV.

The revised and added text reads as follows:

52.219–9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (Date)

* * * * *

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

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

Commercial item means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

Commercial plan means a subcontracting plan (including goals) that covers the Offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (*e.g.,* division, plant, or product line).

Electronic Subcontracting Reporting System (eSRS) means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at *http://www.esrs.gov.*

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

Individual subcontracting plan means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the Offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

Master subcontracting plan means a subcontracting plan that contains all the required elements of an individual subcontracting plan, except goals, and may be incorporated into individual subcontracting plans, provided the master plan has been approved.

Subcontract means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

Total contract dollars means the final anticipated dollar value, including the dollar value of all options.

(c)(1) The Offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the Offeror is submitting an individual subcontracting plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The subcontracting plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the Offeror ineligible for award of a contract.

(2)(i) The prime Contractor may accept a subcontractor's representations of its small business size and status as a small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a woman-owned small business in the System for Award Management (SAM) if:

(A) The subcontractor is registered in SAM; and

(B) The subcontractor represents that the size and status representations made in SAM (or any successor system) are current, accurate and complete as of the date of the offer for the subcontract.

(ii) The prime Contractor may accept a subcontractor's written representations of its small business size and status as a small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a woman-owned small business if:

(A) The subcontractor is not registered in SAM; and

(B) The subcontractor represents that the size and status representations provided with its offer are current, accurate and complete as of the date of the offer for the subcontract.

(d) The Offeror's subcontracting plan shall include the following:

(1) Separate goals, expressed in terms of total dollars subcontracted, and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business

concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Offeror shall include all sub-contracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the Contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate Contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of—

(i) Total dollars planned to be subcontracted for an individual contract plan; or the Offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) The NAICS code and corresponding size standard of each subcontract that best describes the principal purpose, including the types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to—

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (*e.g.,* existing company source lists, the System for Award Management (SAM), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (*e.g.,* outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the Offeror in included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

(i) Small business concerns (including ANC and Indian tribes);

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns (including ANC and Indian tribes); and

(vi) Women-owned small business concerns.

(7) The name of the individual employed by the Offeror who will administer the Offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the Offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the Offeror will include the clause of this contract entitled ''Utilization of Small Business Concerns'' in all subcontracts that offer further subcontracting opportunities, and that the Offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of $650,000 ($1.5 million for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the Offeror will—

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the Offeror with the subcontracting plan;

(iii) Include subcontracting data for each order when reporting subcontracting achievements for multiple-award contracts intended for use by multiple agencies;

(iv) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at *http://www.esrs.gov.* The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by SBA as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

(v) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

(vi) Provide its prime contract number, its DUNS number, and the email address of the Offeror's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and

(vii) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the email address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the Offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (*e.g.,* SAM), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than $150,000, indicating—

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and, if not, why not;

(F) Whether women-owned small business concerns were solicited and, if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact—

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through—

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the Offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(12) Assurances that the Offeror will make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that it used in preparing the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal. Responding to a request for a quote does not constitute use in preparing a bid or proposal. The Offeror used a small business concern in preparing the bid or proposal if—

(i) The Offeror identifies the small business concern as a subcontractor in the bid or proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the subcontract; or

(ii) The Offeror used the small business concern's pricing or cost information or technical expertise in preparing the bid or proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work if the Offeror is awarded the contract.

(13) A requirement for the Contractor to provide the Contracting Officer with a written explanation if the Contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in (d)(12) of this clause. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.

(14) Assurances that the Contractor will not prohibit a subcontractor from discussing with the Contracting Officer any material matter pertaining to payment to or utilization of a subcontractor.

(e) * * *

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern in accordance with 52.219–8(d)(2).

* * * * *

(6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract Offeror, the Contractor must inform each unsuccessful small business subcontract Offeror in writing of the name and location of the apparent successful Offeror and if the successful subcontract Offeror is a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concern, prior to award of the subcontract.

(f) A master subcontracting plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the Offeror by this clause; provided—

(1) The master subcontracting plan has been approved,

(2) The Offeror ensures that the master subcontracting plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer, and

(3) Goals and any deviations from the master subcontracting plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

* * * * *

(i) A contract may have no more than one subcontracting plan. When a contract modification exceeds the subcontracting plan threshold in 19.702(a), or an option is exercised, the goals of the existing subcontracting plan shall be amended to reflect any new subcontracting opportunities. When the goals in a subcontracting plan are amended, these goal changes do not apply retroactively.

* * * * *

(k) The failure of the Contractor or subcontractor to comply in good faith with—

(1) The clause of this contract entitled ''Utilization Of Small Business Concerns''; or

(2) An approved plan required by this clause, shall be a material breach of the contract and may be considered in any past performance evaluation of the Contractor.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at *http://www.esrs.gov.* Purchases from a corporation, company, or subdivision that is an affiliate of the Contractor or subcontractor are not included in these reports. Subcontract awards by affiliates shall be treated as subcontract awards by the Contractor. Subcontract award data reported by the Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) *ISR.* This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period. When the Contracting Officer rejects an ISR, the Contractor shall submit a corrected report shall within 30 days of receiving the notice of ISR rejection.

(ii)(A) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(B) If a subcontracting plan has been added to the contract pursuant to 19.705–2(c) or 19.301–2(e), the Contractor's achievements must be reported in the ISR on a cumulative basis from the date of incorporation of the subcontracting plan into the contract.

(iii) When a subcontracting plan includes indirect costs in the goals, these costs must be included in this report.

(iv) The authority to acknowledge receipt or reject the ISR resides—

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) *SSR.* (i) *Reports submitted under individual subcontracting plans.*

(A) This report encompasses all subcontracting under prime contracts and subcontracts with an executive agency, regardless of the dollar value of the subcontracts. This report also includes indirect costs on a prorated basis when the indirect costs are excluded from the subcontracting goals;

(B) The report may be submitted on a corporate, company or subdivision (*e.g.* plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If the Contractor or a subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over $650,000 (over $1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors.

(D) The report shall be submitted annually by October 30 for the twelve month period ending September 30. When a Contracting Officer rejects an SSR, the Contractor shall submit a revised report within 30 days of receiving the notice of SSR rejection.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) *Reports submitted under a commercial plan.*

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year and all indirect costs.

(B)The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(End of clause)

* * * * *

Alternate I (Date). As prescribed in 19.708(b)(1)(i), substitute the following paragraph (c)(1) for paragraph (c)(1) of the basic clause:

(c)(1) The apparent low bidder, upon request by the Contracting Officer, shall submit a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the bidder is submitting an individual subcontracting plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be submitted within the time specified by the Contracting Officer. Failure to submit the subcontracting plan shall make the bidder ineligible for the award of a contract.

Alternate II (Date). As prescribed in 19.708(b)(1)(ii), substitute the following paragraph (c)(1) for paragraph (c)(1) of the basic clause:

(c)(1) Proposals submitted in response to this solicitation shall include a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the Offeror is submitting an individual subcontracting plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the Offeror ineligible for award of a contract.

Alternate III (Date). As prescribed in 19.708(b)(1)(iii), substitute the following paragraphs (d)(10) and (l) for paragraphs (d)(10) and (l) in the basic clause;

(d)(10) Assurances that the Offeror will—

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the Offeror with the subcontracting plan;

(iii) Submit Standard Form (SF) 294 Subcontracting Report for Individual Contract in accordance with paragraph (l) of this clause. Submit the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at *http://www.esrs.gov.* The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations; and

(iv) Ensure that its subcontractors with subcontracting plans agree to submit the SF 294 in accordance with paragraph (l) of this clause. Ensure that its subcontractors with subcontracting plans agree to submit the SSR in accordance with paragraph (l) of this clause using the eSRS.

(l) The Contractor shall submit a SF 294. The Contractor shall submit SSRs using the web-based eSRS at *http://www.esrs.gov.* Purchases from a corporation, company, or subdivision that is an affiliate of the Contractor or subcontractor are not included in these reports. Subcontract awards by affiliates shall be treated as subcontract awards by the prime Contractor. Subcontract award data reported by Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the U.S. or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) *SF 294.* This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan. For Contractors the report shall be submitted to the Contracting Officer, or as specified elsewhere in this contract. In the case of a subcontract with a subcontracting plan, the report shall be submitted to the entity that awarded the subcontract.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period. When a Contracting Officer rejects a report, the Contractor shall submit a revised report within 30 days of receiving the notice of report rejection.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic

contract, the first option, and the second option.

(iii) When a subcontracting plan includes indirect costs in the goals, these costs must be included in this report.

(2) *SSR.* (i) *Reports submitted under individual subcontracting plans.*

(A) This report encompasses all subcontracting under prime contracts and subcontracts with an executive agency, regardless of the dollar value of the subcontracts. This report also includes indirect costs on a prorated basis when the indirect costs are excluded from the subcontracting goals.

(B) The report may be submitted on a corporate, company or subdivision (*e.g.* plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If the Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over $550,000 (over $1,000,000 for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors.

(D) The report shall be submitted annually by October 30, for the twelve month period ending September 30. When a Contracting Officer rejects an SSR, the Contractor is required to submit a revised SSR within 30 days of receiving the notice of report rejection.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in the eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) *Reports submitted under a commercial plan.*

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year and all indirect costs.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

Alternate IV (Date). As prescribed in 19.708(b)(1)(iv), substitute the following paragraphs (c) and (d) for paragraphs (c) and (d) of the basic clause:

(c)(1) The Contractor, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the Contractor is submitting an individual subcontracting plan, the plan shall separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The subcontracting plan shall be incorporated into the contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer.

(2)(i) The prime Contractor may accept a subcontractor's representations of its small business size and status as a small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a woman-owned small business in the System for Award Management (SAM) if:

(A) The subcontractor is registered in SAM; and

(B) The subcontractor represents that the size and status representations made in SAM (or any successor system) are current, accurate and complete as of the date of the offer for the subcontract.

(ii) The prime Contractor may accept a subcontractor's written representations of its small business size and status as a small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a woman-owned small business if:

(A) The subcontractor is not registered in SAM; and

(B) The subcontractor represents that the size and status representations provided with its offer are current, accurate and complete as of the date of the offer for the subcontract.

(d) The Contractor's subcontracting plan shall include the following:

(1) Separate goals, expressed in terms of total dollars subcontracted and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Contractor shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626—

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe; and

(ii) Where one or more subcontractors are in the subcontract tier between the prime Contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate Contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of—

(i) Total dollars planned to be subcontracted for an individual subcontracting plan; or the Contractor's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) The NAICS code and corresponding size standard of each subcontract that best describes the principal purpose, including the types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to—

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (*e.g.,* existing company source lists, SAM, veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). The Contractor may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (*e.g.,* outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the Contractor included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

(i) Small business concerns (including ANC and Indian tribes);

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns (including ANC and Indian tribes); and

(vi) Women-owned small business concerns.

(7) The name of the individual employed by the Contractor who will administer the Contractor's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the Contractor will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the Contractor will include the clause of this contract entitled ''Utilization of Small Business Concerns'' in all subcontracts that offer further subcontracting opportunities, and that the Contractor will require all subcontractors (except small business concerns) that receive subcontracts in excess of $650,000 ($1.5 million for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the Contractor will—

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the Contractor with the subcontracting plan;

(iii) Include subcontracting data for each order when reporting subcontracting achievements for a multiple-award contract intended for use by multiple agencies;

(iv) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at *http://www.esrs.gov.* The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by SBA as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

(v) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

(vi) Provide its prime contract number, its DUNS number, and the email address of the Contractor's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and

(vii) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the email address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the Contractor's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (*e.g.,* SAM), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than $150,000, indicating—

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and, if not, why not;

(F) Whether women-owned small business concerns were solicited and, if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact—

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, service-disabled veteran-owned, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through—

(A) Workshops, seminars, training, *etc.;* and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the Contractor to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(12) Assurances that the Contractor will make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that it used in preparing or proposal for the modification, in the same or greater scope, amount, and quality used in preparing and submitting the modification proposal. Responding to a request for a quote does not constitute use in preparing a proposal. The Contractor used a small business concern in preparing the proposal for a modification if—

(i) The Contractor identifies the small business concern as a subcontractor in the proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the subcontract; or

(ii) The Contractor used the small business concern's pricing or cost information or technical expertise in preparing the proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work when the modification is executed.

(13) A requirement for the Contractor to provide the Contracting Officer with a written explanation if the Contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in paragraph (d)(12) of this clause. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.

(14) Assurances that the Contractor will not prohibit a subcontractor from discussing with the contracting officer any material

matter pertaining to the payment to or utilization of a subcontractor.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2013–0003; 4500030113]

RIN 1018–AZ25

Endangered and Threatened Wildlife and Plants; Designating Critical Habitat on Molokai, Lanai, Maui, and Kahoolawe for 135 Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on our June 11, 2012 (77 FR 34464), proposal to designate or revise critical habitat for 135 plant and animal species on the Hawaiian Islands of Molokai, Lanai, Maui, and Kahoolawe under the Endangered Species Act of 1973, as amended (Act). These 135 species include 2 plant species for which we reaffirmed their endangered listing status on May 28, 2013 (78 FR 32014); 37 plant and animal species we proposed for listing on June 11, 2012, and subsequently listed as endangered on May 28, 2013 (78 FR 32014); 11 plant and animal species that are also already listed as endangered but do not have critical habitat designations; and 85 plant species that are already listed as endangered or threatened and have designated critical habitat, but for which we proposed revisions to critical habitat. We are reopening the comment period to allow all interested parties further opportunity to comment on areas that we are considering for exclusion in the final rule. Comments previously submitted on the proposed rule do not need to be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: *Written Comments:* We will consider comments received or postmarked on or before June 25, 2015. Please note comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. If you are submitting your comments by hard copy, please mail them by June 25, 2015, to ensure that we receive them in time to give them full consideration.

ADDRESSES: *Document Availability:* You may obtain copies of the June 11, 2012, proposed rule, this document, and the draft economic analysis of the proposed designation of critical habitat at *http://www.regulations.gov* at Docket Number FWS–R1–ES–2013–0003, from the Pacific Islands Fish and Wildlife Office's Web site (*http://www.fws.gov/pacificislands/*), or by contacting the Pacific Islands Fish and Wildlife Office directly (see **FOR FURTHER INFORMATION CONTACT**).

Written Comments: You may submit written comments by one of the following methods, or at the public information meeting or public hearing:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for Docket No. FWS–R1–ES–2013–0003, which is the docket number for this rulemaking, and follow the directions for submitting a comment.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2013–0003; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

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

FOR FURTHER INFORMATION CONTACT: Kristi Young, Acting Field Supervisor, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850; by telephone at 808–792–9400; or by facsimile at 808–792–9581. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed designation of critical habitat for 135 species on the Hawaiian Islands of Molokai, Lanai, Maui, and Kahoolawe (collectively, ''Maui Nui'') that was published in the **Federal Register** on June 11, 2012 (77 FR 34464). In that proposed rule, we proposed to list 38 species as endangered, reaffirm the listing of 2 endemic Hawaiian plants currently listed as endangered, and designate critical habitat for 39 of these 40 plant and animal species on the Hawaiian Islands of Molokai, Lanai, and Maui; and to designate critical habitat for 11 plant and animal species that are already listed as endangered, and revise critical habitat for 85 plant species that are already listed as endangered or threatened on the Hawaiian Islands of Molokai, Lanai, Maui, and Kahoolawe. On May 28, 2013, we published a final rule listing 38 Maui Nui species (35 plants and 3 tree snails) as endangered and reaffirming the listing of 2 plant species as endangered (78 FR 32014). Critical habitat has not yet been finalized. We have previously extended or reopened the comment period on the proposed critical habitat twice: once for 30 days, on August 9, 2012 (77 FR 47587), and again for 30 days on January 31, 2013 (78 FR 6785).

In particular we are seeking public comment on the areas that we are considering for exclusion from the final designation of critical habitat. Although we had previously indicated that we were considering the possible exclusion of non-Federal lands, especially areas in private ownership, and asked for comment on the broad public benefits of encouraging collaborative conservation efforts with local and private partners, we are now offering an additional opportunity for public comment on this issue. We will consider information and recommendations from all interested parties.

We are particularly interested in comments concerning whether the benefits of excluding any particular area from critical habitat outweigh the benefits of including that area as critical habitat under section 4(b)(2) of the Act (16 U.S. C. 1531 *et se.*), after considering the potential impacts and benefits of the proposed critical habitat designation. We are considering the possible exclusion of non-Federal lands, especially areas in private ownership, and whether the benefits of exclusion may outweigh the benefits of inclusion of those areas. We, therefore, request specific information on:

- The benefits of including any specific areas in the final designation and supporting rationale.
- The benefits of excluding any specific areas from the final designation and supporting rationale.
- Whether any specific exclusions may result in the extinction of the species and why.

For non-Federal lands in particular, we are interested in information regarding the potential benefits of including such lands in critical habitat versus the benefits of excluding such lands from critical habitat. This information does not need to include a

detailed technical analysis of the potential effects of designated critical habitat on non-Federal property. In weighing the potential benefits of exclusion versus inclusion of non-Federal lands, the Service may consider whether existing partnership agreements provide for the management of the species. This consideration may include, for example, the status of conservation efforts, the effectiveness of any conservation agreements to conserve the species, and the likelihood of the conservation agreement's future implementation. In addition, we may consider the formation or fostering of partnerships with non-Federal entities that result in positive conservation outcomes for the species, as evidenced by the development of conservation agreements, as a potential benefit of exclusion. We request comment on the broad public benefits of encouraging collaborative efforts and encouraging local and private conservation efforts.

Our final determination concerning the designation of critical habitat for 135 species on the Hawaiian Islands of Molokai, Lanai, Maui, and Kahoolawe will take into consideration all written comments and information we receive during all comment periods; from peer reviewers; and during the public information meeting, as well as comments and public testimony we received during the public hearing, that we held in Kihei, Maui, on February 21, 2013 (see 78 FR 6785; January 31, 2013). The comments will be included in the public record for this rulemaking, and we will fully consider them in the preparation of our final determination. On the basis of peer reviewer and public comments, as well as any new information we may receive, we may, during the development of our final determination concerning critical habitat, find that areas within the proposed critical habitat designation do not meet the definition of critical habitat, that some modifications to the described boundaries are appropriate, or that areas may or may not be appropriate for exclusion under section 4(b)(2) of the Act.

If you submitted comments or information on the proposed rule (June 11, 2012; 77 FR 34464) during any of the previous open comment periods from June 11, 2012, through September 10, 2012 (77 FR 34464 and 77 FR 47587), from January 31, 2013, through March 4, 2013 (78 FR 6785), or at the public information meeting or hearing on February 21, 2013, please do not resubmit them. We will fully consider them in the preparation of our final determinations.

You may submit your comments by one of the methods listed in the **ADDRESSES** section. We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you submit your comment via U.S. mail, you may request at the top of your document that we withhold personal information such as your street address, phone number, or email address from public review; however, we cannot guarantee that we will be able to do so.

Comments and materials we receive will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R1–ES–2013–0003, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

The topics discussed below are relevant to designation of critical habitat for 135 species on the Hawaiian Islands of Molokai, Lanai, Maui, and Kahoolawe. For more information on previous Federal actions concerning these species, refer to the proposed listing and designation of critical habitat published in the **Federal Register** on June 11, 2012 (77 FR 34464), and the final listing rule for 38 species on Molokai, Lanai, and Maui published in the **Federal Register** on May 28, 2013 (78 FR 32014), both of which are available online at *http://www.regulations.gov* (at Docket Number FWS–R1–ES–2011–0098), or from the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

On June 11, 2012, we published a proposed rule (77 FR 34464) to list 38 species as endangered and designate or revise critical habitat for 135 plant and animal species. We proposed to designate a total of 271,062 acres (ac) (109,695 hectares (ha)) on the Hawaiian Islands of Molokai, Lanai, Maui, and Kahoolawe (collectively called Maui Nui) as critical habitat. Approximately 47 percent of the area proposed as critical habitat is already designated as critical habitat for other species, including 85 plant species for which critical habitat was designated in 1984 (49 FR 44753; November 9, 1984) and 2003 (68 FR 1220, January 9, 2003; 68 FR 12982, March 18, 2003; 68 FR 25934, May 14, 2003). Within that proposed rule, we announced a 60-day comment period, which we subsequently extended for an additional 30 days (77 FR 47587; August 9, 2012); in total, the comment period began on June 11, 2012, and ended on September 10, 2012. On January 31, 2013, we announced the availability of the draft economic analysis on the proposed designation of critical habitat, and reopened the comment period on our proposed rule, the draft economic analysis, and amended required determinations for another 30 days, through March 4, 2013 (78 FR 6785). On January 31, 2013, we also announced a public information meeting in Kihei, Maui, which we held on February 21, 2013, followed by a public hearing on that same day.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency unless it is exempted pursuant to the provisions of the Act (16 U.S. C. 1536(e)–(n) and (p)). Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Consistent with the best scientific data available, the standards of the Act, and our regulations, we have initially identified, for public comment, a total of 271,062 ac (109,695 ha) in 100 units for the 130 plants, 44 units for each of the 2 forest birds, 5 units for each of the Lanai tree snails, and 1 unit for the Maui tree snail, located on the Hawaiian Islands of Molokai, Lanai, Maui, and Kahoolawe, that meet the definition of critical habitat for the 135 plant and animal species. In addition, the Act provides the Secretary with the discretion to exclude certain areas from the final designation after taking into consideration economic impacts, impacts on national security, and any other relevant impacts of specifying any particular area as critical habitat.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration

the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat. In the case of the 135 Maui Nui species, the benefits of critical habitat include public awareness of the presence of one or more of these species and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for the species due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

Under section 4(b)(2) of the Act, when considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of conservation partnerships; or implementation of a management plan. We also consider the potential economic impacts that may result from the designation of critical habitat.

In weighing the benefits of exclusion versus inclusion, we consider a number of factors, including whether the landowners have developed any habitat conservation plans (HCPs) or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. We consider the establishment and encouragement of strong conservation partnerships with non-Federal landowners to be especially important in the State of Hawaii, where there are relatively few lands under Federal ownership; we cannot achieve the conservation and recovery of listed species in Hawaii without the help and cooperation of non-Federal landowners. We consider building partnerships and promoting voluntary cooperation of landowners essential to understanding the status of species on non-Federal lands and necessary to implement recovery actions, such as the reintroduction of listed species, habitat restoration, and habitat protection.

Many non-Federal landowners derive satisfaction from contributing to endangered species recovery. Conservation agreements with non-Federal landowners, safe harbor agreements, other conservation agreements, easements, and State and local regulations enhance species conservation by extending species protections beyond those available through section 7 consultations. We encourage non-Federal landowners to enter into conservation agreements based on a view that we can achieve greater species conservation on non-Federal lands through such partnerships than we can through regulatory methods alone, particularly for listed plants which are not subject to the Act's section 9 prohibition on taking (USFWS and NOAA 1996c (61 FR 63854; December 2, 1996)).

Because so many important conservation areas for the Maui Nui species occur on lands managed by non-Federal entities, collaborative relationships are essential for their recovery. The Maui Nui species and their habitat are expected to benefit substantially from voluntary land management actions that implement appropriate and effective conservation strategies, or that add to our knowledge of the species and their ecological needs. The conservation benefits of critical habitat, on the other hand, are primarily regulatory or prohibitive in nature. Where consistent with the discretion provided by the Act, the Service believes it is both desirable and necessary to implement policies that provide positive incentives to non-Federal landowners and land managers to voluntarily conserve natural resources and to remove or reduce disincentives to conservation (Wilcove *et al.* 1996, pp. 1–14; Bean 2002, p. 2). Thus, we believe it is imperative for the recovery of the Maui Nui species to support ongoing conservation activities such as those with non-Federal partners, and to provide positive incentives for other non-Federal land managers who might be considering implementing voluntary conservation activities but have concerns about incurring incidental regulatory, administrative, or economic impacts. Many landowners perceive critical habitat as an unnecessary and duplicative regulatory burden, particularly if those landowners are already developing and implementing conservation and management plans that benefit listed species on their lands. In certain cases, we believe the exclusion of non-Federal lands that are under positive conservation management is likely to strengthen the partnership between the Service and the landowner, which may encourage other conservation partnerships with that landowner in the future. As an added benefit, by modeling positive conservation partnerships that may result in exclusion from critical habitat, such exclusion may also help encourage the formation of new partnerships with other landowners, with consequent benefits to the listed species. For all of these reasons, we place great weight on the value of conservation partnerships with non-Federal landowners when considering the potential benefits of inclusion versus exclusion of areas in critical habitat.

In the proposed rule (June 11, 2012; 77 FR 34464), we identified several specific areas under consideration for exclusion from critical habitat, totaling approximately 40,973 ac (16,582 ha) of private lands under perpetual conservation easement, voluntary conservation agreement, conservation or watershed preserve designation, or similar conservation protection. The areas initially identified for potential exclusion, as detailed in our proposed rule, included lands owned or managed by The Nature Conservancy (TNC), Maui Land and Pineapple Company, Ulupalakua Ranch, Haleakala Ranch Company, and East Maui Irrigation Company.

In the document reopening the comment period on our proposed rule, published January 31, 2013 (78 FR 6785), we specifically noted that we are considering the possible exclusion of non-Federal lands, especially areas in private ownership, and whether the benefits of exclusion may outweigh the benefits of inclusion of those areas. We asked for public comment on such potential exclusions, and for information regarding the potential benefits of including private lands in critical habitat versus the benefits of excluding such lands from critical habitat. We further noted that exclusions in the final rule would not necessarily be limited to those we had initially identified in the proposed rule. Subsequent to publication of the proposed rule on June 11, 2012 (77 FR 34464), we have identified additional private or non-Federal lands that we are considering for exclusion from critical habitat. These include lands owned or managed by Nuu Mauka Ranch; Kaupo Ranch; Wailuku Water Company;

County of Maui, Department of Water Supply; Kamehameha Schools; Makila Land Company; Kahoma Land Company; and Lanai Resorts (Pulama Lanai) and Castle and Cooke Properties. In total, the areas being considered for exclusion from the final critical habitat amount to roughly 85,000 ac (34,400 ha), including approximately 59,500 ac (24,080 ha) on the islands of Maui and Molokai, and 25,413 ac (10,284 ha) on the island of Lanai (which would result in the exclusion of all lands proposed as critical habitat on Lanai). No lands are currently under consideration for exclusion on Kahoolawe. Here we present brief descriptions of the additional non-Federal lands under consideration for exclusion from critical habitat.

Nuu Mauka Ranch—Native Watershed Forest Restoration at Nuu Mauka Conservation Plan, Leeward Haleakala Watershed Restoration Partnership Management Plan, and Southern Haleakala Forest Restoration Project

We are considering exclusion of 2,094 ac (848 ha) of lands that are owned by Nuu Mauka Ranch. The ongoing management under the Native Watershed Forest Restoration Conservation Plan, Leeward Haleakala Watershed Restoration Partnership (LHWRP) management plan, and the Southern Haleakala Forest Restoration Project agreement for Nuu Mauka Ranch lands on east Maui provides for the conservation of 46 plants and the 2 forest birds and their habitat, and demonstrates the positive benefits of the conservation partnership that has been established with Nuu Mauka Ranch.

Nuu Mauka Ranch is involved in several important voluntary conservation agreements with the Service and other agencies, and is currently carrying out activities on their lands for the conservation of rare and endangered species and their habitats. In 2008, the Ranch worked with the United States Geological Survey (USGS)-Pacific Island Ecosystem Research Center and Natural Resources Conservation Service (NRCS) to develop cost-effective, substrate appropriate restoration methodologies for establishment of native koa (*Acacia koa*) forests in degraded pasturelands. Nuu Mauka Ranch is a current partner of the LHWRP, with the main goal of protection and restoration of leeward Haleakala's upland watershed. In 2012, Nuu Mauka Ranch obtained a conservation district use permit for a watershed protection project. The ultimate goal of this project is to improve water quality and groundwater recharge through the restoration of degraded agricultural land to a native forest community. Nuu Mauka Ranch has contributed approximately $500,000 of their own funds, and received additional funding through the Service and NRCS, for construction of a 7.6-mile (12-kilometer) long deer-proof fence to prevent access by deer and goats into a 1,023-ac (414-ha), upper elevation watershed area on the south slopes of leeward Haleakala (Southern Haleakala Forest Restoration Project). Nuu Mauka Ranch has also prepared a conservation plan, ''Native Watershed Forest Restoration at Nuu Mauka'' (2012), and has appended it to the LHWRP management plan. Restoration activities outlined in the plan include mechanical and chemical control of invasive plant species, which are known threats to the 48 species and their habitat. Currently, Nuu Mauka Ranch conducts removal of feral ungulates from all fenced areas, along with fence monitoring and follow-up monitoring to assess erosion rates. Also, with fencing and ungulate removal completed, the plan includes continued restoration activities such as replanting and seed scattering of common native plant species.

Kaupo Ranch—Leeward Haleakala Watershed Restoration Partnership Management Plan and Southern Haleakala Forest Restoration Project

We are considering exclusion of 931 ac (377 ha) of lands that are owned or managed by Kaupo Ranch. Kaupo Ranch has undertaken voluntary conservation measures on their lands, demonstrating their value as a partner through participation in the LHWRP management plans and the appended written commitments by Kaupo Ranch, and the Southern Haleakala Forest Restoration Project for Kaupo Ranch lands on east Maui. These actions provide positive conservation benefits for 25 plant species and their habitat.

Kaupo Ranch is a current partner of the LHWRP, with the main goal of protection and restoration of leeward Haleakala's upland. Kaupo Ranch has identified the following conservation actions that will be appended to the LHWRP: (1) Fence existing native koa forest and remove ungulates. Kaupo Ranch also plans to expand koa forest restoration on their lands. These actions will benefit adjacent koa forest managed by the State (Kipahulu Forest Reserve (FR)). (2) Continue nonnative plant control, not only to improve their pasturelands, but to benefit adjacent conservation lands (Haleakala National Park (HNP) and Kipahulu FR) by serving as a buffer area. (3) Fence areas dominated by native vegetation on Kaupo Ranch lands, with some fencing already completed in cooperation with HNP and Nuu Mauka Ranch. (4) Fence some of their coastal lands and control feral goats.

In addition, Kaupo Ranch has been a long time cooperator with HNP, providing access to the park's Kaupo Gap hiking trail across their private lands. This trail extends from the park's boundary near the summit of Haleakala through Kaupo Ranch lands to the coast. The Ranch was also a cooperator with the Service in the creation of Nuu Makai Wetland Reserve, contributing 87 ac (35 ha) of their ranch lands in the coastal area to support landscape-scale wetland protection. In addition, Kaupo Ranch participated in the construction of an ungulate exclusion fence on the upper portion of their lands, bordering HNP, that protects 50 ac (20 ha) of native montane dry forest habitat (Southern Haleakala Forest Restoration Project) and acts as a buffer to the lower boundary of the montane mesic ecosystem that provides habitat for forest birds. Additional conservation actions in this fenced area include weed control and outplanting of native plants.

Wailuku Water Company—West Maui Mountains Watershed Partnership Management Plan, and Partners for Fish and Wildlife Agreements

We are considering exclusion of 7,410 ac (2,999 ha) of lands owned or managed by Wailuku Water Company on west Maui, and under management as part of the West Maui Mountains Watershed Partnership (WMMWP). Ongoing conservation actions through the WMMWP management plan and Partners for Fish and Wildlife Agreements for Wailuku Water Company lands on west Maui provide important conservation benefits for 51 plants and 2 forest birds and their habitat, and demonstrate the positive benefits of the conservation partnership that has been established with Wailuku Water Company.

Wailuku Water Company is one of the founding members and a funder of the WMMWP, created in 1998. This partnership serves to protect over 47,000 ac (19,000 ha) of forest and watershed vegetation on the summit and slopes of the west Maui mountains (WMMWP 2013). Management priorities of the watershed partnership are: (1) Feral animal control; (2) nonnative plant control; (3) human activities management; (4) public education and awareness; (5) water and watershed monitoring; and (6) management coordination (WMMWP 2013). Four principal streams, Waihee, Waiehu, Iao, and Waikapu, are part of the watershed area owned by the Wailuku Water

Company on west Maui, which primarily provide water for agricultural use. Conservation actions described in the WMMWP management plan are partly funded by Service grants through the Partners for Fish and Wildlife Program, with at least three grants recently funding projects on Wailuku Water Company lands. Wailuku Water Company's conservation commitments include the following conservation actions: (1) Strategic fencing and removal of ungulates; (2) regular monitoring for ungulates after fencing; (3) monitoring of habitat recovery through photopoints and vegetation succession analyses; and (4) continued surveys for rare taxa prior to fence installations. In 2009, four strategic fences were installed in Waiehu on Wailuku Water Company lands through a Service Partnership agreement. Wailuku Water Company allows surveys for rare taxa on their lands. Additional conservation actions in this area include weed control and outplanting of native plants.

County of Maui, Department of Water Supply (DWS)—West Maui Mountains Watershed Partnership Management Plan, and Partners for Fish and Wildlife Agreements

We are considering exclusion of 3,690 ac (1,493 ha) of lands owned by the County of Maui DWS on west Maui, and under management as part of the WMMWP. The County of Maui DWS is a founding partner and funder of the WMMWP, which provides for important conservation actions that benefit the Maui Nui species through implementation of the WMMWP management plan on west Maui. The management plans and projects supported by the County of Maui DWS provide for the conservation of 38 plants and the 2 forest birds and their habitat on their lands, and demonstrate their value as a conservation partner.

Maui County DWS provides water to approximately 35,000 customers on Maui and Molokai combined. The DWS is a founding partner and funder of the WMMWP, with the main goal of protection and restoration of west Maui's upland watershed. The Maui County DWS provides financial support to both the Maui and Molokai watershed partnerships, and to other organizations, private landowners, Federal, and State agencies. Conservation actions by Maui County DWS conducted through the WMMWP are also partly funded by Service grants through the Partners for Fish and Wildlife Program. Maui County DWS's conservation commitments include the following conservation actions: (1) Strategic fencing and removal of ungulates and removal of invasive nonnative plants; (2) regular monitoring to detect changes in management programs; (3) reduce the threat of fire; and (4) gain community support for conservation programs. In addition, the DWS received funding for installation of an ungulate exclusion fence on the upper portion of their lands on west Maui that protects native habitat and acts as a buffer to the lower boundary of the habitat for plants and the two forest birds. The DWS also received funding in 2010 for feral animal removal from their lands. Other conservation actions in this fenced area include weed control and outplanting of native plants.

Kamehameha Schools—West Maui Mountains Watershed Partnership Management Plan, and Partners for Fish and Wildlife Agreements

We are considering excluding 1,217 ac (492 ha) of lands owned or managed by Kamehameha Schools on west Maui, and under management as part of the WMMWP. Kamehameha Schools is an established conservation partner, and has participated the development, implementation, and funding of management plans and projects that benefit the Maui Nui species and other listed species throughout the Hawaiian Islands. In this case, the ongoing conservation actions through the WMMWP management plan for Kamehameha Schools' lands on west Maui provide for the conservation of 42 plants and 2 forest birds and their habitat.

Kamehameha Schools was established in 1887, through the will of Princess Bernice Pauahi Paki Bishop. The trust is used primarily to operate a college preparatory program; however, part of Kamehameha School's mission is to protect Hawaii's environment through recognition of the significant cultural value of the land and its unique flora and fauna. Kamehameha Schools has established a policy to guide the sustainable stewardship of its lands including natural resources, water resources, and ancestral places. Kamehameha Schools is a founder and funder of the WMMWP, and also participates in the watershed partnerships for Oahu, Molokai, Kauai, and the island of Hawaii. Conservation actions conducted by the WMMWP are partly funded by Service grants through the Partners for Fish and Wildlife Program. Kamehameha Schools' conservation commitments include the following conservation actions: (1) Strategic fencing and removal of ungulates; (2) regular monitoring for ungulates after fencing; (3) monitoring of habitat recovery; and (4) continued surveys for rare taxa prior to new fence installations. In addition, Kamehameha Schools participated in the construction of strategic ungulate exclusion fences on the upper elevations of their lands on west Maui, that protect native habitat and act as a buffer to the lower boundary of the lowland mesic, montane wet, and wet cliff ecosystems. Other conservation actions in this area include weed control and outplanting of native plants. Kamehameha Schools is also conducting voluntary actions to promote the conservation of rare and endangered species and their lowland dry ecosystem habitats on the island of Hawaii, including installing fencing to exclude ungulates, restoring habitat, conducting actions to reduce rodent populations, reestablishing native plant species, and conducting activities to reducing the threat of wildfire.

Makila Land Company—West Maui Mountains Watershed Partnership Management Plan, and Partners for Fish and Wildlife Agreements

We are considering exclusion of 3,150 ac (1,275 ha) of lands owned and managed by Makila Land Company on west Maui, and under management as part of the WMMWP. The Makila Land Company is an established partner in the WMMWP, and ongoing conservation actions through the WMMWP management plan for Makila Land Company lands on west Maui provide for the conservation of 47 plants and 2 forest birds and their habitat.

Makila Land Company has set aside upper elevation areas of their property at Puehuehunui and Kauaula on west Maui for conservation and protection of rare dry to mesic forest communities. Makila Land Company is a long-time cooperator with the WMMWP. Conservation actions conducted by the WMMWP are partly funded by Service grants through the Partners for Fish and Wildlife Program. Makila Land Company's conservation commitments include the following conservation actions: (1) Strategic fencing and removal of ungulates; (2) regular monitoring for ungulates after fencing; (3) vegetation monitoring; and (4) allowing surveys for rare taxa by the State and Service's Plant Extinction Prevention Program (PEPP) staff. Much of the area is accessible only by helicopter due to waterfalls and steep terrain. The installation of strategic ungulate exclusion fences on the higher elevation portions of its lands protects native habitat and acts as a buffer to the boundaries of the montane wet and wet cliff ecosystem habitat. Additional conservation actions in these fenced

areas include weed control and outplanting of native plants.

Kahoma Land Company—West Maui Mountains Watershed Partnership Management Plan, and Partners for Fish and Wildlife Agreements

We are considering exclusion of 46 ac (19 ha) of lands owned or managed by Kahoma Land Company on west Maui, and under management as part of the WMMWP. The ongoing conservation actions through the WMMWP management plan for Kahoma Land Company lands on west Maui provide for the conservation of 25 plants and 2 forest birds and their habitat, and demonstrate their value as a conservation partner.

Kahoma Land Company is a coalition of Maui residents formed in June, 2000, to acquire former sugar cane land adjacent to Kahoma Valley on west Maui. Kahoma Land Company's long-term management goals for this area include development of land tracts, diversified agriculture, and ecotourism ventures. Approximately 690 ac (279 ha) of the coalition's lands are within the WMMWP boundaries between two State Natural Area Reserves, and 46 ac (19 ha) are within proposed critical habitat. Kahoma Land Company is also a current member of the WMMWP. Kahoma Land Company's conservation actions conducted by the WMMWP are partly funded by Service grants through the Partners for Fish and Wildlife Program. Its conservation commitments include the following conservation actions: (1) Strategic fencing and removal of ungulates; (2) regular monitoring for ungulates after fencing; (3) monitoring of habitat recovery through vegetation succession analyses; and (4) continued surveys for rare taxa prior to new fence installations. The WMMWP management plan includes actions taken on Kahoma lands to control ungulates, including construction of strategic fencing. Ungulate control checks are currently underway on Kahoma lands, with addition of new check installations. Additional conservation actions in this area include weed control and outplanting of native plants.

Lanai Resorts, LLC, and Castle & Cooke Properties, Inc.—Lanai Conservation Plan and Lanai Conservation Agreement

We are considering exclusion of 25,413 ac (10,284 ha) of lands from critical habitat, under section 4(b)(2) of the Act, that are owned by Lanai Resorts, also known as Pulama Lanai (PL) and Castle & Cooke Properties, Inc. (CCPI). Our partnership with PL and CCPI provides significant conservation benefits to 38 plant and 2 Lanai tree snail species on Lanai, as demonstrated by the ongoing conversation efforts on the island, the commitment to develop the Lanai Natural Resources Plan (LNRP), and the recently signed memorandum of understanding (MOU) between the Service and PL and CCPI.

In 2001, the Board of Land and Natural Resources (BLNR) approved its department's (Department of Land and Natural Resources (DLNR)) participation in a Lanai watershed management program that included the Service (through a private stewardship grant), the Hawaii Department of Health, and CCPI. In 2002, the Service and CCPI entered into a memorandum of agreement (MOA) for construction of ungulate-proof fence at Lanaihale, intended to prevent entry by ungulates and to protect the watershed and the listed species within the area. The term of the MOA was for 10 years. The fencing of the summit at Lanaihale was planned to be constructed in three stages or ''increments.'' In 2004, the DLNR also provided funding through the Landowner Incentive Program to the Bishop Museum to remove nonnative plants and outplant and establish a population of more than 500 individuals of *Bidens micrantha* ssp. *kalealaha* and *Pleomele fernaldii* in Waiapaa Gulch at Lanaihale. Museum staff were to also collect seed for long-term storage and provide educational experiences for local Lanai students. In 2006, a fire resulted in the loss of half of the remaining wild individuals of *B. micrantha* ssp. *kalealaha,* and by 2007, none remained. Outplanting was conducted within an ungulate-free exclosure at Awehi Gulch. Also in 2007, the west side (Increment II) of the Lanaihale summit fence perimeter was completed; however, ungulates were able to access the fenced area because the gates were not completed. In 2008, more wild individuals of *B. micrantha* ssp. *kalealaha* were discovered in Waiapaa Gulch, and many seedlings were grown for outplanting by a student group at the local high school, with a second outplanted population established in 2009. This population was fenced by the Lanai Institute for the Environment (LIFE).

The Service and PL and CCPI signed an expansive MOU on January 26, 2015, with a term that extends through 2028. Among the commitments made by PL and CCPI in this MOU are the following: (1) The completion of a Lanai natural resources plan (LNRP) within 18 months of the date of the agreement. Implementation of the LNRP will include identification of priority ecosystems and species, prioritization of management actions required, and commitment of funding; (2) maintenance and monitoring of the completed existing Lanaihale predator-proof fences; (3) ungulate eradication within the Lanaihale fences and other priority areas as identified in the LNRP; (4) cooperation with, and support of management and monitoring within, TNC's Kanepuu Preserve units; (5) protection of rare plant clusters; (6) Lanai tree snail protection, management, and monitoring; (7) identification of rare species for immediate protective intervention efforts; (8) protection of coastal areas; (9) establishment of nearly 7,000 ac (2,800 ha) of ''no development areas'' as determined by the LNRP, within which enhancement of overall ecological condition and conservation of listed species will be emphasized; and (10) an overall commitment to ensuring a net conversation benefit for listed species on Lanai. PL and CCPI additionally agree to provide more than $200,000 annually in funding toward achievement of the conservation measures described in the MOU.

Under the terms of the MOU, PL and CCPI are currently developing the LNRP. This plan will include a description of detailed management actions with timelines that will benefit and provide protection for 38 plant species, the two Lanai tree snails, and their habitat on the island of Lanai. The Service is a member of the LNRP planning and implementation team, and will therefore be an active participant in the ongoing conservation efforts on the island of Lanai.

PL has committed to implementing certain protective measures in advance of the LNRP to ensure species conversation. Actions currently being implemented include: (1) Planning and construction of an enclosure for the protection of the two Lanai tree snails; (2) planning, construction, and maintenance of fences around three rare plant populations; (3) out-planting of rare species in protected locations; (4) implementation of bio-security measures to avoid the incursion and spread of invasive species; (5) maintenance of all existing fences; (6) predator control where necessary and appropriate to protect listed species; and (7) identification of other priority actions and sites. These measures are currently underway and being conducted in coordination with the Service.

Summary of Potential Exclusions

We are considering exclusion of these non-Federal lands because we believe the exclusion would be likely to result

in the continuation, strengthening, or encouragement of important conservation partnerships that will contribute to the long-term conservation of the Maui Nui species. The development and implementation of management plans, and ability to access private lands necessary for surveys or monitoring designed to promote the conservation of these federally listed plant species and their habitat, as well as provide for other native species of concern, are important outcomes of these conservation partnerships.

These specific exclusions will be considered on an individual basis or in any combination thereof. In addition, the final designation may not be limited to these exclusions, but may also consider other exclusions as a result of continuing analysis of relevant considerations (scientific, economic, and other relevant factors, as required by the Act) and the public comment process. In particular, we solicit comments from the public on whether to make the specific exclusions we are considering, and whether there are other areas that are appropriate for exclusion.

The final decision on whether to exclude any area will be based on the best scientific data available at the time of the final designation, including information obtained during the comment periods and information about the economic impact of the designation.

Authors

The primary authors of this notice are the staff members of the Pacific Islands Fish and Wildlife Office, Pacific Region, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Date: June 1, 2015.

Michael Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2015–13850 Filed 6–9–15; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 80, No. 111

Wednesday, June 10, 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

Farm Service Agency

Information Collection Request; Generic Clearance for the Collection of Qualitative Customer Feedback on the Farm Service Agency Service Delivery

AGENCY: Farm Service Agency.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on a new information collection associated with the Generic Clearance for the Collection of Qualitative Customer Feedback on FSA Service Delivery. This is a relatively new option for approval that will streamline the timing to implement certain types of surveys and related collection of information. FSA will use the approval to cover the instruments of collection (such as a survey, a window pop-up survey, a focus group, or a comment card) to get customer feedback on FSA service delivery for various programs. This request for approval broadly addresses FSA's need for information about what our customers think of our services so that we can improve service delivery; specific information collection activities will be incorporated into the approval as the need for the information is identified. For example, when we implement a new program and provide information about the services for the program on our Web site, we may provide a voluntary customer service questionnaire about how well the program is working for our customers and specifically within the areas of our customer service.

DATES: We will consider comments that we receive by August 10, 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:* Mary Ann Ball, USDA, Farm Service Agency, Room 3754–S, 1400 Independence Ave. SW., Washington, DC 20250–0572.

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 Mary Ann Ball at the above address.

FOR FURTHER INFORMATION CONTACT: Mary Ann Ball, (202) 720–4283.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Customer Feedback on Farm Service Agency Service Delivery.

OMB Control Number: 0560–XXXX.

Type of Request: New.

Abstract: FSA is proposing a new information collection that will provide fast-track approval on feedback instruments for various FSA programs. This is a relatively new option for approval that will streamline the timing to implement certain types of surveys and related collection of information. This notice and related request for approval lays the foundation for approving our plans to collect information to improve service delivery across all FSA activities. As the need for a specific information collection activity is identified, under this fast track approval process, FSA will be able to submit the request directly to OMB for approval and the information for the information collection and related burden will be incorporated into the overall approval. For example, when we implement a new program and provide information about the services for the program on our Web site, we may provide a voluntary customer service questionnaire about how well the program is working for our customers and specifically within the areas of our customer service. The information collection activity provides a means to gather qualitative customer and stakeholder feedback in an efficient, timely manner, and that is consistent with FSA's commitment to improving service delivery. By qualitative feedback, we mean, information, generally from customers, that provides useful insights on perceptions and opinions based on experiences with FSA service delivery, but such information does not include statistical surveys that yield quantitative results that can be generalized to the population. The qualitative feedback will:

- Provide insights into customer or stakeholder perceptions, experiences, and expectations,
- Provide an early warning of issues with service, and
- Focus attention on areas where communication, training, or changes in operations might improve delivery of products or services.

The collection will allow for ongoing, collaborative, and actionable communications between FSA and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on FSA's services will be unavailable.

FSA will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- The collections are targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;

• Personally identifiable information (PII) is collected only to the extent necessary and is not retained;

• Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of FSA;

• Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

• Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance will provide useful qualitative information. It will not yield data that can be generalized to the overall population. The qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data usage requires more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

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

Estimate of Burden: Public reporting burden for this information collection is estimated to average 30 minutes per response.

Respondents: Individuals and Households; Businesses; and Organizations; State; Local, or Tribal government.

Estimated Number of Respondents: 10,000.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Responses. 10,000.

Estimated Average Time per Response: 30 minutes (0.50 hours).

Estimated Total Annual Burden Hours on Respondents: 5,000 hours.

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

(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 collection of information including the validity of the methodology and assumptions used;

(3) Evaluate the quality, utility, and clarity of the information technology; and

(4) Minimize the burden of the information collection on those who respond 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 where provided, will be made a matter of public record. Comments will be summarized and included in the request for OMB approval of the information collection.

Signed on June 5, 2015.

Val Dolcini,

Administrator, Farm Service Agency.

[FR Doc. 2015–14183 Filed 6–9–15; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Recreation Resource Advisory Committees

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to re-establish the Recreation Resource Advisory Committees and call for nominations.

SUMMARY: The Secretary of Agriculture (Secretary) intends to re-establish the charter for the Recreation Resource Advisory Committees (Recreation RACs) pursuant to Section 4 of the Federal Lands Recreation Enhancement Act, which passed into law as part of the 2005 Consolidated Appropriations Act (Pub. L. 108–447) on December 8, 2004. The Recreation RACs operates in compliance with the Federal Advisory Committee Act (FACA) (Pub. L. 92–463) and functions in the Pacific Northwest, Pacific Southwest, Eastern, Southern Regions of the Forest Service and the State of Colorado. The purpose of the Recreation RACs is to provide advice and recommendations on recreation fees to both the Forest Service and the Bureau of Land Management (BLM) as appropriate. The Secretary has determined that the work of the Recreation RACs is in the public interest and relevant to the duties of the Department of Agriculture. Therefore, the Secretary continuously seeks nominations to fill vacancies on the Recreation RACs. Additional information concerning the Recreation RACs can be found by visiting the Recreation RACs Web site at: *http://www.fs.fed.us/passespermits/rrac-org-links.shtml.*

DATES: Nominations must be received on or before July 27, 2015. Nominations must contain a completed application packet that includes the nominee's name, resume, and completed Form AD–755, Advisory Committee or Research and Promotion Background Information. The packages must be sent to the addresses below.

ADDRESSES: Regional Forest Contacts for the Recreation Resource Advisory Committees (Recreation RACs):

Eastern Region Recreation RAC: Joanna Wilson, Recreation Fee Coordinator, 626 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, or by phone at (414) 297–3295.

Southern Region Recreation RAC: Alison Koopman, Recreation Fee Coordinator, 1720 Peachtree Road NW., Atlanta, Georgia 30309, or by phone at (404) 347–2769.

Pacific Northwest Region Recreation RAC: Jocelyn Biro, Recreation Fee Coordinator, 333 SW First Avenue, Portland, Oregon 97204, or by phone at (503) 808–2411.

Pacific Southwest Region Recreation RAC: Ramiro Villalvazo, Recreation Director, 1323 Club Drive, Vallejo, California 94592, or by phone at (707) 562–8856.

Colorado Recreation RAC: Paul Cruz, Recreation Fee Coordinator, 740 Simms Street, Golden, Colorado 80401, or by phone at (303) 275–5043.

FOR FURTHER INFORMATION CONTACT: Julie Cox, Recreation RAC Coordinator, Pacific Northwest Region, USDA Forest Service, 620 SW Main Street, Suite 334, Portland, Oregon 97205; or by phone at (503) 808–2984, or by email at *jacox@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339

between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The Federal Lands Recreation Enhancement Act (REA), signed in December 2004, directs the Secretary of Agriculture, the Secretary of the Interior, or both to establish Recreation RACs, or use existing advisory committees to perform the duties of Recreation RACs, in each State or region for Federal recreation lands and waters managed by the Forest Service or the BLM. These committees make recreation fee program recommendations on implementing or eliminating standard amenity fees; expanded amenity fees; and noncommercial, individual special recreation permit fees; expanding or limiting the recreation fee program; and fee-level changes. The REA grants flexibility to Recreation RACs by stating that the Secretaries:

- May have as many additional Recreation RACs in a State or region as the Secretaries consider necessary;
- Shall not establish a Recreation RAC in a State if the Secretaries determine, in consultation with the Governor of the State, that sufficient interest does not exist to ensure that participation on the committee is balanced in terms of the points of view represented and the functions to be performed; or
- May use a resource advisory committee established pursuant to another provision of law and in accordance with that law.

The Forest Service and BLM elected to jointly use existing BLM RACs in the states of Arizona, Idaho, the Dakotas, Montana, Nevada, New Mexico, and Utah. The Forest Service also manages Recreation RACs for the Forest Service Pacific Northwest, Pacific Southwest, Eastern and Southern Regions and for the State of Colorado. The Forest Service is using an existing advisory board for the Black Hills National Forest in South Dakota. In addition, the Governors of three states—Alaska, Nebraska and Wyoming—requested that their states be exempt from the Recreation RAC requirement, and the Secretary concurred with the exemptions.

Recreation RACs Membership

The Recreation RACs consists of not more than 11 members. The members appointed to the Recreation RACs will be fairly balanced in terms of points of view represented, functions to be performed, and will represent a broad array of expertise and relevancy to a membership category. The Recreation RACs composition is as follow:

(1) Five persons who represent recreation users and that include, as appropriate, persons representing—

(a) Winter motorized recreation such as snowmobiling;

(b) Winter nonmotorized recreation such as snowshoeing, cross-country and downhill skiing, and snowboarding;

(c) Summer motorized recreation such as motorcycling, boating, and off-highway vehicle driving;

(d) Summer nonmotorized recreation such as backpacking, horseback riding, mountain biking, canoeing, and rafting; and

(e) Hunting and fishing.

(2) Three persons who represent interest groups that include, as appropriate—

(a) Motorized outfitters and guides;

(b) Nonmotorized outfitters and guides; and

(c) Local environmental groups.

(3) Three persons who are—

(a) State tourism official representing the State;

(b) A representative of affected Indian tribes; and

(c) A representative of affected local government interests.

In the event a vacancy arises, the Secretary may appointment replacements for members in each of the three membership categories. If an appropriate replacement is unavailable, nominees will be sough through an open and public process and submitted to the Secretary for vetting, approval, and appointment. The Chairperson, of each Recreation RAC, shall be selected by majority vote of the Recreation RAC from among its members for a period of time as determined by the Recreation RAC. A Co-Chairperson may be assigned, especially to facilitate his or her transition to become the Chairperson in the future. The Forest Service Regional Foresters or designee for each identified Recreation RAC shall serve as the Designated Federal Official (DFO) under Sections 10(e) and (f) of FACA.

The Recreation RACs members serve 3-year terms and shall reside within the Region(s) and State in which the committee is organized.

Nominations and Application Information for the Recreation RACs

The appointment of members to the Recreation RACs will be made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to represent the vacancies listed above. To be considered for membership, nominees must—

1. Identify what vacancy they would represent and how they are qualified to represent that vacancy;
2. State why they want to serve on the committee and what they can contribute;
3. Show their past experience in working successfully as part of a working group on forest management activities;
4. Complete Form AD–755, you may contact the persons above or from the following Web site: *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf.* All nominations will be vetted, by the Agency.

Equal opportunity practices, in line with USDA policies, will be followed in all appointments to the Recreation RACs. To ensure that the recommendations of the Recreation RACs have taken into account the needs of the diverse groups served by the Departments, membership should include, to the extent practicable, individuals with demonstrated ability to represent all racial and ethnic groups, women and men, and persons with disabilities.

Dated: May 28, 2015.

Malcolm A. Shorter,

Deputy Assistant Secretary For Administration.

[FR Doc. 2015–14147 Filed 6–9–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The National Advisory Committee for Implementation of the National Forest System Land Management Planning Rule Committee (Committee) will meet in Juneau, Alaska. Attendees may also participate via webinar and conference call. The Committee operates in compliance with the Federal Advisory Committee Act (FACA) (Pub. L. 92–463). Additional information relating to the Committee, including the meeting summary/minutes, can be found by visiting the Committee's Web site at: *http://www.fs.usda.gov/main/planningrule/committee.*

DATES: The meetings will be held in-person and via webinar/conference call on the following dates and times:

- Tuesday, August 4, 2015 from 9:00 a.m. to 5:00 p.m. AKST
- Wednesday, August 5, 2015 from 9:00 a.m. to 5:00 p.m. AKST
- Thursday, August 6, 2015 from 9:00 a.m. to 3:00 p.m. AKST

All meetings are subject to cancellation. For updated status of meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Centennial Hall Convention Center, 101 Egan Drive, Juneau, Alaska. For anyone who would like to attend via webinar and/or conference call, please visit the Web site listed above or contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the USDA Forest Service Washington Office—Yates Building, 201 14th Street SW., Mail Stop 1104, Washington, DC 20250–1104. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Chalonda Jasper, Committee Coordinator, by phone at 202–260–9400, or by email at *cjasper@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to provide:

1. Continued deliberations on formulating advice for the Secretary,
2. Discussion of Committee work group findings,
3. Dialogue with key Forest Service personel and stakeholders from Region 10, the Alaska Region, regarding the land management plan revision and plan amendment processes currently underway in the region,
4. Hearing public comments, and
5. Administrative tasks.

This meeting is open to the public. The agenda will include time for people to make oral comments of three minutes or less. Individuals wishing to make an oral comment should submit a request in writing by July 27, 2015, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee's staff before or after the meeting. Written comments and time requests for oral comments must be sent to Chalonda Jasper, USDA Forest Service, Ecosystem Management Coordination, 201 14th Street SW., Mail Stop 1104, Washington, DC 20250–1104, or by email at *cjasper@fs.fed.us.* The agenda and summary of the meeting will be posted on the Committee's Web site within 21 days of the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: June 2, 2015.

Leanne M. Marten,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2015–14146 Filed 6–9–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; 2015–2017 Business Research and Development and Innovation Surveys

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to 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)).

DATES: To ensure consideration, written or on-line comments must be submitted on or before August 10, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Richard Hough, U.S. Census Bureau, HQ–7K149, 4600 Silver Hill Rd., Suitland, MD 20746, (301) 763–4823 (or via the internet at *richard.s.hough@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau, with support from the National Science Foundation (NSF), plans to conduct the Business R&D and Innovation Survey (BRDIS) for the 2015–2017 survey years. The BRDIS covers all domestic for-profit businesses that have 5 or more paid employees and are classified in certain industries. The BRDIS provides the only comprehensive data on R&D costs and detailed expenses by type and industry.

The Census Bureau has conducted an R&D survey since 1957 (the Survey of Industrial Research and Development (SIRD) from 1957–2007 and BRDIS from 2008–present), collecting primarily financial information on the systematic work companies undertake to discover new knowledge or use existing knowledge to develop new or improved goods and services. The 2015–2017 BRDIS will continue to collect the following types of information:

- R&D expense based on accepted accounting standards.
- Worldwide R&D of domestic companies.
- Business segment detail.
- R&D-related capital expenditures.
- Detailed data about the R&D workforce.
- R&D strategy and data on the potential impact of R&D on the market.
- R&D directed to application areas of particular national interest.
- Data measuring innovation, intellectual property protection activities and technology transfer.

The BRDIS utilizes a booklet instrument that facilitates the collection of information from various contacts within each company who have the best understanding of the concepts and definitions being presented as well as access to the information necessary to provide the most accurate response. The sections of the booklet correspond to areas within the company and currently include: A company information section that includes detailed innovation questions; a financial section focused on company R&D expenses; a human resources section; an R&D strategy and management section; an IP and technology transfer section; and a section focused on R&D that is funded or paid for by third parties. A web instrument is also available to respondents. The web instrument incorporates Excel spreadsheets that are provided to facilitate the electronic collection of information from various areas of the companies. Respondents have the capability to download the

spreadsheets from the Census Bureau's Web site. Also provided is a spreadsheet programmed to consolidate the information from the various areas of the company so it can be simply uploaded into the web instrument.

Research, development and innovation are important to competitiveness in today's economy, and domestic and foreign researchers in academia, business, and government analyze and cite data from the BRDIS. Among the federal government users are the Bureau of Economic Analysis (BEA) and the White House's Office of Science and Technology Policy (OSTP). BEA includes R&D in the system of national accounts that measures the economic well-being of the country. BRDIS data are key inputs into these accounts, which feed into the calculation of the U.S. Gross Domestic Product (GDP). The White House, in 2006, issued the American Competitiveness Initiative to ''increase investments in research and development, strengthen education, and encourage entrepreneurship.'' In support of this initiative and in response to legislative mandates, data on R&D are delivered to OSTP, primarily in the biennial National Science Board report Science and Engineering Indicators. Also, the National Science Foundation (NSF) produces a series of publications containing R&D data including the National Patterns of R&D Resources series, the S&E State Profile series, and the annual Business R&D and Innovation series. Special reports and other publications are also prepared.

II. Method of Collection

The Census Bureau will use a paperless strategy for the standard form (BRDI–1). Respondents will be mailed a letter referring them to the Census Bureau's Business Help Site where they can complete the questionnaire online. They can also obtain a PDF version of the questionnaire or they can request a paper form be mailed to them. The screener is a mail out/mail back survey form (BRDI–1(S)); a Web-based collection option also will be available. Companies will be asked to respond within 60 days of the initial mail out.

III. Data

OMB Control Number: 0607–0912.
Form Number: BRDI–1 & BRDI–1S.
Type of Review: Regular submission.
Affected Public: All for-profit (public or private), domestic businesses that have 5 or more paid employees and are classified in certain industries.
Estimated Number of Respondents:

BRDI–1—(Long Form)	7,000
BRD–1(S)—(Short Form)	38,000
Total	45,000

Estimated Time per Response:

BRDI–1—(Long Form)	14.85 hrs
BRD–1(S)—(Short Form)	.59 hrs

Estimated Total Annual Burden Hours: 126,500.
Estimated Total Annual Cost: $0.
Respondent's Obligation: Mandatory.
Legal Authority: Title 13 U.S.C. Section 131, 182, 224, and 225.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 5, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–14166 Filed 6–9–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Information Collection; Comment Request; Direct Investment Surveys: BE–15, Annual Survey of Foreign Direct Investment in the United States

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to 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)).

DATES: Written comments must be submitted on or before August 10, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230, or via email at *jjessup@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patricia Abaroa, Chief, Direct Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9591; or via email at *patricia.abaroa@bea.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Annual Survey of Foreign Direct Investment in the United States (BE–15) obtains sample data on the financial structure and operations of foreign-owned U.S. business enterprises. The data are needed to provide reliable, useful, and timely measures of foreign direct investment in the United States to assess its impact on the U.S. economy. The sample data are used to derive universe estimates in nonbenchmark years from similar data reported in the BE–12 benchmark survey, which is conducted every five years. The data collected include balance sheets; income statements; property, plant, and equipment; employment and employee compensation; merchandise trade; sales of goods and services; taxes; and research and development activity. In addition, several data items are collected by state, including employment and property, plant, and equipment.

No changes to the survey forms or reporting requirements are proposed.

II. Method of Collection

BEA contacts potential respondents by mail in March of each year; responses covering a reporting company's fiscal year ending during the previous calendar year are due by May 31 (or by June 30 for respondents that file using BEA's eFile system). Reports are required from each U.S. business enterprise in which a foreign person has at least 10 percent of the voting stock in an incorporated business enterprise, or an equivalent interest in an unincorporated business enterprise, and that meets the additional conditions detailed in the BE–15 forms and instructions. Entities required to report

will be contacted individually by BEA. Entities not contacted by BEA have no reporting responsibilities.

BEA offers electronic filing through its eFile system for use in reporting on the BE–15 annual survey forms. In addition, BEA posts all its survey forms and reporting instructions on its Web site (*www.bea.gov/fdi*). These may be downloaded, completed, printed, and submitted via fax or mail.

Potential respondents of the BE–15 are selected from those U.S. business enterprises that were required to report on the 2012 BE–12, Benchmark Survey of Foreign Direct Investment in the United States, along with those U.S. business enterprises that subsequently entered the direct investment universe. The BE–15 is a sample survey, as described; universe estimates are developed from the reported sample data.

III. Data

OMB Control Number: 0608–0034.

Form Number: BE–15.

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 4,800 annually, of which approximately 1,800 file A forms, 1,100 file B forms, 1,400 file C forms, and 500 file Claims for Exemption.

Estimated Total Annual Burden Hours: 88,625 hours. Total annual burden is calculated by multiplying the estimated number of submissions of each form by the average hourly burden per form, which is 44.5 hours for the A form, 4 hours for the B form, 1.75 hours for the C form, and 1 hour for the Claim for Exemption form.

Estimated Time per Respondent: 18.5 hours per respondent (88,625 hours/4,800 respondents) is the average, but may vary considerably among respondents because of differences in company size and complexity.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108, as amended).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 5, 2015.

Glenna Mickelson,

Management Analyst, Office of Chief Information Officer.

[FR Doc. 2015–14188 Filed 6–9–15; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Information Collection; Comment Request; Direct Investment Surveys: BE–11, Annual Survey of U.S. Direct Investment Abroad

AGENCY: Bureau of Economic Analysis, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to 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)).

DATES: Written comments must be submitted on or before August 10, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230, or via email at *jjessup@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patricia Abaroa, Chief, Direct Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9591; or via email at *patricia.abaroa@bea.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Annual Survey of U.S. Direct Investment Abroad (BE–11) obtains sample data on the financial structure and operations of U.S. parents and their foreign affiliates. The data are needed to provide reliable, useful, and timely measures of U.S. direct investment abroad to assess its impact on the U.S. and foreign economies. The sample data are used to derive universe estimates in nonbenchmark years from similar data reported in the BE–10, Benchmark Survey of U.S. Direct Investment Abroad, which is conducted every five years. The data collected include balance sheets; income statements; property, plant, and equipment; employment and employee compensation; merchandise trade; sales of goods and services; taxes; and research and development activity.

The survey, as proposed, incorporates two changes that were made to the 2014 BE–10, Benchmark Survey of U.S. Direct Investment Abroad, and five new proposed changes. The following two questions that were added to the 2014 benchmark survey will be added to the BE–11 survey: (1) A question to collect the city in which each foreign affiliate is located; and (2) for majority-owned foreign affiliates with assets, sales, or net income greater than $300 million, a question to collect data on cash and cash equivalents on the balance sheet. Other proposed changes are: (1) Two items will be added to the balance sheet section for the U.S. reporter: (i) Equity investments in foreign affiliates, and (ii) all other assets; (2) a question will be added to collect the form of organization of the U.S. reporter; (3) a question will be added to collect expenditures for research and development performed by new foreign affiliates with assets, sales, or net income between $25 million and $60 million; (4) a question will be added to the Claim for Not Filing form to collect the names and BEA ID numbers of any foreign affiliates for which BEA requested a filing but which did not meet the filing criteria; and (5) the BE–11E (abbreviated) sample form for foreign affiliates will be eliminated. The exemption level for reporting on the proposed survey is unchanged from the 2013 BE–11 survey.

II. Method of Collection

BEA contacts potential respondents by mail in March of each year; responses covering a reporting company's fiscal year ending during the previous calendar year are due by May 31. Reports are required from each U.S. person that has a direct and/or indirect ownership interest of at least 10 percent of the voting stock in an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise, and that

meets the additional conditions detailed in the BE–11 forms and instructions. Entities required to report will be contacted individually by BEA. Entities not contacted by BEA have no reporting responsibilities.

BEA offers electronic filing through its eFile system for use in reporting on the BE–11 annual survey forms. In addition, BEA posts all its survey forms and reporting instructions on its Web site (*www.bea.gov/dia*). These may be downloaded, completed, printed, and submitted via fax or mail.

Potential respondents of the BE–11 are selected from those U.S. parents that reported owning foreign business enterprises in the 2014 BE–10, Benchmark Survey of U.S. Direct Investment Abroad, along with entities that subsequently entered the direct investment universe. The BE–11 is a sample survey, as described; universe estimates are developed from the reported sample data.

III. Data

OMB Control Number: 0608–0053.

Form Number: BE–11.

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 1,900 U.S. parents filing for their U.S. operations on the A form, for 21,800 foreign affiliates, which include 20,500 B forms, 1,150 C forms, 150 D forms, and 500 Claim for Exemption forms for U.S. operations or foreign affiliates.

Estimated Total Annual Burden Hours: 262,250 hours. Total annual burden is calculated by multiplying the estimated number of submissions of each form by the average hourly burden per form, which is 7 hours for the A form, 12 hours for the B form, 2 hours for the C form, 1 hour for the D form, and 1 hour for the Claim for Exemption forms.

Estimated Time per Respondent: 138.0 hours per respondent (262,250 hours/1,900 U.S. parents) is the average, but may vary considerably among respondents because of differences in company structure, size, and complexity.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (Pub. L. 94–472, 22 U.S.C. 3101–3108, as amended).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 5, 2015.

Glenna Mickelson,

Management Analyst, Office of Chief Information Officer.

[FR Doc. 2015–14148 Filed 6–9–15; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Chemical Weapons Convention Provisions of the Export Administration Regulations

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 10, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mark Crace, BIS ICB Liaison, (202) 482–8093, *Mark.Crace@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Chemical Weapons Convention (CWC) is a multilateral arms control treaty that seeks to achieve an international ban on chemical weapons (CW). The CWC prohibits, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons. This collection implements the following provision of the treaty:

Schedule 1 notification and report: Under Part VI of the CWC Verification Annex, the United States is required to notify the Organization for the Prohibition of Chemical Weapons (OPCW), the international organization created to implement the CWC, at least 30 days before any transfer (export/import) of Schedule 1 chemicals to another State Party. The United States is also required to submit annual reports to the OPCW on all transfers of Schedule 1 Chemicals.

End-Use Certificates: Under Part VIII of the CWC Verification Annex, the United States is required to obtain End-Use Certificates for transfers of Schedule 3 chemicals to Non-States Parties to ensure the transferred chemicals are only used for the purposes not prohibited under the Convention.

II. Method of Collection

Submitted electronically or on paper.

III. Data

OMB Control Number: 0694–0117.

Form Number(s): Not applicable.

Type of Review: Regular submission extension.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 70.

Estimated Time Per Response: 36 minutes.

Estimated Total Annual Burden Hours: 42 hours.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques

or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 5, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–14164 Filed 6–9–15; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Luis Armando Collins-Avila, Inmate Number—98902–308, Big Spring, Correctional Institution, 2001 Rickabaugh Drive, Big Spring, TX 79720

Order Denying Export Privileges

On September 24, 2014, in the U.S. District Court for the District of Arizona, Luis Armando Collins-Avila (''Collins-Avila''), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Collins-Avila knowingly and willfully attempted to export and caused to be exported from the United States to Mexico 6,000 rounds of ammunition which comprised of 3,000 rounds of 7.62 x 39 caliber ammunition; 2,000 rounds of 9 mm caliber ammunition; and 1,000 rounds of .38 Super caliber ammunition, which were designated as defense articles on the United States Munitions List, without having first obtained from the United states Department of State a license for such export or written authorization for such export. Collins-Avila was sentenced to 46 months of imprisonment, three years of supervised release, and fined a $200 assessment.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

BIS has received notice of Collins-Avila's conviction for violating the AECA, and has provided notice and an opportunity for Collins-Avila to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has received and reviewed a submission from Collins-Avila.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Collins-Avila's export privileges under the Regulations for a period of 10 years from the date of Collins-Avila's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Collins-Avila had an interest at the time of his conviction.

Accordingly, it is hereby *ordered:*

First, from the date of this Order until September 24, 2024, Luis Armando Collins-Avila, with a last known address of Inmate Number—98902–308, Big Spring, Correctional Institution, 2001 Rickabaugh Drive, Big Springs, TX 79720, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Collins-Avila by ownership, control, position of

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2015). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46959 (August 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Collins-Avila may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Collins-Avila. This Order shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until September 24, 2024.

Issued this 2nd day of June, 2015.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2015–14177 Filed 6–9–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–552–813]

Certain Steel Wire Garment Hangers From the Socialist Republic of Vietnam: Rescission of Countervailing Duty Administrative Review; 2014

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

DATES: *Effective Date:* June 10, 2015.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2015, the Department of Commerce (the Department) published a notice of opportunity to request an administrative review of the countervailing duty order on certain steel wire garment hangers from the Socialist Republic of Vietnam (Vietnam).[1]

Pursuant to a request from M&B Metal Products Company, Inc., Innovative Fabrication LLC/Indy Hanger, and US Hanger Company, LLC (collectively, Petitioners), the Department published in the **Federal Register** the notice of initiation of countervailing duty administrative review with respect to 50 companies for the period January 1, 2014, through December 31, 2014.[2] Petitioners were the only interested parties to submit a request for this administrative review. On April 8, 2015, Petitioners withdrew their request for review with respect to all 50 companies in a timely manner.[3]

Rescission of the 2012–2013 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 published the *Initiation* on April 3, 2015.[4] Petitioners' withdrawal of their review request was submitted within the 90-day period following the publication of the *Initiation* and, thus, is timely. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this review of the countervailing duty order on certain steel wire garment hangers from Vietnam in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. For the companies for which this review is rescinded countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2014, through December 31, 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 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: June 1, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–14208 Filed 6–9–15; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 80 FR 5509 (February 2, 2015).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 80 FR 18202 (April 3, 2015) (*Initiation*).

[3] *See* Petitioners' April 8, 2015, submission.

[4] *See Initiation.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: On December 5, 2014, the Department of Commerce (the Department) published the *Preliminary Results* of its administrative review of the antidumping duty order on circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea) for the period November 1, 2012, through October 31, 2013.[1] The review covers two producers/exporters of the subject merchandise, Husteel Co., Ltd. (Husteel) and Hyundai HYSCO (HYSCO), both of which were selected for individual examination. As a result of our analysis of the comments received, these final results differ from our *Preliminary Results.* For these final results, we continue to find that Husteel and HYSCO sold subject merchandise at prices less than normal value.

DATES: Effective date: June 10, 2015.

FOR FURTHER INFORMATION CONTACT: Joseph Shuler or Jennifer Meek, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230;

[1] *See Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 72168 (December 5, 2014) (*Preliminary Results*) and accompanying Preliminary Decision Memorandum.

telephone (202) 482–1293 or (202) 482–2778, respectively.

Background

Following the *Preliminary Results,* the Department sent a supplemental questionnaire to HYSCO and received timely responses from HYSCO and its affiliate, Hyundai Steel.[2]

On March 10, 2015, the Department issued a memorandum extending the time period for issuing the final results of this administrative review from April 4, 2015 to May 4, 2015, as permitted by section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(h)(2).[3] We again, on April 15, 2015, extended the final results from May 4, 2015 to June 3, 2015.[4]

On January 26, 2015, we received case briefs from Wheatland Tube Company (Wheatland, or the petitioner), Husteel, and HYSCO.[5] On February 2, 2015, we received rebuttal briefs from Wheatland and HYSCO.[6]

Scope of the Order

The merchandise subject to the order is circular welded non-alloy steel pipe and tube. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

A full description of the scope of the order is contained in the memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: 2012–2013,'' dated concurrently with this notice (Issues and Decision Memorandum), and which is hereby adopted by this notice.

Analysis of Comments Received

All issues raised in the parties' briefs are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as an Appendix. 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). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://trade.gov/enforcement.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes From the Preliminary Results

Based on our analysis of the comments received from interested parties, we have made certain adjustments to define the universe of Husteel's U.S. sales.[7] Also, based on our analysis of the comments received from interested parties, and the additional information we solicited from HYSCO, we have made certain changes to HYSCO's costs, HYSCO's General and Administrative expense calculation; and corrected certain errors related to grade code.[8] For details regarding these changes, please refer to the Issues and Decision Memorandum.

Final Results of the Review

As a result of this review, we determine that the following weighted-average dumping margins exist for the period November 1, 2012, through October 31, 2013:

Producer/exporter	Weighted-average dumping margin (percent)
Husteel Co., Ltd	1.05
Hyundai HYSCO	0.80

Disclosure

We will disclose the calculations used in our analysis to parties to these proceedings within five days of the date of publication of this notice pursuant to 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) and (C) of the Act, and 19 CFR 351.212(b)(1), the Department has determined, and U.S. Customs and Border Protection (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 assessment instructions to CBP 15 days after the date of publication of these final results of review.

For assessment purposes, Husteel and HYSCO reported the name of the importer of record and the entered value for all of their sales to the United States during the period of review (POR). Accordingly, for each respondent, we calculated importer-specific *ad valorem* antidumping duty 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 those same sales in accordance with 19 CFR 351.212(b)(1). Where an importer-specific assessment rate is zero or *de minimis* (*i.e.,* less than 0.5 percent), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2).

For entries of subject merchandise during the POR produced by Husteel and HYSCO for which they did not

[2] *See* Letter to HYSCO, ''Antidumping Duty Administrative Review of Circular Welding Non-Alloy Steel Pipe from the Republic of Korea: Supplemental Questionnaire,'' (December 16, 2014); *see also* Letter to the Department, ''Twenty-First Administrative Review of Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Supplemental Section D Questionnaire Response,'' (January 7, 2015) and *see* Letter to the Department regarding, ''Twenty-First Administrative Review of Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Response of Hyundai Steel to Question 1 of the Supplemental Section D Questionnaire to HYSCO,'' (January 7, 2015).

[3] *See* Memorandum from Joseph Shuler, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations entitled ''Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review,'' (March 10, 2015).

[4] *See* Memorandum from Joseph Shuler, to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations entitled ''Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review,'' (April 15, 2015).

[5] *See* Case Brief of Wheatland Tube Company (Petitioner), ''Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Case Brief,'' (January 26, 2015); *see also* Case Brief of Husteel, ''Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, Case No. A–580–809: Case Brief,'' (January 26, 2015), and *see, also,* Case Brief of HYSCO, ''Twenty-First Administrative Review of Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Case Brief and Request for Closed Hearing,'' (January 26, 2015).

[6] *See* Rebuttal Brief of Wheatland Tube Company, ''Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Rebuttal Brief of Wheatland Tube Company,'' (February 2, 2015), and *see* Rebuttal Brief from Hundai HYSCO, ''Twenty-First Administrative Review of Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Rebuttal Brief,'' (February 2, 2015).

[7] *See* Memorandum to The File from Jennifer Meek, International Trade Compliance Analyst, Enforcement and Compliance Office I, ''Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Calculation Memorandum for Husteel Co., Ltd.'' (June 3, 2015).

[8] *See* Memorandum to The File from Joseph Shuler, International Trade Compliance Analyst, Enforcement and Compliance Office I, ''Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Calculation Memorandum for Hyundai HYSCO'' (June 3, 2015).

know were destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company or companies involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered or withdrawn from warehouse, for consumption, on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Husteel and HYSCO will be equal to the respective weighted-average dumping margin established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.80 percent, the ''all others'' rate established pursuant to a court decision.[9] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

[9] *See Circular Welded Non-Alloy Steel Pipe From Korea: Notice of Final Court Decision and Amended Final Determination,* 60 FR 55833 (November 3, 1995).

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), 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 the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 3, 2015.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Issues Discussed in the Issues and Decision Memorandum

Comment 1: Differential Pricing Analysis Should Not Be Used Because the *Cohen's d* Test Does Not Measure Targeted or Masked Dumping
Comment 2: Differential Pricing Analysis Reasoning for Use of Average-to-Transaction Comparison Methodology is Arbitrary and Unlawful
Comment 3: Differential Pricing Analysis is Not Permitted to be Used in Administrative Reviews
Comment 4: Defining the Universe of Sales
Comment 5: Narrative Description of Calculation Methodology Contained An Error
Comment 6: The Department Changed Its Practice Regarding Treatment of HYSCO's Costs Without Giving Prior Notice
Comment 7: The Department Should Use GNA_I In Its Margin Calculation and Should Adjust HYSCO's Reported Costs
Comment 8: HYSCO's Reported Costs and Control Number (CONNUM) Characteristics Are Consistent with the Department's Reporting Requirements and Should Not Be Reallocated
Comment 9: The Petitioner's Analysis of HYSCO's Cost Reporting Does Not Support Revision To Costs and a Complete Reallocation of HYSCO's Cost is Unwarranted
Comment 10: Cost Adjustments Eliminate Cost Differences Associated with Product Characteristics and Reallocating Total Material Costs Rather Than Only Hot-Coil Costs Is An Error
Comment 11: The Department Should Adjust for Certain of HYSCO's Affiliated Hot-Rolled Coil Purchases
Comment 12: The Department Should Adjust HYSCO's G&A Ratio
Comment 13: Grade Coding Adjustments Contained Clerical Errors
Comment 14: Draft Assessment Instructions Contained Errors
Comment 15: Application of Total Adverse Facts Available is Warranted Due to HYSCO's Repeated Failure to Provide Necessary Information for Affiliated Hot-Rolled Coil Purchases

[FR Doc. 2015–14214 Filed 6–9–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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: National Oceanic and Atmospheric Administration (NOAA).

Title: Highly Migratory Species Dealer, Importer and Exporter Reporting Family of Forms.

OMB Control Number: 0648–0040.

Form Number(s): None.

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

Number of Respondents: 9,585.

Average Hours per Response: 5 minutes each for CD, SD, and RXC certificates; 15 minutes for CD/SD/RXC validation by government official; 120 minutes for authorization of non-governmental CD/SD/RXC validation; 2 minutes for daily Atlantic BFT landing reports; 3 minutes for daily Atlantic BFT landing reports from pelagic longline and purse seine vessels; 1 minute for Atlantic BFT tagging; 15 minutes for biweekly Atlantic BFT dealer landing reports; 15 minutes for HMS international trade biweekly reports; 15 minutes for weekly electronic HMS dealer landing reports (*e*-dealer); 5 minutes for negative weekly electronic HMS dealer landing reports (*e*-dealer); 15 minutes for voluntary fishing vessel and catch forms.

Burden Hours: 39,961.

Needs and Uses: This request is for revision and extension of a currently approved information collection,

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the National Marine Fisheries Service (NMFS) is responsible

for management of the Nation's marine fisheries. NMFS must also promulgate regulations, as necessary and appropriate, to carry out obligations the United States (U.S.) undertakes internationally regarding tuna management through the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*).

This collection serves as a family of forms for Atlantic highly migratory species (HMS) dealer reporting, including purchases of HMS from domestic fishermen, and the import, export, and/or re-export of HMS, including federally managed tunas, sharks, and swordfish.

Transactions covered under this collection include purchases of Atlantic HMS from domestic fishermen; and the import/export of all bluefin tuna (BFT), frozen bigeye tuna (BET), southern bluefin tuna (SBT) or swordfish (SWO), regardless of geographic area of origin. This information is used to monitor the harvest of domestic fisheries, and/or track international trade of internationally managed species.

The domestic dealer reporting covered by this collection includes weekly electronic landing reports and negative reports (*e.g.,* reports of no activity) of Atlantic SWO, sharks, BET, albacore, yellowfin, and skipjack tunas (collectively referred to as BAYS tunas), and biweekly and daily landing reports for BFT, including tagging of individual fish. Also, because of the recent development of an individual bluefin quota (IBQ) management system (RIN 0648–BC09), electronic entry of BFT landing card data is required for Atlantic BFT purchased from Longline and Purse seine category vessels. NMFS intends to consider integrating the data fields that have been collected on the Atlantic BFT Biweekly Dealer Report into the electronic system. However, at this time, dealers must submit to NMFS both electronic and faxed versions of BFT landing cards for purse seine and pelagic longline vessels.

International trade tracking programs are required by both the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Inter-American Tropical Tuna Commission (IATTC) to account for all international trade of covered species. The U.S. is a member of ICCAT and required by ATCA to promulgate regulations as necessary and appropriate to implement ICCAT recommendations. These programs require that a statistical document (SD) or catch document (CD) accompany each export from and import to a member nation, and that a re-export certificate (RXC) accompany each re-export. The international trade reporting requirements covered by this collection include implementation of CD, SD, and RXC trade tracking programs for BFT, frozen BET, and SWO. U.S. regulations implementing ICCAT SD and CD programs require SDs and CDs for international transactions of the covered species from all ocean areas, so Pacific imports and exports must also be accompanied by SDs and CDs. Since there are SD programs in place under other international conventions (*e.g.,* the Indian Ocean Tuna Commission), a SD from another program may be used to satisfy the SD requirement for imports into the United States.

Dealers who internationally trade SBT are required to participate in a trade tracking program to ensure that imported Atlantic and Pacific BFT will not be intentionally mislabeled as ''southern bluefin'' to circumvent reporting requirements. This action is authorized under ATCA, which provides for the promulgation of regulations as may be necessary and appropriate to carry out ICCAT recommendations. In addition to SD, CD, and RXC requirements, this collection includes biweekly reports to complement trade tracking SDs by summarizing SD data and collecting additional economic information.

The one-time request for email addresses has been removed.

Affected Public: Business or other for-profit organizations.

Frequency: Weekly and biweekly.

Respondent's Obligation: Mandatory.

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 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: June 4, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–14124 Filed 6–9–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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: National Oceanic and Atmospheric Administration (NOAA).

Title: Atlantic Highly Migratory Species Permit Family of Forms.

OMB Control Number: 0648–0327.

Form Number(s): None.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 38,095.

Average Hours per Response: HMS ITP application, termination of Atlantic HMS Vessel Chartering Permit, and renewal of Atlantic Tunas Dealer Permit application, 5 minutes; renewal applications for the following vessel permits—Atlantic Tunas, HMS Charter/Headboat, and HMS Angling, 6 minutes; initial Atlantic Tunas Dealer Permit application, 15 minutes; initial applications for the following vessel permits—Atlantic Tunas, HMS Charter/Headboat, HMS Angling, and Smoothhound Shark, 30 minutes; initial applications for Atlantic HMS Vessel Chartering Permit, 45 minutes.

Burden Hours: 8,307.

Needs and Uses: This request is for the revision and extension of a current information collection which includes both vessel and dealer permits.

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) is responsible for management of the Nation's marine fisheries. In addition, NMFS must comply with the United States' (U.S.) obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*). NMFS issues permits to fishing vessels and dealers in order to collect information necessary to comply with domestic and international obligations, secure compliance with regulations, and disseminate necessary information.

Regulations at 50 CFR 635.4 require that vessels participating in commercial and recreational fisheries for Atlantic highly migratory species (HMS) and dealers purchasing Atlantic HMS from a vessel obtain a Federal permit issued by NMFS. Regulations at 50 CFR 300.182 require that individuals entering for consumption, exporting, or re-exporting consignments of bluefin tuna, southern bluefin tuna, swordfish, or frozen bigeye tuna obtain an HMS International Trade Permit (ITP) from NMFS. This action addresses the renewal of permit applications currently approved under PRA 0648–0327, including both vessel and dealer permits. Vessel permits include Atlantic Tunas (except Longline

permits, which are approved under OMB Control No. 0648–0205), HMS Charter/Headboat, HMS Angling, Swordfish General Commercial, Smoothhound Shark, and Atlantic HMS Vessel Chartering permits. Dealer permits include the Atlantic Tunas Dealer permit and the HMS ITP.

The primary reason for the revision of this information collection is to reflect that Incidental HMS Squid Trawl permits have been removed from this collection. Instead, those permits were combined with the information collection for the Greater Atlantic Region Federal Fisheries Initial Permit Application form, which is covered under OMB Control No. 0648–0202. Thus, the burden and costs associated with renewal and issuance of an initial HMS Squid Trawl permit are no longer applicable to this collection of information. In addition, an International Maritime Organization (IMO) number must now be applied for by those not already in possession of one.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

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 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: June 4, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–14123 Filed 6–9–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD953

Marine Mammals; File No. 19108; Correction

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

ACTION: Notice; receipt of application; correction.

SUMMARY: On May 27 2015, a notice was published in the **Federal Register** announcing that Daniel P. Costa, Ph.D., University of California at Santa Cruz, Long Marine Laboratory, 100 Shaffer Road, Santa Cruz, CA 95064, had applied in due form for a permit to conduct research on northern elephant seals (*Mirounga angustirostris*) throughout their range. That notice contained an error.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Brendan Hurley, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The notice for File No. 19108 on May 27, 2015 (80 FR 30212) indicated that incidental harassment of northern fur seals (*Callorhinus ursinus*) is requested. This was an error; the notice should indicate incidental harassment of harbor seals (*Phoca vitulina*) is requested, not northern fur seals. All other information in the notice is unchanged.

Dated: June 4, 2015.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–14141 Filed 6–9–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD963

Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops.

SUMMARY: Free Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops will be held in July, August, and September of 2015. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Protected Species Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted during 2015 and will be announced in a future notice.

DATES: The Atlantic Shark Identification Workshops will be held on July 23, August 13, and September 10, 2015.

The Protected Species Safe Handling, Release, and Identification Workshops will be held on July 9, July 16, August 6, August 11, September 3, and September 24, 2015.

See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Panama City Beach, FL; Fort Lauderdale, FL; and Rosenberg, TX.

The Protected Species Safe Handling, Release, and Identification Workshops will be held in Kitty Hawk, NC; Ronkonkoma, NY; Gulfport, MS, Key Largo, FL; Corpus Christi, TX; and Manahawkin, NJ.

See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

FOR FURTHER INFORMATION CONTACT: Rick Pearson by phone: (727) 824–5399, or by fax: (727) 824–5398.

SUPPLEMENTARY INFORMATION: The workshop schedules, registration information, and a list of frequently asked questions regarding these workshops are posted on the Internet at: *http://www.nmfs.noaa.gov/sfa/hms/workshops/.*

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057; October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Approximately 110 free Atlantic Shark Identification Workshops have been conducted since January 2007.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit which first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are

prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, trucks or other conveyances that are extensions of a dealer's place of business must possess a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate.

Workshop Dates, Times, and Locations

1. July 23, 2015, 12 p.m.–4 p.m., LaQuinta Inn & Suites, 7115 Coastal Palms Boulevard, Panama City, FL 32408.

2. August 13, 2015, 12 p.m.–4 p.m., LaQuinta Inn & Suites, 999 West Cypress Creek Road, Fort Lauderdale, FL 33309.

3. September 10, 2015, 12 p.m.–4 p.m., Hampton Inn, 3312 Vista Drive, Rosenberg, TX 77471.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at *esander@peoplepc.com* or at (386) 852–8588.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Protected Species Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited-access and swordfish limited-access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Protected Species Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; October 2, 2006). These certificate(s) are valid for 3 years. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited-access permits. Additionally, new shark and swordfish limited-access permit applicants who intend to fish with longline or gillnet gear must attend a Protected Species Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 208 free Protected Species Safe Handling, Release, and Identification Workshops have been conducted since 2006.

In addition to certifying vessel owners, at least one operator on board vessels issued a limited-access swordfish or shark permit that uses longline or gillnet gear is required to attend a Protected Species Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited-access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates onboard at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited-access permits that uses longline or gillnet gear.

Workshop Dates, Times, and Locations

1. July 9, 2015, 9 a.m.–5 p.m., Hilton Garden Inn, 5353 North Virginia Dare Trail, Kitty Hawk, NC 27949.

2. July 16, 2015, 9 a.m.–5 p.m., Hilton Garden Inn, 3485 Veterans Memorial Highway, Ronkonkoma, NY 11779.

3. August 6, 2015, 9 a.m.–5 p.m., Holiday Inn, 9515 US 49, Gulfport, MS 39503.

4. August 11, 2015, 9 a.m.–5 p.m., Holiday Inn, 99701 Overseas Highway, Key Largo, FL 33037.

5. September 3, 2015, 9 a.m.–5 p.m., Embassy Suites, 4337 South Padre Island Drive, Corpus Christi, TX 78411.

6. September 24, 2015, 9 a.m.–5 p.m., Holiday Inn, 151 Route 72 West, Manahawkin, NJ 08050.

Registration

To register for a scheduled Protected Species Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 682–0158.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification.
- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification.
- Vessel operators must bring proof of identification.

Workshop Objectives

The Protected Species Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, and smalltooth sawfish. In an effort to improve reporting, the proper identification of protected species will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species, which may prevent additional regulations on these fisheries in the future.

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

Dated: June 4, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–14158 Filed 6–9–15; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletion from the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes a service from the Procurement List previously provided by such agency.

DATES: *Effective Date:* 7/9/2015.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 3/20/2015 (80 FR 14973); 4/3/2015 (80 FR 18216–18217); 4/24/2015 (80 FR 22977) and 5/1/2015 (80 FR 24905–24906), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to furnish the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

Product Name/NSN(s): Cup, Disposable, Paper
7350–00–NIB–0209—BioBased, Cold Beverage, White, 21 oz.
7350–00–NIB–0210—Cup, Disposable, Paper, Cold Beverage, White, 21 oz.
7350–00–NIB–0215—Cup, Disposable, Paper, Cold Beverage, White, 32 oz.
Mandatory Purchase For: Total Government Requirement
Mandatory Source of Supply: The Lighthouse for the Blind in New Orleans, Inc., New Orleans, LA
Contracting Activity: General Services Administration, Fort Worth, TX
Distribution: A-List
Product Name/NSN(s): Hearing Protection
4240–00–SAM–0025—Over-the-Head Earmuff, NRR 30dB
4240–00–SAM–0026—Behind-the-Head Earmuff, NRR 30dB
4240–00–NSH–0019—Behind-the-Head Earmuff, NRR 30dB
4240–01–534–3386—Over-the-Head Earmuff, NRR 30dB
Mandatory Purchase For: Total Government Requirement
Mandatory Source of Supply: Access: Supports for Living Inc., Middletown, NY
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA
Distribution: B-List
Product Name(s)/NSN(s): Apron, Father's Day/MR 1162
Mandatory Source of Supply: Alphapointe, Kansas City, MO
Bowl, Cereal and Sipping, Sesame Street/MR 10664
Holder, Juice Box, Sesame Street/MR 10665
Mandatory Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Mandatory Purchase For: Requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency
Contracting Activity: Defense Commissary Agency, Fort Lee, VA
Distribution: C-List
Product Name/NSN(s): File Folder, Single Tab, 1/3 Cut
7530–00–NIB–1104—Letter, Position 1
7530–00–NIB–1105—Letter, Position 2
7530–00–NIB–1106—Letter, Position 3
Mandatory Purchase For: Total Government Requirement
Distribution: A-List
7530–00–NIB–1107—Legal, Position 1
7530–00–NIB–1108—Legal, Position 2
7530–00–NIB–1109—Legal, Position 3
Mandatory Purchase For: Total Government Requirement
Distribution: B-List
Mandatory Source of Supply: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY
Contracting Activity: General Services Administration, New York, NY

Deletion

On 4/24/2015 (80 FR 22977), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletion from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service deleted from the Procurement List.

End of Certification

Accordingly, the following service is deleted from the Procurement List:

Service

Service Type: Shelf Stocking, Custodial & Warehousing Service Travis Air Force Base, CA
Service is Mandatory For: PRIDE Industries, Roseville, CA
Contracting Activity: Defense Commissary Agency, Fort Lee, VA

Barry S. Lineback,
Director, Business Operations.

[FR Doc. 2015–14118 Filed 6–9–15; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of the Record of Decision (ROD) for the Final Environmental Impact Statement (FEIS) for the Disposal and Reuse of Naval Air Station, Joint Reserve Base (NASJRB) Willow Grove, Pennsylvania

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), the Department of the Navy (DoN) has prepared the ROD for the FEIS for the disposal and reuse of NASJRB Willow Grove Pennsylvania. The DoN is required to close NASJRB Willow Grove per Public Law 101–510, the Defense Base Closure and Realignment Act of 1990, as amended in 2005. The ROD was prepared by the DoN.

FOR FURTHER INFORMATION CONTACT: Director, Base Realignment and Closure (BRAC) Program Management Office East, 4911 Broad Street, Building 679, Philadelphia, PA 19112–1303, telephone 215–897–4900, fax 215–897–4902, email: *Gregory.preston@navy.mil*

SUPPLEMENTARY INFORMATION: The complete text of the ROD is available on the Navy BRAC Program Management Office Web site at *http://www.bracpmo.navy.mil/* along with the FEIS and other supporting documents. Single copies of the ROD are available upon request by contacting Director, BRAC Program Management Office East, 4911 Broad Street, Building 679, Philadelphia, PA 19112–1303, telephone 215–897–4900, fax 215–897–4902, email: *Gregory.preston@navy.mil*

Dated: June 4, 2015.

N.A. Hagerty-Ford,

Federal Register Liaison Officer, Commander, Judge Advocate General's Corps, U.S. Navy.

[FR Doc. 2015–14172 Filed 6–9–15; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0075]

Agency Information Collection Activities; Comment Request; Talent Search (TS) Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), 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 an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 10, 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–0075 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 Craig Pooler, 202–502–7640.

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: Talent Search (TS) Annual Performance Report

OMB Control Number: 1840–0826

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local and Tribal Governments

Total Estimated Number of Annual Responses: 450

Total Estimated Number of Annual Burden Hours: 7,200

Abstract: Talent Search grantees must submit the report annually. The report provides the Department of Education with information needed to evaluate a grantee's performance and compliance with program requirements and to award prior experience points in accordance with the program regulations. The data collection is also aggregated to provide national information on project participants and program outcomes.

Dated: June 5, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–14165 Filed 6–9–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2015–ICCD–0072]

Agency Information Collection Activities; Comment Request; Borrower Defenses against Loan Repayment

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction of 1995 (44 U.S.C. Chapter 3507(j)), ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a new information collection.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), due to an unanticipated event. Approval by the Office of Management and Budget (OMB) has been requested by June 4, 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–0072 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period*

in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Mailstop L–OM–2–2E319, Room 2E103, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Colleen McGinnis, (202) 377–4330.

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: Borrower Defenses Against Loan Repayment.

OMB Control Number: 1845–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 150,000.

Total Estimated Number of Annual Burden Hours: 150,000.

Abstract: This is a request for an emergency collection to facilitate the collection of information for borrowers who believe they have cause to invoke the borrower defenses against repayment of a loan as noted in regulation. This collection includes Web site language that will provide minimum information that requests need to include for consideration as well as a separate specific attestation form. These processes are being offered to aid in preserving borrowers' rights and to meet the fiduciary responsibilities of the federal student loan programs. These collections will allow the Department of Education to inform borrowers and loan servicers of the information needed to review and adjudicate requests for relief under borrower defenses regulations.

Additional Information: Section 455(h) of the Higher Education Act of 1965, as amended (20 U.S.C. 1087e(h) provides that the U.S. Department of Education (Department) defines by regulation which claims against a school constitute defenses to repayment of a loan under the Federal Direct Loan (Direct Loan) program. Following a negotiated rulemaking process, the Department published amendments to the Direct Loan program regulations on December 1, 1994. These regulations included borrower defenses specified in 34 CFR 685.206(c). The regulation, in part, states ''(c)(1) [i]n any proceeding to collect on a Direct Loan, the borrower may assert as a defense against repayment, an act or omission of the school attended by the student that would give rise to a cause of action against the school under applicable State law.'' Prior to 2015, the borrower defense identified above was rarely asserted by any borrowers and no specific methods of collecting information was defined or found necessary. In the 20 years prior, the Department received 5 claims for borrower defense. Over the last several months, the Department has received over 1000 such claims due to a building debt activism movement as well as the notoriety of Corinthian's collapse, creating a need for a clearer process for potential claimants. This exponential increase in demand was unexpected and outside of the Department's control.

Dated: June 5, 2015.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2015–14184 Filed 6–9–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3230–010]

Chasm Hydro Partnership; Ampersand Chasm Falls Hydro LLC; Notice of Transfer of Exemption

1. By letter filed March 3, 2015, Ampersand Chasm Falls Hydro LLC informed the Commission that the exemption from licensing for the Chateaugay Chasm Project, FERC No. 3230, originally issued June 15, 1981,[1] has been transferred to Ampersand Chasm Falls Hydro LLC. The project is located on the Chateaugay River in Franklin County, New York. The transfer of an exemption does not require Commission approval.

2. Ampersand Chasm Falls Hydro LLC is now the exemptee of the Chateaugay Chasm Project, FERC No. 3230. All correspondence should be forwarded to: Ian Chow, Project Manager, Ampersand Chasm Falls Hydro LLC, 717 Atlantic Avenue, Suite 1A, Boston, MA 02111.

Dated: June 3, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–14107 Filed 6–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER06–615–061; ER02–1656–038.

Applicants: California Independent System Operator Corporation.

Description: Compliance Filing in Response to June 3, 2014 Order of the California Independent System Operator Corporation.

Filed Date: 6/3/15.

Accession Number: 20150603–5191.

Comments Due: 5 p.m. ET 6/24/15.

Docket Numbers: ER12–2414–004.

Applicants: New York Independent System Operator, Inc..

Description: Compliance filing per 35: Amendment to compliance filing revision of BSM Rules to be effective 6/22/2012.

Filed Date: 6/3/15.

[1] 15 FERC ¶ 62,339, Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatts or Less (1981).

Accession Number: 20150603–5152.
Comments Due: 5 p.m. ET 6/24/15.

Docket Numbers: ER14–2952–004.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing per 35: 2015–06–03_SSR Cost Allocation Compliance Amendment to be effective 4/3/2014.
Filed Date: 6/3/15.
Accession Number: 20150603–5160.
Comments Due: 5 p.m. ET 6/24/15.

Docket Numbers: ER15–443–001.
Applicants: PacifiCorp.
Description: Compliance filing per 35: NAESB Standards Second Compliance Filing to be effective 5/15/2015.
Filed Date: 6/4/15.
Accession Number: 20150604–5112.
Comments Due: 5 p.m. ET 6/25/15.

Docket Numbers: ER15–1193–001.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing per 35: PJM submits Compliance Filing per 5/5/15 Order in Docket No. ER15–1193 to be effective 5/1/2015.
Filed Date: 6/4/15.
Accession Number: 20150604–5135.
Comments Due: 5 p.m. ET 6/25/15.

Docket Numbers: ER15–1849–000.
Applicants: PJM Interconnection, L.L.C.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Revisions to the OATT, OA and RAA re M&V for CSPs with Residential DR Customers to be effective 8/3/2015.
Filed Date: 6/4/15.
Accession Number: 20150604–5001.
Comments Due: 5 p.m. ET 6/25/15.

Docket Numbers: ER15–1850–000.
Applicants: Chief Conemaugh Power, LLC.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Revisions to Reflect Montour Succession to be effective 6/5/2015.
Filed Date: 6/4/15.
Accession Number: 20150604–5056.
Comments Due: 5 p.m. ET 6/25/15.

Docket Numbers: ER15–1851–000.
Applicants: Chief Keystone Power, LLC.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Revised Reactive Reflecting Montour Name Change to be effective 6/5/2015.
Filed Date: 6/4/15.
Accession Number: 20150604–5057.
Comments Due: 5 p.m. ET 6/25/15.

Docket Numbers: ER15–1852–000.
Applicants: Tucson Electric Power Company.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Amendments to Rate Schedule No. 125 to be effective 11/2/2010.
Filed Date: 6/4/15.
Accession Number: 20150604–5079.
Comments Due: 5 p.m. ET 6/25/15.

Docket Numbers: ER15–1853–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–06–04_SA 2791 Ameren Illinois-FutureGen GIA (J239) to be effective 8/4/2015.
Filed Date: 6/4/15.
Accession Number: 20150604–5107.
Comments Due: 5 p.m. ET 6/25/15.

Docket Numbers: ER15–1854–000.
Applicants: PJM Interconnection, L.L.C.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): First Revised Service Agreement 3417; Queue W3–159 to be effective 5/11/2015.
Filed Date: 6/4/15.
Accession Number: 20150604–5109.
Comments Due: 5 p.m. ET 6/25/15.

Docket Numbers: ER15–1855–000.
Applicants: Louisville Gas and Electric Company.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Benham NITSA SA No. 17 to be effective 6/1/2015.
Filed Date: 6/4/15.
Accession Number: 20150604–5111.
Comments Due: 5 p.m. ET 6/25/15.

Docket Numbers: ER15–1856–000.
Applicants: Montour, LLC.
Description: Compliance filing per 35: Notice of Succession & Certificate of Concurrence—Keystone to be effective 6/4/2015.
Filed Date: 6/4/15.
Accession Number: 20150604–5132.
Comments Due: 5 p.m. ET 6/25/15.

Docket Numbers: ER15–1857–000.
Applicants: Montour, LLC.
Description: Compliance filing per 35: Notice of Succession & Certificate of Concurrence—Conemaugh to be effective 6/4/2015.
Filed Date: 6/4/15.
Accession Number: 20150604–5136.
Comments Due: 5 p.m. ET 6/25/15.

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 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 4, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–14160 Filed 6–9–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0344; FRL–9928–30]

Eastern Research Group, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Eastern Research Group, Inc., in accordance with the CBI regulations. Eastern Research Group, Inc., has been awarded a multiple contract to perform work for OPP, and access to this information will enable Eastern Research Group, Inc., to fulfill the obligations of this contract.

DATES: Eastern Research Group, Inc., will be given access to this information on or before June 15, 2015.

FOR FURTHER INFORMATION CONTACT: Mario Steadman, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–8338; email address: *steadman.mario@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number

EPA–HQ–OPP–2015–0344 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.*

II. Contractor Requirements

Under Contract No. EP–W–15–006, Eastern Research Group, Inc., will provide analytical, technical, and administrative support services for the Office of Civil Enforcement (OCE) other EPA offices, regions, states, U.S. Territories, U.S. international border areas, and other agencies and organizations. The contractor will submit all work products for review and approval to the appropriate personnel at EPA prior to its preparation and issuance in draft or final, in accordance with the terms and conditions of the contract and directions in the work assignment and technical directives. EPA will review all products prepared by the contractor and make all final determinations. The contractor will not make any decision for the Agency nor develop EPA policy. In no event will the contractor provide legal services or offer any legal interpretations under this contract without the prior written approval of EPA, Office of General Counsel (OGC) and the OCE.

This contract involves no subcontractors. OPP has determined that it involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under the contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under FIFRA sections 3, 4, 6, and 7 and under FFDCA sections 408 and 409.

In accordance with the requirements of 40 CFR 2.307(h)(3), this contract with Eastern Research Group, Inc., prohibits use of the information for any purpose not specified; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle information in accordance with the *FIFRA Information Security Manual.* In addition, Eastern Research Group, Inc., is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Eastern Research Group, Inc., until the requirements in this document have been fully satisfied. Records of information provided to Eastern Research Group, Inc., will be maintained by EPA Project Officers. All information supplied to Eastern Research Group, Inc., by EPA for use in connection with the contract will be returned to EPA when Eastern Research Group, Inc., has completed its work.

Authority: 7 U.S.C. 136 *et seq.;* 21 U.S.C. 301 *et seq.*

Dated: May 28, 2015.

Mark A. Hartman,

Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2015–14222 Filed 6–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0317; FRL–9928–01]

Notice of Receipt of Requests for Amendments To Terminate Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of request for amendments by registrants to terminate uses in certain pesticide registrations. FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any request in the **Federal Register**.

DATES: Unless a request is withdrawn by July 10, 2015 for registrations for which the registrant requested a waiver of the 180-day comment period, EPA expects to issue orders terminating these uses. The Agency will consider withdrawal requests postmarked no later than July 10, 2015. Comments must be received on or before July 10, 2015, for those registrations where the 180-day comment period has been waived.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0317, 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. Written Withdrawal Request, ATTN: Information Technology and Resources Management Division (7502P).
- *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: Mark Hartman, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–5440; email address: *hartman.mark@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not

contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

II. What action is the agency taking?

This notice announces receipt by the Agency of applications from registrants to terminate uses in certain pesticide products registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). These registrations are listed in Table 1 of this unit by registration number, product name, active ingredient, and specific uses terminated.

TABLE 1—REQUESTS FOR AMENDMENTS TO TERMINATE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Registration No.	Product name	Active ingredient	Use to be terminated
1021–2782	Clothianidin Technical	Clothianidin	Fruiting Vegetables Crop Grouping (CG8) and Low-Growing Berry except Strawberry (CG13–07H) and retain the existing tolerances.
59639–150	V–10170 2.13SC Insecticide	Clothianidin	Fruiting Vegetables Crop Grouping (CG8) and Low-Growing Berry except Strawberry (CG13–07H) and retain the existing tolerances.
59639–152	Arena 50 WDG Insecticide	Clothianidin	Fruiting Vegetables Crop Grouping (CG8) and Low-Growing Berry except Strawberry (CG13–07H) and retain the existing tolerances.
59639–173	Clothianidin Technical Insecticide.	Clothianidin	Fruiting Vegetables Crop Grouping (CG8) and Low-Growing Berry except Strawberry (CG13–07H) and retain the existing tolerances.
90963–1	Nipacide MX	Chloroxylenol	As a preservative for paints, plastics and plastic coatings, thickeners & adhesives/binders. As a disinfectant, sanitizer, deodorizer or antimicrobial agent for application to hard, non-porous surfaces in residential, health-care, institutional, food-processing and industrial facilities including animal housing facilities, veterinary clinics, farms, livestock, swine and poultry houses. As a biocide in oil and gas exploration including enhanced recovery systems, flood water, fracturing fluids and gels, injection waters, pipelines, holding pond water, disposal well water, tubing, pressure vessels and storage tanks. As a biocide in industrial process water systems.
90963–2	Nipacide CMX	Chloroxylenol	As a preservative for paints, plastics and plastic coatings, thickeners & adhesives/binders. As a disinfectant, sanitizer, deodorizer or antimicrobial agent for application to hard, non-porous surfaces in residential, health-care, institutional, food-processing and industrial facilities including animal housing facilities, veterinary clinics, farms, livestock, swine and poultry houses. As a biocide in oil and gas exploration including enhanced recovery systems, flood water, fracturing fluids and gels, injection waters, pipelines, holding pond water, disposal well water, tubing, pressure vessels and storage tanks. As a biocide in industrial process water systems.

Unless a request is withdrawn by the registrant within 30 days of publication of this notice, EPA expects to issue orders terminating all of these uses. Users of these pesticides or anyone else desiring the retention of a use should contact the applicable registrant directly during this 30-day period.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number.

TABLE 2—REGISTRANTS REQUESTING AMENDMENTS TO TERMINATE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA company number	Company name and address
1021	McLaughlin Gormley King Company, 8810 Tenth Avenue North, Minneapolis, MN 55427–4319.
59639	Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596.
90963	Ortho-Clinical Diagnostics, Inc., Agent Name: Lewis & Harrison, LLC, 122 C Street NW., Suite 505, Washington, DC 20001.

III. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the EPA Administrator may approve such a request.

IV. Procedures for withdrawal of request

Registrants who choose to withdraw a request for use termination must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before July 10, 2015, for the requests that the registrants requested to waive the 180-day comment period. This written withdrawal of the request for use termination will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the products have been subject to a previous use termination action, the effective date of termination and all other provisions of any earlier termination action are controlling.

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 21, 2015.

Mark A. Hartman,

Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2015–14092 Filed 6–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9929–04–OA]

National Environmental Education Advisory Council

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meetings.

SUMMARY: Under the Federal Advisory Committee Act, EPA gives notice of a series of teleconference meetings of the National Environmental Education Advisory Council (NEEAC). The NEEAC was created by Congress to advise, consult with, and make recommendations to the Administrator of the Environmental Protection Agency (EPA) on matters related to activities, functions and policies of EPA under the National Environmental Education Act (the Act). 20 U.S.C. 5508(b).

The purpose of this teleconference(s) is to discuss specific topics of relevance for consideration by the council in order to provide advice and insights to the Agency on environmental education.

DATES: The National Environmental Education Advisory Council will hold a public teleconference on Thursday, June 18th, 2015, from 1:00 p.m. until 2:00 p.m. Eastern Daylight Time.

FOR FURTHER INFORMATION CONTACT: Javier Araujo, Designated Federal Officer, *araujo.javier@epa.gov,* 202–564–2642, U.S. EPA, Office of Environmental Education, William Jefferson Clinton North Room, 1426, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Members of the public wishing to gain access to the teleconference, make brief oral comments, or provide a written statement to the NEEAC must contact Javier Araujo, Designated Federal Officer, at *araujo.javier@epa.gov* or 202–564–2642 by 10 business days prior to each regularly scheduled meeting.

Meeting Access: For information on access or services for individuals with disabilities or to request accommodations, please contact Javier Araujo at *araujo.javier@epa.gov* or 202–564–2642, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 2, 2015.

Sarah Sowell,

Deputy Director, Office of Environmental Education.

Dated: June 2, 2015.

Javier Araujo,

(NEEAC) Designated Federal Officer.

[FR Doc. 2015–14226 Filed 6–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0577; FRL–9928–03]

Diclofop-methyl; Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellation, voluntarily requested by the registrants and accepted by the Agency, of products containing the pesticide listed in Table 1 of Unit II., pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a February 11, 2015 **Federal Register** Notice of Receipt of Request from the registrants listed in Table 1 to voluntarily cancel all these product registrations. These are the last products containing these pesticides registered for use in the United States. In the February 11, 2015 Notice, EPA indicated that it would issue an order implementing the cancellation, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their request within this period. The Agency did not receive any comments on the notice. Further, the registrants did not withdraw their request. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Rich Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8115; email address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0577, 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.*

II. What action is the agency taking?

This notice announces the cancellation, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—DICLOFOP-METHYL PRODUCT CANCELLATIONS

EPA Registration number	Product name
264–641	Hoelon 3EC Herbicide.
264–642	Hoelon Technical.
432–1231	Illoxan 3EC Herbicide.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number.

TABLE 2—REGISTRANTS OF CANCELLED AND/OR AMENDED PRODUCTS

EPA Company number	Company name and address
264	Bayer CropScience.
432	Bayer Environmental Science.

III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the February 11, 2015 **Federal Register** notice announcing the Agency's receipt of the request for voluntary cancellation of products listed in Table 1 of Unit II.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)), EPA hereby approves the requested cancellations of diclofop-methyl registrations identified in Table 1 of Unit II. Accordingly, the Agency orders that the product registrations identified in Table 1 are hereby canceled. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II in a manner inconsistent with any of the Provisions for Disposition of Existing Stocks set forth in Unit VI. will be considered a violation of FIFRA.

V. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request.

VI. Provisions for Disposition of Existing Stocks

EPA's existing stocks policy published in the **Federal Register** of June 26, 1991 (56 FR 29362) (FRL–3846–4) provides that: ''If a registrant requests to voluntarily cancel a registration where the Agency has identified no particular risk concerns, the registrant has complied with all applicable conditions of reregistration, conditional registration, and data call ins, and the registration is not subject to a Registration Standard, Label Improvement Program, or reregistration decision, the Agency will generally permit a registrant to sell or distribute existing stocks for 1-year after the cancellation request was received. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted.''

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The effective date of this cancellation is January 1, 2018. The cancellation order that is the subject of this notice includes the following existing stock provisions:

The registrant may sell and distribute existing stocks of products listed in Table 1 of Unit II. until January 1, 2018. Persons other than the registrant may sell and distribute existing stocks of products listed in Table 1 of Unit II. until exhausted. Use of the products listed in Table 1 of Unit II. may continue until existing stocks are exhausted, provided that such use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 20, 2015.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2015–14220 Filed 6–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL– 9929–02–Region–6]

Public Water System Supervision Program Revision for the State of Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Arkansas is revising its approved Public Water System Supervision (PWSS) program. Arkansas has adopted the Revised Total Coliform Rule (RTCR) by reference under Sections I.B, V.A and VII of the *Arkansas Rules and Regulations Pertaining to Public Water Systems.* EPA has determined that the RTCR primacy application submitted by Arkansas is no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve this PWSS program revision package.

DATES: All interested parties may request a public hearing. A request for a public hearing must be submitted by July 10, 2015 to the Regional Administrator at the EPA Region 6 address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by July 10, 2015, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on July 10, 2015. Any request for a public hearing shall include the following information: The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for

inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Arkansas Department of Health, Engineering Section, 4815 West Markham Street, Little Rock, Arkansas 72205; and United States Environmental Protection Agency, Region 6, Drinking Water Section (6WQ–SD), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202. Copies of the documents which explain the rule can also be obtained at EPA's Web site at *https://www.federalregister.gov/articles/2013/02/13/2012-31205/national-primary-drinking-water-regulations-revisions-to-the-total-coliform-rule* and *https://www.federalregister.gov/articles/2014/02/26/2014-04173/national-primary-drinking-water-regulations-minor-corrections-to-the-revisions-to-the-total-coliform,* or by writing or calling Ms. Evelyn Rosborough at the address below.

FOR FURTHER INFORMATION CONTACT: For further information contact Evelyn Rosborough, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733, telephone (214) 665–7515, facsimile (214) 665–6490, or email: *rosborough.evelyn@epa.gov.*

SUPPLEMENTARY INFORMATION: Authority: Section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations.

Dated: June 2, 2015.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2015–14227 Filed 6–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0021; FRL–9928–22]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients (AI) not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before July 10, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0021 and the File Symbol 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: Jennifer Mclain, Acting Director, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *ADFRNotices@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.*

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

File Symbol: 56228–AN. *Docket ID number:* EPA–HQ–OPP–2015–0319. *Applicant:* U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Policy and Program Development, Environmental and Risk Analysis Services, Unit 149, 4700 River Road, Riverdale, MD 20737. *Product name:* Sodium Nitrite Technical. *Active ingredient:* Rodenticide, Sodium Nitrite at 99%. *Proposed classification/Use:* Manufacturing use. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 1, 2015.

Jennifer Mclain,

Acting Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 2015–14091 Filed 6–9–15; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 2015–0015]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP089004XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-

Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction. Comments received will be made available to the public.

DATES: Comments must be received on or before July 6, 2015 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2015–0015 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2015–0015 on any attached document.

Reference: AP089004XX.

Purpose and Use

Brief Description of the Purpose of the Transaction

A direct loan to a United Kingdom-based company to support the procurement of U.S. rocket launch services and U.S. launch and in-orbit insurance services.

Brief Non-Proprietary Description of the Anticipated Use of the Items Being Exported

The U.S. rocket launch services and U.S. launch and in-orbit insurance services will be used to launch and insure the United Kingdom-based company's communications satellite.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported are not expected to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties

Principal Supplier: Space Exploration Technologies Corp.

Obligor(s): Inmarsat Investments Limited; Inmarsat Global Limited, Inmarsat Leasing (Two) Limited; Inmarsat Ventures Limited; Inmarsat Group Limited; Inmarsat Launch Company Limited; Inmarsat Solutions (Canada) Inc.; Inmarsat Solutions B.V. (Netherlands); and Inmarsat S.A. (Switzerland).

Guarantor(s): Inmarsat Global Limited, Inmarsat Leasing (Two) Limited; Inmarsat Ventures Limited; Inmarsat Group Limited; Europasat Limited, Inmarsat Launch Company Limited; Inmarsat Solutions (Canada) Inc.; Inmarsat Solutions B.V.; and Inmarsat S.A.

Description of Items Being Exported: U.S. rocket launch services and U.S. launch and in-orbit insurance services.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Lloyd Ellis,

Program Specialist, Office of the General Counsel.

[FR Doc. 2015–14152 Filed 6–9–15; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10404, Piedmont Community Bank, Gray, Georgia

NOTICE IS HEREBY GIVEN that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Piedmont Community Bank, Gray, Georgia (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Piedmont Community Bank on October 14, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors. Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 32.1, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: June 4, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015–14105 Filed 6–9–15; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012344.

Title: CMA CGM/WHL PRX Slot Charter Agreement.

Parties: CMA CGM, S.A.; Wan Hai Lines (Singapore) Pte Ltd.; and Wan Hai Lines Ltd.

Filing Party: Draughn B. Arbona, Esq; CMA CGM (America) LLC; 5701 Lake Wright Drive; Norfolk, VA 23502.

Synopsis: The Agreement authorizes CMA to charter slots to Wan Hai in the trade between the U.S. West Coast and China.

Agreement No.: 012345.

Title: CMA CGM/HL Gulf Bridge Express Slot Charter Agreement.

Parties: CMA CGM, S.A.; Hapag-Lloyd AG.

Filing Party: Draughn B. Arbona, Esq; CMA CGM (America) LLC; 5701 Lake Wright Drive; Norfolk, VA 23502.

Synopsis: The Agreement authorizes CMA to charter space to Hapag-Lloyd in the trade between the U.S. Gulf Coast, on the one hand, and Mexico, Jamaica, Colombia and other Latin America and Caribbean countries, on the other hand.

By Order of the Federal Maritime Commission.

Dated: June 5, 2015.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2015–14204 Filed 6–9–15; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SUNSHINE ACT NOTICE BAC 6735–01

June 8, 2015

TIME AND DATE: 10:00 a.m., Thursday, June 18, 2015.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Resolution Copper Mining, LLC,* Docket Nos. WEST 2013–319–RM, *et al.* (Issues include whether the Judge erred by ruling that a particular ''personal conveyance'' was not a ''bucket'' for purposes of the standard limiting the speed at which buckets carrying personnel can be raised or lowered.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2015–14309 Filed 6–8–15; 4:15 pm]

BILLING CODE 6735–01–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), to approve of and assign OMB numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the PRA 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 number.

DATES: Comments must be submitted on or before August 10, 2015.

ADDRESSES: You may submit comments, identified by *Reg E,* 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 3515, 1801 K Street (between 18th and 19th Streets NW.) Washington, DC 20006 between 9:00 a.m. and 5:00 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 Clearance Officer—Nuha Elmaghrabi—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 collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, 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 Report

Report title: Recordkeeping and Disclosure Requirements Associated with the Consumer Financial Protection Bureau's (CFPB) Regulation E (Electronic Fund Transfer Act).

Agency form number: Reg E.

OMB control number: 7100–0200.

Frequency: Event-generated.

Reporters: State member banks, their subsidiaries, subsidiaries of bank holding companies, U.S. 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 (12 U.S.C. 601–604a; 611–631).

Estimated annual reporting hours: Initial disclosures, 6,363 hours; Change-in-terms, 5,769 hours; Periodic statements, 15,960 hours; Error resolution, 15,270 hours; Gift card exclusion policies and procedures, 8,144 hours; Gift card policy and procedures, 8,144 hours; Remittance transfer disclosures (one-time), 122,160 hours; Remittance transfer disclosures (ongoing), 97,728 hours; Error notice from sender (consumers) (ongoing), 61,083 hours; Time limits and extent of investigation (ongoing), 54,972 hours; Transmitter error resolution standards and recordkeeping requirements (one-time), 40,720 hours; Transmitter error resolution standards and recordkeeping requirements (ongoing), 8,144 hours; Acts of agents (one-time), 40,720 hours; Acts of agents (ongoing), 8,144 hours.

Estimated average hours per response: Initial disclosures, 1.5 minutes; Change-in-terms, 1 minute; Periodic statements, 7 hours; Error resolution, 30 minutes; Gift card exclusion policies and procedures, 8 hours; Gift card policy and procedures, 8 hours; Remittance transfer disclosures (one-time), 120 hours; Remittance transfer disclosures (ongoing), 8 hours; Error notice from sender (consumers) (ongoing), 5 minutes; Time limits and extent of investigation (ongoing), 4.5 hours; Transmitter error resolution standards and recordkeeping requirements (one-time), 40 hours; Transmitter error resolution standards and recordkeeping requirements (ongoing), 8 hours; Acts of agents (one-time), 40 hours; Acts of agents (ongoing), 8 hours.

Number of respondents: Initial disclosures, 1,018 respondents; Change-in-terms, 1,018 respondents; Periodic statements, 190 respondents; Error resolution, 1,018 respondents; Gift card exclusion policies and procedures, 1,018 respondents; Gift card policy and procedures, 1,018 respondents; Remittance transfer disclosures (one-time), 1,018 respondents; Remittance transfer disclosures (ongoing), 1,018 respondents; Error notice from sender (consumers) (ongoing), 733,000 respondents; Time limits and extent of investigation (ongoing), 1,018 respondents; Transmitter error resolution standards and recordkeeping requirements (one-time), 1,018 respondents; Transmitter error resolution standards and recordkeeping requirements (ongoing), 1,018 respondents; Acts of agents (one-time), 1,018 respondents; Acts of agents (ongoing), 1,018 respondents.

General description of report: This information collection is mandatory (15 U.S.C. 1693b(a)). The Federal Reserve does not collect any information under the CFPB's Regulation E, so no issue of confidentially arises. However, in the event the Federal Reserve were to obtain this any of the recordkeeping or disclosure documentation during the course of an examination, the information may be protected from disclosure under exemptions 4, 6, or 8 of the Freedom of Information Act (5 U.S.C. 552(b)(4), (6), & (8)).

Abstract: The Electronic Funds Transfer Act (EFTA) ensures adequate disclosure of basic terms, costs, and rights relating to electronic fund transfer (EFT) services debiting or crediting a consumer's account. The disclosures required by the EFTA are triggered by certain specified events. The disclosures inform consumers about the terms of the electronic fund transfer service, activity on the account, potential liability for unauthorized transfers, and the process for resolving errors. To ease institutions' burden and cost of complying with the disclosure requirements of Regulation E (particularly for small entities), Regulation E includes model forms and disclosure clauses.

Regulation E applies to all financial institutions. In addition, certain provisions in Regulation E apply to entities that are not financial institutions, including those that act as service providers or automated teller machine (ATM) operators, merchants and other payees that engage in electronic check conversion (ECK) transactions, the electronic collection of returned item fees, or preauthorized transfers, issuers and sellers of gift cards and gift certificates, and remittance transfer providers.

Board of Governors of the Federal Reserve System, June 4, 2015.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2015–14113 Filed 6–9–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Evaluating Innovative and Promising Strategies to prevent Suicide among Middle-Aged Men, Funding Opportunity Announcement (FOA), RFA–CE–15–004, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date:

12:00 p.m.–5:00 p.m., EDT, June 30, 2015 (CLOSED)

Place: Teleconference

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Evaluating Innovative and Promising Strategies to prevent Suicide among Middle-Aged Men, RFA–CE–15–004. This meeting is being reconvened to review two applications that were not reviewed during the initial meeting on June 2, 2015.

Contact Person for More Information: Gwendolyn Cattledge, Ph.D., M.S.E.H., Scientific Review Officer, CDC, 4770 Buford Hwy. NE., Mailstop E63, Atlanta, Georgia 30341–3724, Telephone: 770–488–4655.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2015–14087 Filed 6–9–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; Computer Matching Agreement

AGENCY: Office of Child Support Enforcement (OCSE), ACF, HHS.

ACTION: Notice of a Computer Matching Program.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 522a), as amended, OCSE is publishing notice of a computer matching program between OCSE and state agencies administering the Unemployment Compensation program.

DATES: On June 2, 2015, the U.S. Department of Health and Human Services (HHS) sent a report of a Computer Matching Program to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB), as required by 5 U.S.C. 552a(r) of the Privacy Act. HHS invites interested parties to review and submit written data, comments or arguments to the agency about the matching program until July 10, 2015.

ADDRESSES: Interested parties may submit written comment on this notice to Linda Deimeke, Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade SW., 4th Floor East, Washington, DC 20447. Comments received will be available for public inspection at this address from 9:00 a.m. to 5:00 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Linda Deimeke, Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade SW., 4th Floor East, Washington, DC 20447, 202–401–5439.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (5 U.S.C. 552a), as amended, provides for certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records are matched with other federal, state, or local government records. The Privacy Act requires agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agency or agencies participating in the matching programs.
2. Provide notification to applicants and beneficiaries that their records are subject to matching.
3. Verify information produced by such matching program before reducing, making a final denial of, suspending, or terminating an individual's benefits or payments.
4. Publish notice of the computer matching program in the **Federal Register**.
5. Furnish reports about the matching program to Congress and OMB.
6. Obtain the approval of the matching agreement by the Data Integrity Board of any federal agency participating in a matching program.

This matching program meets these requirements.

Dated: June 5, 2015.

Donna Bonar,

Deputy Commissioner, Office of Child Support Enforcement.

Notice of New Computer Matching Program

A. PARTICIPATING AGENCIES:

The participating agencies are the Office of Child Support Enforcement (OCSE), which is the ''source agency,'' and state agencies administering the Unemployment Compensation (UC) program, which are the ''non-federal agencies.''

B. PURPOSE OF THE MATCHING PROGRAM:

The primary purpose of the matching program is to provide new hire and quarterly wage information from OCSE's National Directory of New Hires (NDNH) to state agencies administering UC programs to assist in establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, or recipients of, UC benefits. The state agencies administering the UC programs may also use the NDNH information for the secondary purpose of administration of its tax compliance function.

C. AUTHORITY FOR CONDUCTING THE MATCH:

The authority for conducting the matching program is contained in Section 453(j)(8) of the Social Security Act. (42 U.S.C. 653(j)(8)).

D. CATEGORIES OF INDIVIDUALS INVOLVED AND IDENTIFICATION OF RECORDS USED IN THE MATCHING PROGRAM:

The categories of individuals involved in the matching program are individuals who receive or have applied for UC benefits. The system of records maintained by OCSE from which records will be disclosed for the purpose of this matching program is the ''OCSE National Directory of New Hires,'' No. 09–80–0381, last published in the **Federal Register** at 80 FR 17906 on April 2, 2015. The NDNH contains new hire, quarterly wage, and unemployment insurance information. The disclosure of NDNH information by OCSE to the state agencies administering UC programs is a ''routine use'' under this system of records. Records resulting from the matching program and disclosed to the state agencies administering UC programs include names, Social Security numbers, home addresses, and employment information.

E. INCLUSIVE DATES OF THE MATCHING PROGRAM:

The computer matching agreement will be effective and matching activity may commence the later of the following:

(1) 30 days after this Notice is published in the **Federal Register**, or (2) 40 days after OCSE sends a report of the matching program to the Congressional committees of jurisdiction under 5 U.S.C. 552a(o)(2)(A), and to OMB, unless OMB disapproves the agreement within the 40-day review period or grants a waiver of 10 days of the 40-day review period. The matching agreement will remain in effect for 18 months from its effective date, unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement. The agreement is subject to renewal by the HHS Data Integrity Board for 12 additional months if the matching program will be conducted without any change and OCSE and the state agency certify to the Data Integrity Board in writing that the program has been conducted in compliance with the agreement.

[FR Doc. 2015–14200 Filed 6–9–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; Computer Matching Agreement

AGENCY: Office of Child Support Enforcement (OCSE), ACF, HHS.

ACTION: Notice of a Computer Matching Program.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 522a), as amended, OCSE is publishing notice of a computer matching program between OCSE and state agencies administering the Temporary Assistance for Needy Families (TANF) program.

DATES: On June 2, 2015, the U.S. Department of Health and Human Services (HHS) sent a report of a Computer Matching Program to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB), as required by 5 U.S.C 552a(r) of the Privacy Act. HHS invites interested parties to review and submit written data, comments, or arguments to the

agency about the matching program until July 10, 2015.

ADDRESSES: Interested parties may submit written comment on this notice to Linda Deimeke, Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade SW., 4th Floor East, Washington, DC 20447. Comments received will be available for public inspection at this address from 9:00 a.m. to 5:00 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Linda Deimeke, Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade SW., 4th Floor East, Washington, DC 20447, 202–401–5439.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (5 U.S.C. 552a), as amended, provides for certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records are matched with other federal, state, or local government records. The Privacy Act requires agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agency or agencies participating in the matching programs.
2. Provide notification to applicants and beneficiaries that their records are subject to matching.
3. Verify information produced by such matching program before reducing, making a final denial of, suspending, or terminating an individual's benefits or payments.
4. Publish notice of the computer matching program in the **Federal Register**.
5. Furnish reports about the matching program to Congress and the OMB.
6. Obtain the approval of the matching agreement by the Data Integrity Board of any federal agency participating in a matching program.

This matching program meets these requirements.

Dated: June 2, 2015.

Vicki Turetsky,

Commissioner, Office of Child Support Enforcement.

Notice of New Computer Matching Program

A. PARTICIPATING AGENCIES

The participating agencies are the Office of Child Support Enforcement (OCSE), which is the ''source agency,'' and state agencies administering the Temporary Assistance to Needy Families (TANF) program, which are the ''non-federal agencies.''

B. PURPOSE OF THE MATCHING PROGRAM

The primary purpose of the matching program is to provide new hire, quarterly wage, and unemployment insurance information from OCSE's National Directory of New Hires (NDNH) to state agencies administering TANF to verify the eligibility of adult TANF recipients and applicants and, if ineligible, to take such action as may be authorized by law and regulation. The state agencies administering TANF may also use the NDNH information for the secondary purpose of updating the applicants and recipients' reported participation in work activities and updating contact information maintained by the state agencies administering TANF.

C. AUTHORITY FOR CONDUCTING THE MATCH

The authority for conducting the matching program is contained in section 453(j)(3) of the Social Security Act. 42 U.S.C. 653(j)(3).

D. CATEGORIES OF INDIVIDUALS INVOLVED AND IDENTIFICATION OF RECORDS USED IN THE MATCHING PROGRAM

The categories of individuals involved in the matching program are adult members of households that receive or have applied for TANF benefits. The system of records maintained by OCSE from which records will be disclosed for the purpose of this matching program is the ''OCSE National Directory of New Hires'' (NDNH), No. 09–80–0381, last published in the **Federal Register** at 80 FR 17906 on April 2, 2015. The NDNH contains new hire, quarterly wage, and unemployment insurance information. The disclosure of NDNH information by OCSE to the state agencies administering TANF is a ''routine use'' under this system of records. Records resulting from the matching program and are disclosed to state agencies administering TANF include names, Social Security numbers, home addresses, and employment information.

E. INCLUSIVE DATES OF THE MATCHING PROGRAM

The computer matching agreement will be effective and matching activity may commence the later of the following:

30 days after this notice is published in the **Federal Register**, or (2) 40 days after OCSE sends a report of the matching program to the Congressional committees of jurisdiction under 5 U.S.C. 552a(o)(2)(A); and to OMB, unless OMB disapproves the agreement within the 40-day review period or grants a waiver within 10 days of the 40-day review period. The matching agreement will remain in effect for 18 months from its effective date, unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement. The agreement is subject to renewal by the HHS Data Integrity Board for 12 additional months if the matching program will be conducted without any change and OCSE and the state agency certify to the Data Integrity Board in writing that the program has been conducted in compliance with the agreement.

[FR Doc. 2015–14199 Filed 6–9–15; 8:45 am]

BILLING CODE 4184–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: National Youth in Transition Database and Youth Outcome Survey.

OMB No.: 0970–0340.

Description: The Foster Care Independence Act of 1999 (42 U.S.C. 1305 *et seq.*) as amended by Public Law 106–169 requires State child welfare agencies to collect and report to the Administration on Children and Families (ACF) data on the characteristics of youth receiving independent living services and information regarding their outcomes. The regulation implementing the National Youth in Transition Database, listed in 45 CFR 1356.80, contains standard data collection and reporting requirements for States to meet the law's requirements. ACF will use the information collected under the regulation to track independent living services, assess the collective outcomes of youth, and potentially to evaluate State performance with regard to those outcomes consistent with the law's mandate.

Respondents: State agencies that administer the John H. Chafee Foster Care Independence Program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Youth Outcome Survey	20,667	1	0.5	10,334
Data File	52	2	1,368	142,272

Estimated Total Annual Burden Hours: 152,606.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–14140 Filed 6–9–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB No.: 0970–0414]

Proposed Information Collection Activity; Comment Request

Title: Assets for Independence (AFI) Program Evaluation.

Description: The U.S. Department of Health and Human Services, Administration for Children and Families (ACF) is proposing a data collection activity as part of an experimental evaluation of the Assets for Independence (AFI) Program. The purpose of this study is to assess the impact of participation in AFI-funded individual development account (IDA) projects on the savings, asset purchases, and economic well-being of low-income individuals and families. The primary research question is: What is the impact of AFI project participation on outcomes such as savings, asset purchases, and material hardship?

While some evaluations suggest that IDAs help low-income families save, rigorous experimental research is limited. Few studies have focused on AFI-funded IDAs, and few have tested alternative design features.

The Assets for Independence Evaluation is the first experimental evaluation of IDA projects operating under the Assets for Independence Act, and will contribute importantly to understanding the effects of IDA project participation on project participants. The evaluation was launched in fall 2011 in two sites, with the random assignment of AFI-eligible cases to program and control groups. OMB approved three data collection efforts related to this project in October 2012, including approval of a baseline survey, 12-month follow-up survey, and implementation study protocols.

This **Federal Register** Notice provides the opportunity to comment on a proposed new information collection activity: the AFI Evaluation second follow-up survey (at 36 months post-random assignment) of both treatment and control group members. The purpose of the AFI Evaluation 36-month follow-up survey is to follow-up with study participants to document their intermediate savings and savings patterns, asset purchases, and other economic outcomes. The evaluation consists of both an impact study and an implementation study. Data collection activities will span a three-year period.

Data collection activities to submit in a future information collection request include a third follow-up survey for AFI Evaluation study participants approximately 60 months after study enrollment.

Respondents: Individuals enrolled in AFI programs, individuals who have left AFI programs, and control group members.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Follow-Up Survey: AFI-eligible participants	814	271	1	0.5	136

Estimated Total Annual Burden Hours: 136.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address:

OPREinfocollection@acf.hhs.gov. All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

ACF Reports Clearance Officer.

[FR Doc. 2015–14117 Filed 6–9–15; 8:45 am]

BILLING CODE 4184–26–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.568]

The Low-Income Home Energy Assistance Program Announces the State Median Income Estimates for Federal Fiscal Year 2016

AGENCY: Office of Community Services, ACF, HHS.

ACTION: The Administration for Children and Families (ACF), Office of Community Services (OCS), announces the State Median Income Estimates for a Four-Person Household for the Federal Fiscal Year (FFY) 2016 State Median Income Estimates for Use in the Low Income Home Energy Assistance Program (LIHEAP).

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS), Division of Energy Assistance (DEA) announces the estimated median income of four-person households in each state, the District of Columbia, and Puerto Rico for FFY 2016 (October 1, 2015, to September 30, 2016).

DATES: These estimates become effective at any time between the date of this publication and the later of (1) October 1, 2015; or (2) the beginning of a grantee's fiscal year.

FOR FURTHER INFORMATION CONTACT: Peter Edelman, Program Analyst, Office of Community Services, 5th Floor West, 370 L'Enfant Promenade SW., Washington, DC 20447. Telephone: 202–401–5292; Email: *peter.edelman@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: This notice announces to grantees of the Low Income Home Energy Assistance Program (LIHEAP) the estimated median income of four-person households in each state, the District of Columbia, and Puerto Rico for FFY 2016 (October 1, 2015, to September 30, 2016). LIHEAP grantees that choose to base their income eligibility criteria on these state median income (SMI) estimates may adopt these estimates (up to 60 percent) on their date of publication in the **Federal Register** or on a later date as discussed in the **DATES** section. This enables grantees to implement this notice during the period between the heating and cooling seasons. However, by October 1, 2015, or the beginning of the grantee's fiscal year, whichever is later, such grantees must adjust their income eligibility criteria so that they are in accord with the FFY 2016 SMI.

Sixty percent of SMI for each LIHEAP grantee, as annually established by the Secretary of Health and Human Services, is one of the income criteria that LIHEAP grantees may use in determining a household's income eligibility for LIHEAP. The last time LIHEAP was authorized was by the Energy Policy Act of 2005, Public Law 109–58, which was enacted on August 8, 2005. This authorization expired on September 30, 2007, and reauthorization remains pending.

The SMI estimates in this notice are 3-year estimates derived from the American Community Survey (ACS) conducted by the U.S. Census Bureau, U.S. Department of Commerce (Census Bureau).

For additional information about the ACS state median income estimates, including the definition of income and the derivation of medians see *http://www.census.gov/acs/www/Downloads/data_documentation/SubjectDefinitions/2013_ACSSubjectDefinitions.pdf* under ''Income in the Past 12 Months.'' For additional information about using the ACS 3-year estimates versus using the 1-year or 5-year estimates, see *http://www.census.gov/acs/www/guidance_for_data_users/estimates/.* For additional information about the ACS in general, see *http://www.census.gov/acs/www/* or contact the Census Bureau's Social, Economic, and Housing Statistics Division at (301) 763–3243.

These SMI estimates, like those derived from any survey, are subject to two types of errors: (1) Non-sampling Error, which consists of random errors that increase the variability of the data and non-random errors that consistently shift the data in a specific direction; and (2) Sampling Error, which consists of the error that arises from the use of probability sampling to create the sample. For additional information about the accuracy of the ACS SMI estimates, see *http://www.census.gov/acs/www/Downloads/data_documentation/Accuracy/MultiyearACSAccuracyofData2013.pdf.*

In the state-by-state listing of SMI and 60 percent of SMI for a four-person family for FFY 2016, LIHEAP grantees must regard ''family'' to be the equivalent of ''household'' with regards to setting their income eligibility criteria. This listing describes the method for adjusting SMI for households of different sizes, as specified in regulations applicable to LIHEAP (45 CFR 96.85(b)). These regulations were published in the **Federal Register** on March 3, 1988, (53 FR 6827) and amended on October 15, 1999 (64 FR 55858).

ESTIMATED STATE MEDIAN INCOME FOR FOUR-PERSON FAMILIES, BY STATE, FOR FEDERAL FISCAL YEAR (FFY) 2016, FOR USE IN THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

States	Estimated state median income for four-person families [1]	60 percent of estimated state median income for four-person families [2 3]
Alabama	$66,253	$39,752
Alaska	90,307	54,184
Arizona	65,138	39,083
Arkansas	58,262	34,957
California	77,106	46,264
Colorado	85,915	51,549
Connecticut	106,193	63,716

ESTIMATED STATE MEDIAN INCOME FOR FOUR-PERSON FAMILIES, BY STATE, FOR FEDERAL FISCAL YEAR (FFY) 2016, FOR USE IN THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)—Continued

States	Estimated state median income for four-person families [1]	60 percent of estimated state median income for four-person families [2 3]
Delaware	85,925	51,555
District of Columbia	83,794	50,276
Florida	65,764	39,458
Georgia	68,448	41,069
Hawaii	86,495	51,897
Idaho	62,002	37,201
Illinois	82,918	49,751
Indiana	72,299	43,379
Iowa	79,300	47,580
Kansas	75,709	45,425
Kentucky	69,239	41,543
Louisiana	71,516	42,910
Maine	76,455	45,873
Maryland	107,438	64,463
Massachusetts	106,173	63,704
Michigan	75,711	45,427
Minnesota	92,111	55,267
Mississippi	57,024	34,214
Missouri	72,647	43,588
Montana	68,720	41,232
Nebraska	77,165	46,299
Nevada	66,461	39,877
New Hampshire	98,638	59,183
New Jersey	105,700	63,420
New Mexico	60,534	36,320
New York	86,316	51,790
North Carolina	67,706	40,624
North Dakota	88,725	53,235
Ohio	76,875	46,125
Oklahoma	64,907	38,944
Oregon	70,295	42,177
Pennsylvania	83,730	50,238
Rhode Island	89,353	53,612
South Carolina	63,706	38,224
South Dakota	74,498	44,699
Tennessee	66,060	39,636
Texas	69,517	41,710
Utah	70,740	42,444
Vermont	82,781	49,669
Virginia	92,379	55,427
Washington	85,013	51,008
West Virginia	67,613	40,568
Wisconsin	82,053	49,232
Wyoming	79,777	47,866
Puerto Rico	29,188	17,513

[1] These figures were prepared by the U.S. Census Bureau, U.S. Department of Commerce (Census Bureau), from 3-year estimates from the 2011, 2012, and 2013 American Community Surveys (ACSs). These estimates, like those derived from any survey, are subject to two types of error: (1) Non-sampling Error, which consists of random errors that increase the variability of the data and non-random errors that consistently direct the data in a specific direction; and (2) Sampling Error, which consists of the error that arises from the use of probability sampling to create the sample.

[2] These figures were calculated by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Energy Assistance by multiplying the estimated state median income for a four-person family for each state by 60 percent.

[3] To adjust for different sizes of households for LIHEAP purposes, 45 CFR 96.85 calls for multiplying 60 percent of a state's estimated median income for a four-person family by the following percentages: 52 percent for a one-person household, 68 percent for a two-person household, 84 percent for a three-person household, 100 percent for a four-person household, 116 percent for a five-person household, and 132 percent for a six-person household. For each additional household member above six people, 45 CFR 96.85 calls for adding 3 percentage points to the percentage for a six-person household (132 percent) and multiplying the new percentage by 60 percent of the median income for a four-person family.

Note: FFY 2016 covers the period of October 1, 2015, through September 30, 2016. The estimated median income for four-person families living in the United States for this period is $77,507. Grantees that use SMI for LIHEAP may, at their option, employ such estimates at any time between the date of this publication and the later of October 1, 2015 or the beginning of their fiscal year.

Statutory Authority: 45 CFR 96.85(b) and 42 U.S.C. 8624(b)(2)(B)(ii).

Jeannie L. Chaffin,

Director, Office of Community Services.

[FR Doc. 2015–14187 Filed 6–9–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Low Income Home Energy Assistance Program (LIHEAP) Carryover and Reallotment Report.

OMB No.: 0970–0106.

Description: The LIHEAP statute and regulations require LIHEAP grantees to report certain information to HHS concerning funds forwarded and funds

subject to reallotment. The 1994 reauthorization of the LIHEAP statute, the Human Service Amendments of 1994 (Pub. L. 103–252), requires that the Carryover and Reallotment Report for one fiscal year be submitted to HHS via the On-Line Data Collection (OLDC) system by the grantee before the allotment for the next fiscal year may be awarded.

The Administration for Children and Families is requesting no changes in the electronic collection of data with the Carryover and Reallotment Report, and the Simplified Instructions for Timely Obligations of LIHEAP Funds and Reporting Funds for Carryover and Reallotment. The form clarifies the information being requested and ensures the submission of all the required information. The form facilitates our response to numerous queries each year concerning the amounts of obligated funds. Use of the form is voluntary. Grantees have the option to use another format.

Respondents: State Governments, Tribal Governments, Insular Areas, the District of Columbia, and the Commonwealth of Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Carryover and Reallotment Report	216	1	3	648

Estimated Total Annual Burden Hours: 648

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2015–14149 Filed 6–9–15; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Community Living

Proposed Information Collection Activity; Comment Request; State Developmental Disabilities Council—Annual Program Performance Report (PPR)

AGENCY: Administration for Community Living, Administration on Intellectual and Developmental Disabilities, HHS.

ACTION: Notice.

SUMMARY: A Plan developed by the State Council on Developmental Disabilities is required by federal statute. Each State Council on Developmental Disabilities must develop the plan, provide for public comments in the State, provide for approval by the State's Governor, and finally submit the plan on a five-year basis. On an annual basis, the Council must submit a Program Performance Report (PPR) to described the extent to which annual progress is being achieved on the 5 year state plan goals. The PPR will be used by (1) the Council as a planning document to track progress made in meeting state plan goals; (2) the citizenry of the State as a mechanism for monitoring progress and activities on the plans of the Council; (3) the Department as a stewardship tool, for ensuring compliance with the Developmental Disabilities Assistance and Bill of Rights Act, as one basis for monitoring and providing technical assistance (*e.g.,* during site visits), and as a support for management decision making.

DATES: Submit written comments on the collection of information by August 10, 2015.

ADDRESSES: Submit written comments on the collection of information by email to: *allison.cruz@acl.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Allison Cruz, Administration on Community Living, Administration on Intellectual and Developmental Disabilities, Office of Program Support, One Massachusetts Avenue NW., Room 4306, Washington, DC 20201, 202–357–3439.

SUPPLEMENTARY INFORMATION: In compliance with the requirements of section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration on Community Living is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to: Allison Cruz, Administration on Community Living, Administration on Intellectual and Developmental Disabilities, Office of Program, One Massachusetts Avenue NW., Room 4306, Washington, DC 20201.

The Department specifically requests comments on: (a) Whether the proposed Collection of information is necessary for the proper performance of the function 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 collection of information; (c) the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden information to be collected; and (e) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection technique comments and or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Respondents

56 State Developmental Disabilities Councils.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Developmental Disabilities Program Performance Report (PPR)	56	1	138	7,728
Estimated Total Annual Burden Hours:				7,728

Dated: June 3, 2015.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2015–14051 Filed 6–9–15; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–1884]

Duchenne Muscular Dystrophy and Related Dystrophinopathies: Developing Drugs for Treatment; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Duchenne Muscular Dystrophy and Related Dystrophinopathies: Developing Drugs for Treatment.'' The purpose of this draft guidance is to assist sponsors in the clinical development of drugs for the treatment of X-linked Duchenne muscular dystrophy (DMD) and related dystrophinopathies.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by August 10, 2015.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Colleen Locicero, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4242, Silver Spring, MD 20993–0002, 301–796–1114.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Duchenne Muscular Dystrophy and Related Dystrophinopathies: Developing Drugs for Treatment.''

DMD and other dystrophinopathies result from genetic mutations in the dystrophin gene that decrease levels of dystrophin and/or cause dysfunction of the dystrophin protein, leading to muscle degeneration, including cardiac and respiratory muscles, and greatly decreased life expectancy. There remains a high level unmet medical need for effective drug treatments for DMD and other dystrophinopathies. This draft guidance addresses FDA's current thinking regarding the clinical development program and clinical trial designs for drugs to support an indication for the treatment of dystrophinopathies. Development of this draft guidance was greatly facilitated by the efforts of Parent Project Muscular Dystrophy to coordinate a consortium of stakeholders including patients, parents and caregivers, clinicians, academic experts, and industry representatives in producing a proposed draft guidance with extensive background information about DMD. That stakeholder proposal was submitted to FDA and made available for comment through a **Federal Register** notice seeking public comment. The comments received were also considered in writing this draft guidance.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on developing drugs for the treatment of DMD. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 312 and 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: June 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–14100 Filed 6–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–1663]

Determination That Ondansetron (Ondansetron Hydrochloride) Injection, USP in PL 2408 Plastic Container, 32 Milligrams in 50 Milliliters, Was Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that Ondansetron (ondansetron hydrochloride (HCl)) Injection, USP in PL 2408 Plastic Container, 32 milligrams (mg) in 50 milliliters (mL), single intravenous (IV) dose, was withdrawn from sale for reasons of safety or effectiveness. The Agency will not accept or approve abbreviated new drug applications (ANDAs) for Ondansetron (ondansetron HCl) Injection, USP in PL 2408 Plastic Container, 32 mg/50 mL, single IV dose.

FOR FURTHER INFORMATION CONTACT: Emily Helms Williams, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6280, Silver Spring, MD 20993–0002, 301–796–3381.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show among other things that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale but must be made prior to approving an ANDA that refers to the listed drug (21 CFR 314.161). FDA may not approve an ANDA that does not refer to a listed drug.

Ondansetron (ondansetron HCl) Injection, USP in PL 2408 Plastic Container, 32 mg/50 mL, single IV dose, is the subject of NDA 021915, held by Baxter Healthcare Corporation (Baxter), and initially approved on December 27, 2006. The product is indicated for prevention of nausea and vomiting associated with initial and repeat courses of emetogenic cancer chemotherapy in adult patients. It was approved under the pathway described by section 505(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(2)). Baxter's application relied in part on FDA's finding of safety and effectiveness for ZOFRAN, NDA 020007, held by GlaxoSmithKline (GSK).

In September 2011, FDA issued a Drug Safety Communication noting concerns that the 32 mg single IV dose of ZOFRAN, NDA 020007, and generic versions of that product could increase the risk of abnormal changes in the electrical activity of the heart, which could result in a potentially fatal abnormal heart rhythm. Specifically, the Agency noted that the 32 mg single IV dose of ondansetron could cause QT prolongation, which can lead to a serious and sometimes fatal heart rhythm called Torsades de Pointes. At FDA's request, GSK conducted a study to assess that risk. That study identified a significant QT prolongation effect in connection with the 32 mg single IV dose of Ondansetron. Based on this data, FDA approved GSK's supplemental application to remove the 32 mg single IV dose information from the labeling for ZOFRAN and has worked with manufacturers of all 32 mg, single IV dose ondansetron products to have them removed from the market.

In a letter dated September 5, 2012, Baxter notified FDA that Ondansetron (ondansetron HCl) Injection, USP in PL 2408 Plastic Container, 32 mg/50 mL, single IV dose, was being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book. In a letter dated November 27, 2012, Baxter requested withdrawal of NDA 021915 for Ondansetron (ondansetron HCl) Injection, USP in PL 2408 Plastic Container, 32 mg/50 mL, single IV dose. In a contemporaneous notice, FDA is announcing that it is withdrawing approval of NDA 021915.

We have carefully reviewed our files for records concerning the withdrawal of Ondansetron (ondansetron HCl) Injection, USP in PL 2408 Plastic Container, 32 mg/50 mL, single IV dose, from sale. We have also evaluated relevant literature and data. FDA has determined under §§ 314.161 and 314.162(a)(2), that Ondansetron (ondansetron HCl) Injection, USP in PL 2408 Plastic Container, 32 mg/50 mL, single IV dose, was withdrawn from sale for reasons of safety.

Accordingly, the Agency will remove Ondansetron (ondansetron HCl) Injection, USP in PL 2408 Plastic Container, 32 mg/50 mL, single IV dose, from the list of drug products published in the Orange Book. FDA will not accept or approve ANDAs that refer to this drug product.

Dated: June 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–14145 Filed 6–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0554]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval Comparative Price Information in Direct-to-Consumer and Professional Prescription Drug Advertisements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Comparative Price Information in Direct-to-Consumer and Professional Prescription Drug Advertisements'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver

Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On April 23, 2015, the Agency submitted a proposed collection of information entitled, ''Comparative Price Information in Direct-to-Consumer and Professional Prescription Drug Advertisements'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0791. The approval expires on May 31, 2018. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: June 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–14122 Filed 6–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0684]

Identification of Alternative In Vitro Bioequivalence Pathways Which Can Reliably Ensure In Vivo Bioequivalence of Product Performance and Quality of Non-Systemically Absorbed Drug Products for Animals; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Request for comments; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period related to the use of in vitro methods as a mechanism for assessing the in vivo product bioequivalence (BE) of nonsystemically absorbed drug products intended for use in veterinary species, published in the **Federal Register** of March 18, 2015 (80 FR 14146). FDA is reopening the comment period to update comments and to receive any new information.

DATES: Submit either electronic or written comments by August 10, 2015.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: John Harshman, Center for Veterinary Medicine, Food and Drug Administration, HFV–170, MPN2, 7500 Standish Pl., Rockville, MD 20855, 240–402–0845.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 18, 2015 (80 FR 14146), FDA announced a public meeting to discuss the use of in vitro methods as a mechanism for assessing the in vivo product bioequivalence (BE) of nonsystemically absorbed drug products intended for use in veterinary species. In the same notice, FDA said that it is seeking additional public comment to the docket. Interested persons were originally given until May 18, 2015, to comment on this issue.

II. Request for Comments

Following publication of the March 18, 2015, notification of public meeting and request for comments, FDA received a request to allow interested persons additional time to comment. The requester asserted that the time period of 60 days was insufficient to respond fully to FDA's specific requests for comments and to allow potential respondents to thoroughly evaluate and address pertinent issues.

III. How To Submit Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: June 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–14101 Filed 6–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1533]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Establishment of a Tobacco User Panel

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 10, 2015.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–NEW and title ''Establishment of a Tobacco User Panel''. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Establishment of a Tobacco User Panel—(OMB Control Number 0910–NEW)

The Food and Drug Administration's Center for Tobacco Products (CTP) proposes to establish a high quality, probability-based, primarily Web-based, panel of 4,000 tobacco users. The panel will include individuals who can participate in up to 8 studies over a 3-year period to assess consumers' responses to tobacco marketing, warning statements, product labels, and other communications about tobacco products. CTP proposed the establishment of the panel of consumers

because currently existing Web-based panels have a number of significant limitations.

First, most existing consumer panels are drawn from convenience samples that limit the generalizability of study findings (Ref. 1). Second, although at least two probability-based panels of consumers exist in the United States, there is a concern that responses to the studies using tobacco users in these panels may be biased due to panel conditioning effects (Refs. 2 and 3). That is, consumers in these panels complete surveys so frequently that their responses may not adequately represent the population as a whole. Panel conditioning has been associated with repeated measurement on the same topic (Ref. 4), panel tenure (Ref. 2), and frequency of the survey request (Ref. 3). This issue is of particular concern for tobacco users who represent a minority of the members in the panels, and so may be more likely to be selected for participation in experiments and/or surveys related to tobacco products. Third, a key benefit of the Web panel approach is that the surveys can include multimedia, such as images of tobacco product packages, tobacco advertising, new and existing warning statements and labels, and potential reduced harm claims in the form of labels and print advertisements. Establishing a primarily Web-based panel of tobacco users through in-person probability-based recruitment of eligible adults and limiting the number of times individuals participate in tobacco-related studies will result in nationally representative and unbiased data collection on matters of importance for FDA.

With this submission, FDA seeks approval from OMB to establish the Tobacco User Panel, a nationally representative, primarily Web-based panel of 4,000 current tobacco users. Data collection activities will involve pilot testing of panel recruitment and management procedures and systems, mail and in-person household screening, in-person recruitment of tobacco users, enrollment of selected household members, administration of a baseline survey, and panel maintenance surveys, following all required informed consent procedures for panel members. Once the panel is established, panel members will be asked to participate in up to eight experimental and observational studies over the 3-year panel commitment period. The first of these studies (Study 1) is included in this information collection request; approval for the remainder of the studies will appear in future requests. The current request also seeks approval to conduct up to two rounds of cognitive testing of new survey items and up to two focus groups to further refine study protocols, as needed. With this clearance, study investigators will be able to use the OMB approved data collection methods where appropriate to plan and implement the national panel.

The overall purpose of the proposed data collection is to collect information from a representative sample of tobacco users to provide data that may be used to develop and support FDA's policies related to tobacco products, including their labels, labeling, and advertising. Data will be collected from the panel primarily through the use of randomized experimental designs, however, there may be data collected through the use of other methods, such as surveys, interviews, or online group discussions. Given the limitations on the existing Web-based panels, it is important to develop a new panel of tobacco users that balances the need to conduct experiments while limiting the number of tobacco-related studies per year so as to not bias study results.

FDA estimates the burden of this collection of information as follows:

In the **Federal Register** of October 16, 2014 (79 FR 62160), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received three comments, however only two were PRA related. Within those submissions, FDA received multiple comments which the Agency has addressed.

(Comment) One comment asked FDA for the opportunity to review the data collection plans and instruments including the sample design, data collection methodology, and panel performance evaluation plan.

(Response) All the instruments and background documents including our plan for evaluating panel performance have been uploaded to the docket for easy access. The documents included are the data collection plans and methodology (Supporting Statement Part A), copies of the survey instruments used to screen and recruit panel members, as well as the first experimental or observation study (Study 1), and the proposed sample design (Supporting Statement Part B).

(Comment) One comment asked FDA to provide additional details about the proposed sample design and FDA's approach to issues such as nonresponse of subjects and conditioning effects.

(Response) The proposed sample design is described in detail in Supporting Statement, Part B. Briefly, we propose a multi-stage area sample based on an address-based sampling frame. The probabilities (single, joint, and the overall selection probability) will be measurable at each stage.

The issues of non-response and conditioning effects are real challenges but they should be considered separately from the sample design. These are issues faced in the field once the sample has been selected and contacted. We have proposed several strategies for reducing non-response in the recruitment of panel members, the primary one being in-person recruitment which we believe will lead to significantly larger recruitment rates than we would achieve if we contacted sample members via mail, telephone, or web. We will describe our plans to reduce the non-response bias in future individual studies as part of the OMB submissions for these studies. We consider the issue of conditioning effects as part of our overall panel management plan, which is described in Supporting Statement, Part A.

(Comment) One comment stated that FDA suggests that not every panelist will be eligible to participate in every study to minimize the potential for ''conditioning'' effects. However, this approach to participation is inconsistent with the requirement that every individual in the population has a non-zero probability of being in the sample. FDA will need to make trade-offs to balance these two interests. FDA could consider drawing data from similar respondents, as long as FDA knows that there are no important hidden differences between the respondents that may affect their responses.

(Response) We will draw the original sample with known, non-zero, and, to the extent possible, equal probabilities. The same will apply to any additional samples drawn for the panel to replace attrition. Furthermore, any subsample drawn from the panel for specific studies will also result in known probabilities of selection. We will derive a strategy of spreading the survey-taking load over all panel members to avoid excessive burden on any single member or group of members. We will implement this strategy by randomly selecting each subsample, but at the same time keeping track of each member's survey-taking activity. As the number and frequency of survey-taking for a given member increases, their probability of selection will decrease, a strategy that we will implement using probability proportion to size sampling. This strategy will lead to known and measurable selection probabilities for each specific subsample.

(Comment) One comment stated FDA should consider, whether in some instances, collecting fresh data from

new samples of tobacco product users over time may provide better results.

(Response) Our proposed approach includes replenishment of the sample over time to address attrition from the panel. As such, the panel will include tobacco users with varying tenure lengths on the panel. We will be in a position to restrict a specific study subsample to the more recent panel members, if desired, and more generally, the panel will allow FDA to specify the composition of the sample with respect to tenure.

(Comment) One comment said FDA should consider inclusion of non-tobacco users or users of specific tobacco categories (*e.g.,* e-cigarette users, moist smokeless tobacco users) in the sample to support comparative analyses between users and non-users or subgroup analyses.

(Response) FDA considered including non-tobacco users early in the planning process. However, the planned experimental and observational studies will examine issues specific to the tobacco-using population, especially those with lower socio-economic status. This includes the underlying demographics of users as well as their knowledge, attitudes, practices, behaviors, and reactions to various tobacco-related stimuli. Other existing data sources, including survey panels, support research with non-users. Moreover, limiting the panel to users reduces the overall public burden. Once the panel is firmly established, we may consider its expansion.

(Comment) One comment stated FDA should also consider how well the sample of 4,000 adult tobacco users will support the planned investigations.

(Response) The sample size of 4,000 was chosen after a careful review of, on the one hand, power and subclass analyses requirements, and on the other hand, the budgetary implications. After our careful review, we concluded that a sample size of 4,000 tobacco users represents a good balance, at least for the first iteration of the panel.

We should also mention that the young adult population (aged 18–25) and the low-income population (combined household income less than $30,000) will be oversampled allowing for more in-depth study of these two groups of tobacco users. We also include a screening feature that will result in oversampling of the smokeless tobacco users.

(Comment) One commenter stated that FDA suggests that the approach includes a ''3-year panel commitment period''. FDA should consider developing and sharing its plan for keeping or removing panelists. For example, will FDA keep or remove a panelist if he/she decides to quit using tobacco products? Also, how will FDA monitor whether incentives are influencing a panelist's responses or behavior? These are only a few examples of issues that could arise; therefore, a thoughtful panel management plan is needed.

(Response) We agree that a detailed and well-designed panel management plan is needed to make the panel successful. The literature on panel maintenance is growing, but there is still much to be learned about optimal strategies for maintaining a strong and productive panel. Supporting Statement, Part A outlines our plans for panel management, including retention and nonresponse follow-up strategies, planned incentive experiments, monitoring of panel conditioning, and evaluation of the effects of various panel maintenance strategies on substantive responses.

Continual monitoring is planned to study these and other important aspects of the panel's health. We will also keep a close eye on individual panelists, their participation patterns, and their non-response patterns to identify potential problems requiring intervention. FDA considered removing panel members who report they have stopped using tobacco products. Because of recidivism rates, it was decided to retain all enrolled panel members regardless of changes in their tobacco use patterns. Subsampling of panelists may be implemented for specific experimental or observational studies that are intended solely for current users of one or more specific tobacco products.

(Comment) One commenter stated FDA should consider establishing mechanisms to evaluate the performance of the panel as well as the data derived from it. For example, data from the panel on measures such as current or past 30-day cigarette smoking might be compared against the most recent data from national surveys and other published reports.

(Response) We agree that benchmarking the panel sample characteristics—demographic, socioeconomic, and tobacco use—against other national data sources is extremely important. We will continuously check that our panel matches known underlying population characteristics. However, we will also monitor how the panel compares with the target population with respect to known patterns of behavior surrounding tobacco use. Differences will not necessarily suggest problems with the panel but they will stimulate further investigation and explanation.

(Comment) One commenter asked FDA to provide copies of the survey instruments for public comment.

(Response) Copies of the survey instruments used to screen and recruit panel members, as well as the first experimental or observation study (Study 1), are uploaded to the docket.

(Comment) One commenter strongly supports FDA's proposed collection of information. The commenter stated that this panel is of great utility and the proposed probability-based panel will serve as a flexible tool, giving FDA the opportunity to conduct diverse studies.

(Response) FDA agrees with this comment and believes the panel will be a valuable tool for conducting new experimental studies.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity or type of respondent	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Household Screening Respondent	29,385	0.33	9,697	0.16 (10 minutes)	1,552
Panel Member Enrollment Survey		0.33	1,320	0.25 (15 minutes)	330
Panel Member Baseline Survey		0.33	1,320	0.25 (15 minutes)	330
Panel Maintenance/Bi-annual Update Surveys	4,000	3.0	12,000	0.08 (5 minutes)	960
Experimental/Observational Studies *		2.7	10,800	0.33 (20 minutes)	3,564
Panel Replenishment Screening Respondent	10,285	0.50	5,143	0.16 (10 minutes)	823
Panel Replenishment Enrollment Survey **	2,800	0.33	924	0.25 (15 minutes)	231
Panel Replenishment Baseline Survey **	2,800	0.33	924	0.25 (15 minutes)	231
Cognitive Interview Subjects	20	0.33	7	1.0	7

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Activity or type of respondent	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Focus Group Subjects	20	0.33	7	1.5	10
Total	49,310				8,038

[1] There are no capital or operating and maintenance costs or associated with this collection of information.
* Includes a total of 8 experimental or observational studies over a 3-year period for each of the 4,000 panel members who are active at the time of each study. The first study (Study 1) is included in this clearance request; the remaining studies will be funded under separate task orders but are included in this table to present an overall estimate of the burden for each participating panel member.
** Assumes 1,400 additional panel members will be recruited annually (2,800 total) as part of the panel replenishment effort.

The collection burden was estimated using data from timed-readings of each instrument, including the mail and field screeners, enrollment survey, baseline survey, panel maintenance questionnaires, and Study 1 questionnaire.

References

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

1. Baker, R., Blumberg, S., Brick, M., Couper, M., Courtright, M., Dennis, J. M., Dillman, D., Frankel, M., Garland, P., Groves, R., Kennedy, C., Krosnick, J. and Lavrakas, P., 2010, American Association for Public Opinion Research Report on Online Panels. *Public Opinion Quarterly,* 74 (4), pp. 711–781.
2. Coen, T., Lorch, J. and Piekarski, L., 2005, The Effects of Survey Frequency on Panelists' Responses, *Worldwide Panel Research: Developments and Progress,* Amsterdam, European Society for Opinion and Marketing Research.
3. Nancarrow, C. and Catwright, T., 2007, Online Access Panels and Tracking Research, The Conditioning Issue, *International Journal of Market Research,* 49(5), pp. 435–447.
4. Kruse, Y., Callegaro, M., Dennis, J. M., DiSogra, C., Subias, S., Lawrence, M., and Tompson, T., 2009, Panel Conditioning and Attrition in the AP-Yahoo! News Election Panel Study, Paper presented at the American Association for Public Opinion Research 64th Annual Conference.

Dated: June 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–14125 Filed 6–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–1702]

Baxter Healthcare Corporation et al.; Withdrawal of Approval of One New Drug Application and Four Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of one new drug application (NDA) for Ondansetron (ondansetron hydrochloride (HCl)) Injection, USP in PL 2408 Plastic Container, 32 milligrams (mg) in 50 milliliters (mL), single intravenous (IV) dose, and four abbreviated new drug applications (ANDAs) for ondansetron HCl and Dextrose in 32 mg single IV doses. The holders of these applications have voluntarily requested that FDA withdraw approval of their applications and have waived their opportunity for a hearing.

DATES: Effective June 10, 2015.

FOR FURTHER INFORMATION CONTACT: Emily Helms Williams, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6280, Silver Spring, MD 20993–0002, 301–796–3381.

SUPPLEMENTARY INFORMATION: On June 29, 2012, FDA issued a Drug Safety Communication to notify health care professionals that the 32 mg, single IV dose of ondansetron HCl, indicated for prevention of nausea and vomiting associated with initial and repeat courses of emetogenic cancer chemotherapy in adult patients, should be avoided due to the risk of a specific type of irregular heart rhythm called QT interval prolongation, which can lead to Torsades de Pointes, an abnormal, potentially fatal heart rhythm. Subsequently, FDA contacted the holders of the following applications and informed them that the Agency believes that in light of the safety concern associated with ondansetron HCl in the 32 mg, single IV dose, the following drug products should be removed from the market:

Application number	Drug	Applicant
NDA 021915	Ondansetron Hydrochloride Injection, USP premix in Intravia Plastic Container.	Baxter Healthcare Corporation (Baxter), 32650 N. Wilson Rd., Round Lake, IL 60073.
ANDA 077348	Ondansetron Hydrochloride and Dextrose in Plastic Container.	Hospira, Inc. (Hospira), 275 North Field Dr., Department 389, Bldg. H2–2, Lake Forest, IL 60045.
ANDA 077480	Ondansetron Hydrochloride and Dextrose in Plastic Container.	Teva Pharmaceuticals USA (Teva), 400 Chestnut Ridge Rd., Woodcliff Lake, NJ 07677.
ANDA 078291	Ondansetron Hydrochloride and Dextrose in Plastic Container.	Bedford Labs (Bedford), 300 Northfield Rd., Bedford, OH 44146.
ANDA 078308	Ondansetron Hydrochloride and Dextrose in Plastic Container.	Claris Lifesciences Ltd. (Claris), 2325 Camino Vida Roble, Suite A, Carlsbad, CA 92011.

As described in this document, the application holders agreed to voluntarily remove their respective 32 mg, single IV dose ondansetron products from the market, and requested that FDA withdraw approval of their respective applications (listed in the preceding table) under § 314.150(d) (21 CFR 314.150(d)). On December 4, 2012, FDA issued an updated Drug Safety Communication alerting health care professionals that these products would be removed from the market because of their potential for serious cardiac risks.

Baxter's Ondansetron (ondansetron HCl) Injection, USP in PL 2408 Plastic Container, 32 mg/50 mL, single IV dose, was approved in NDA 021915 on December 27, 2006. In a letter dated November 27, 2012, Baxter requested withdrawal of NDA 021915 under 21 CFR 314.150(d), and waived its opportunity for a hearing provided under § 314.150(a). In a letter dated September 5, 2012, Baxter notified FDA that the product was being discontinued. In a contemporaneous notice, FDA is announcing its determination that the product was withdrawn from sale for reasons of safety or effectiveness and that FDA will not accept or approve ANDAs that refer to this drug product.

Hospira's ondansetron HCl Injection 32 mg/50 mL, single IV dose was approved in ANDA 077348 on February 1, 2007. In a letter dated January 31, 2013, Hospira requested withdrawal of ANDA 077348 under 21 CFR 314.150(d), and waived its opportunity for a hearing provided under § 314.150(a).

Teva's ondansetron HCl Injection 32 mg/50 mL, single IV dose was approved in ANDA 077480 on November 22, 2006. In a letter dated November 20, 2012, Teva requested withdrawal of ANDA 077480 under 21 CFR 314.150(d), and waived its opportunity for a hearing provided under § 314.150(a).

Bedford's ondansetron HCl Injection 32 mg/50 mL, single IV dose was approved in ANDA 078291 on April 13, 2009. In a letter dated April 4, 2014, Bedford requested withdrawal of ANDA 078291, under 21 CFR 314.150(d), and waived its opportunity for a hearing provided under § 314.150(a).

Claris's ondansetron HCl Injection 32 mg/50 mL, single IV dose, was approved in ANDA 078308 on March 17, 2008. In a letter dated November 16, 2012, through its U.S. agent, CUSTOpharm, Inc., Claris requested withdrawal of ANDA 078308 under 21 CFR 314.150(d), and waived its opportunity for a hearing provided under § 314.150(a).

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(e)) and 21 CFR 314.150(d), and under authority delegated by the Commissioner to the Director, Center for Drug Evaluation and Research, approval of the applications listed in the table of this document, and all amendments and supplements thereto, is withdrawn (see **DATES**). Distribution of these products in interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the FD&C Act (21 U.S.C. 355(a) and 331(d)). The Agency will remove these products from the list of drug products with effective approvals published in FDA's ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' generally referred to as the ''Orange Book.''

Dated: June 4, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–14144 Filed 6–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Dry Eye and Lacrimal Gland.

Date: June 15, 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: Alessandra C Rovescalli, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205 MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 5, 2015.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–14185 Filed 6–9–15; 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; Member Conflicts: Infectious, Reproductive, Asthma, and Pulmonary Conditions.

Date: July 2, 2015.

Time: 12 p.m. to 3 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: Ellen K. Schwartz, Ed.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3144, MSC 7770, Bethesda, MD 20892, 301–828–6146, *schwarel@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering Sciences Member Conflict.

Date: July 7–9, 2015.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Joseph Thomas Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9694, *petersonjt@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Radiation Therapy and Biology SBIR/STTR.

Date: July 8–9, 2015.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 5, 2015.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–14186 Filed 6–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed collection; 60-day comment request Information Program on Clinical Trials: Maintaining a Registry and Results Databank (NLM)

SUMMARY: In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Library of Medicine (NLM), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval. This summary describes the existing information collection at ClinicalTrials.gov, for which an extension is requested; it does not include any changes to the information collection that were proposed in the Notice of Proposed Rulemaking on Clinical Trial Registration and Results Submission that was issued on November 21, 2014 (79 FR 225, Nov. 21, 2014).

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and For Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: David Sharlip, Office of Administrative and Management Analysis Services, National Library of Medicine, Building 38A, Room B2N12, 8600 Rockville Pike, Bethesda, MD 20894, or call non-toll-free number (301) 402–9680, or Email your request, including your address to: *sharlipd@mail.nih.gov* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Information Program on Clinical Trials: Maintaining a Registry and Results Databank (NLM), 0925–0586, Expiration *Date:* 08/31/2015, EXTENSION, National Library of Medicine (NLM), National Institutes of Health (NIH).

Need and Use of Information Collection: The National Institutes of Health operates ClinicalTrials.gov, which was established as a clinical trial registry under section 113 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) and was expanded to include a results data bank by Title VIII of the Food and Drug Administration Amendments Act of 2007 (FDAAA). ClinicalTrials.gov collects registration and results information for clinical trials and other types of clinical studies (*e.g.,* observational studies and patient registries) with the objectives of enhancing patient enrollment and providing a mechanism for tracking subsequent progress of clinical studies, to the benefit of public health. It is widely used by patients, physicians, and medical researchers; in particular those involved in clinical research. While many clinical studies are registered and submit results information voluntarily, FDAAA requires the registration of certain applicable clinical trials of drugs and devices and the submission of results information for completed applicable clinical trials of drugs and devices that are approved, licensed, or cleared by the Food and Drug Administration. Beginning in 2009, results information was required to include information about serious and frequent adverse events.

This extension request does not include any changes to the information submission requirements for ClinicalTrials.gov that were proposed in the Notice of Proposed Rulemaking on Clinical Trial Registration and Results Submission that was issued on November 21, 2014 and for which the public comment period closed on March 23, 2015 (79 FR 225, Nov. 21, 2014). The NIH is continuing to review submitted public comments as it prepares the final rule. The NIH will make any corresponding changes to the ClinicalTrials.gov information collection via separate procedure.

OMB approval is requested for 3 years. The total estimated annualized cost to respondents is $49,399,851. The total estimated annualized burden hours are 682,535.

ESTIMATED ANNUALIZED BURDEN HOURS

Submission type	Number of respondents	Number of response per respondent	Average time per response	Annual hour burden
PRS Account	5,700	1	15/60	1,425
Initial Registration	*23,000*	*1*	*7*	*161,000*
Updates	*23,000*	*8*	*2*	*368,000*
Initial Results	*3,700*	*1*	*25*	*92,500*
Updates	*3,700*	*2*	*8*	*59,200*

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Submission type	Number of respondents	Number of response per respondent	Average time per response	Annual hour burden
Certification to Delay Results	*700*	*1*	*30/60*	*350*
Extension Request	*30*	*1*	*2*	*60*
Total	33,130			682,535

Dated: June 4, 2015.

David Sharlip,

Project Clearance Liaison, NLM, NIH.

[FR Doc. 2015–14169 Filed 6–9–15; 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; Member Conflict: Corneal Diseases, Membrane Transport, and Ocular Cancer.

Date: June 22, 2015.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alessandra C Rovescalli, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm 5205 MSC7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Biostatistical Methods and Research Design Study Section.

Date: June 26, 2015.

Time: 8:00 a.m. to 5:00 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: Peter J. Kozel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892, 301–435–1116, *kozelp@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Glioblastomas, Multiple Sclerosis, Viruses, and Psychiatric Disorders.

Date: June 30, 2015.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Samuel C Edwards, Ph.D., IRG CHIEF, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *edwardss@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR14–066: Limited Competition: Specific Pathogen Ffee Macaque Colonies.

Date: June 30, 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: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Drug Development and Therapeutics.

Date: July 8–9, 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: Lilia Topol, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–451–0131, *ltopol@mail.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Consequences of HIV/AIDS Study Section.

Date: July 9–10, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, **rubertm@csr.nih.gov**.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 4, 2015.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–14170 Filed 6–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will

be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: Technology descriptions follow.

Boron Amino Acid Mimetics for PET Imaging of Cancer

Description of Technology: Available for licensing and commercial development as imaging agents for positron emission tomography of cancer are boramino acid compounds. The inventors showed that mimetics created by substituting the carboxylate group ($-COO^-$) of an amino acid with trifluoroborate ($-BF_3^-$) are metabolically stable and allow for the use of fluorene-18 (^{18}F) as the radiolabel. Using boroamino acid for ^{18}F-labeling allows for integrating the ^{18}F radiolabel into the core molecular backbone rather than the side-chains thus increasing the agent's target specificity. There is a direct relationship between amino acid uptake and cancer cell replication, where the uptake is extensively upregulated in most cancer cells. This uptake increases as cancer progresses, leading to greater uptake in high-grade tumors and metastases. Amino acids act as signaling molecules for proliferation and may also reprogram metabolic networks in the buildup of biomass. This invention provides for an unmet need for traceable amino acid mimics, including those based on naturally-occurring amino acids, which may be non-invasively detected by imaging technology, including for clinical diagnosis and anti-cancer drug evaluation.

Potential Commercial Applications:
- Cancer imaging
- Anti-cancer drug development

Competitive Advantages:
- Fluorene-18 labeling
- Metabolic stability

Development Stage:
- Early-stage
- In vitro data available
- In vivo data available (animal)

Inventors: Xiaoyuan Chen and Zhibo Liu (NIBIB)

Publications:

1. Liu Z, et al. Preclinical evaluation of a high-affinity 18F-trifluoroborate octreotate derivative for somatostatin receptor imaging. J Nucl Med. 2014 Sep;55(9):1499–505. [PMID 24970911]
2. Liu Z, et al. (18)F-trifluoroborate derivatives of [des-arg(10)]kallidin for imaging bradykinin b1 receptor expression with positron emission tomography. Mol Pharm. 2015 Mar 2;12(3):974–82. [PMID 25629412]

Intellectual Property: HHS Reference No. E–135–2015/0—US Provisional Patent Application 62/155,085 filed April 30, 2015

Licensing Contact: Michael Shmilovich, Esq., CLP; 301–435–5019 or 301–402–5579; *shmilovm@mail.nih.gov*

Collaborative Research Opportunity: The National Institute of Biomedical Imaging and Bioengineering is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize Boramino Acid Mimetics for Use in Cancer Imaging. For collaboration opportunities, please contact Cecilia Pazman at *pazmance@nih.gov.*

Resolution Enhancement for Light Sheet Microscopy Systems

Description of Technology: The invention pertains to a technique for enhancing the resolution of images in light sheet microscopy by adding additional enhanced depth-of-focus optical arrangements and high numerical aperture objective lenses. The technique employs an arrangement of three objective lenses and a processor for combining captured images. The image composition utilizes the greater resolving power of the third high numerical aperture objective lens by imaging the light sheet and enhanced depth-of-focus arrangement resulting in improved overall resolution of the light sheet system. The depth of field arrangement could be a simple oscillation of the third objective, a ''layer cake,'' or cubic phase mask component. Any loss in lateral resolution that results from the depth of field arrangement may be compensated for by deconvolution. In some embodiments, other optics, such as an axicon or annular aperture, can provide extended depth of field.

Potential Commercial Applications:
- High speed imaging
- Fast single cell and cellular dynamics imaging
- Superresolution and single molecule imaging
- 3D single particle tracking
- 3D superresolution imaging in thick samples

Competitive Advantages: Resolution enhancement in light microscopy

Development Stage: In vitro data available

Inventors: Hari Shroff (NIBIB), Yicong Wu (NIBIB), Sara Abrahamsson

Intellectual Property: HHS Reference No. E–232–2014/0—US Application No. 62/054,484 filed September 24, 2014

Related Technology: HHS Reference No. E–078–2011/0

Licensing Contact: Michael Shmilovich, Esq., CLP; 301–435–5019 or 301–402–5579; *shmilovm@mail.nih.gov*

Collaborative Research Opportunity: The National Institute of Biomedical Imaging and Bioengineering is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize Resolution Enhancement Technique for Light Sheet Microscopy Systems. For collaboration opportunities, please contact Cecilia Pazman at 301–594–4273 or *pazmance@nhlbi.nih.gov.*

Device for Selective Partitioning of Frozen Cellular Products

Description of Technology: Cryopreservation using liquid nitrogen frozen polyvinyl bags allows for storing cellular materials for extended periods while maintaining their activity and viability. Such bags are commonly used in the clinic to store blood products including blood cells, plasma, hematopoietic stem cells, umbilical cord blood for future uses including transplantation. These materials, typically obtained in limited quantities, may be of great therapeutic value, as is the case of stem cells or cord blood derived cells which can be used to potentially treat a number of diseases. Currently, even if only a small portion of the cryopreserved sample is needed the whole bag must be thawed, wasting much of the sample or rendering the remaining sample susceptible to contamination since it cannot be effectively refrozen or sterilized. The present device meets an unmet need for retrieving a portion of a frozen sample stored in polyvinyl cryopreserved bags, resealing the remainder of the sample and preserving the cryopreserved state and integrity of the rest of the cellular product without compromising viability and sterility.

Potential Commercial Applications:
- Cryopreservation
- Cellular Products
- Hematopoietic stem cells
- Umbilical cord blood
- iPSCs
- Transplantation
- Chronic spinal cord injury
- Neurological disorders
- Cancer immunotherapy
- Cell banking
- Cell replacement therapy

Competitive Advantages:
- Partitioning cryopreserved cell products
- Maintenance of sterility of partitioned product
- Maintenance of viability of partitioned product
- Resealing of cryopreservation bag
- Multiple use of patient derived cellular products

Development Stage: Prototype

Inventors: Richard Childs, Sumithira Vasu, Herb Cullis, PJ Broussard, Kevin

Clark, Eric Harting (all rights assigned to the US Government)

Intellectual Property: HHS Reference No. E–173–2009/0 -

- US Provisional App. 61/175,131
- Int'l App. PCT/US2010/033575
- Canadian App. 2,760,363
- EP App. 10719496.1
- IL App. 216085
- US Patent 8,790,597
- US Patent App. 14/305,578

Licensing Contact: Michael Shmilovich, Esq., CLP; 301–435–5019 or 301–402–5579; *shmilovm@mail.nih.gov*

Collaborative Research Opportunity: The National Heart, Lung, and Blood Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize Device for Partitioning Cryopreserved Cellular Products. For collaboration opportunities, please contact Cecilia Pazman, Ph.D. at 301–594–4273 or *pazmance@nhlbi.nih.gov.*

Dated: June 4, 2015.

Richard U. Rodriguez,

Acting Director, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2015–14095 Filed 6–9–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0001]

Agency Information Collection Activities: Cargo Manifest/Declaration, Stow Plan, Container Status Messages and Importer Security Filing

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Cargo Manifest/Declaration, Stow Plan, Container Status Messages and Importer Security Filing. CBP is proposing to add burden hours for four new collections of information, including Electronic Ocean Export Manifest, Electronic Air Export Manifest, Electronic Rail Export Manifest, and Vessel Stow Plan (Export). There are no changes to the existing forms or collections within this OMB approval. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before July 10, 2015 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (80 FR 17059) on March 31, 2015, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (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 estimates 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, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Cargo Manifest/Declaration, Stow Plan, Container Status Messages and Importer Security Filing.

OMB Number: 1651–0001.

Form Numbers: Forms 1302, 1302A, 7509, 7533.

Abstract: This OMB approval includes the following existing information collections: CBP Form 1302 (or electronic equivalent); CBP Form 1302A (or electronic equivalent); CBP Form 7509 (or electronic equivalent); CBP Form 7533 (or electronic equivalent); Manifest Confidentiality; Vessel Stow Plan (Import); Container Status Messages; and Importer Security Filing. CBP is proposing to add new information collections for Electronic Ocean Export Manifest; Electronic Air Export Manifest; Electronic Rail Export Manifest; and Vessel Stow Plan (Export). Specific information regarding these collections of information is as follows:

CBP Form 1302: The master or commander of a vessel arriving in the United States from abroad with cargo on board must file CBP Form 1302, *Inward Cargo Declara*tion, or submit the information on this form using a CBP-approved electronic equivalent. CBP Form 1302 is part of the manifest requirements for vessels entering the United States and was agreed upon by treaty at the United Nations Inter-government Maritime Consultative Organization (IMCO). This form and/or electronic equivalent, is provided for by 19 CFR 4.5, 4.7, 4.7a, 4.8, 4.33, 4.34, 4.38, 4.84, 4.85, 4.86, 4.91, 4.93 and 4.99 and is accessible at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%201302_0.pdf.*

CBP Form 1302A: The master or commander of a vessel departing from the United States must file CBP Form 1302A, *Cargo Declaration Outward With Commercial Forms,* or CBP-approved electronic equivalent, with copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the manifest. This form and/or electronic equivalent, is provided for by 19 CFR 4.62, 4.63, 4.75, 4.82, and 4.87–4.89 and is accessible at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%201302_0.pdf.*

Electronic Ocean Export Manifest: CBP will begin a pilot in 2015 to electronically collect ocean export manifest information. This information will be transmitted to CBP in advance via the Automated Export System (AES) within the Automated Commercial Environment (ACE). The data elements to be transmitted may include the following:

- Mode of transportation (Vessel, containerized or Vessel, non-containerized)
- Name of ship or vessel
- Nationality of ship
- Name of master
- Port of loading
- Port of discharge
- Bill of Lading number (Master and House)
- Bill of Lading type (Master, House, Simple or Sub)
- Number of House Bills of Lading
- Marks and Numbers
- Container Numbers
- Seal Numbers
- Number and kind of packages
- Description of goods
- Gross Weight (lb. or kg.)
- Measurements (per HTSUS)
- Shipper name and address
- Consignee name and address
- Notify Party name and address
- Country of Ultimate Destination
- In-bond number
- Internal Transaction Number (ITN) or AES Exemption Statement
- Split Shipment Indicator
- Portion of split shipment
- Hazmat Indicator
- UN Number
- Chemical Abstract Service (CAS) Registry Number
- Vehicle Identification Number (VIN) or Product Identification Number

CBP Form 7509: The aircraft commander or agent must file Form 7509, *Air Cargo Manifest,* with CBP at the departure airport, or respondents may submit the information on this form using a CBP-approved electronic equivalent. CBP Form 7509 contains information about the cargo onboard the aircraft. This form, and/or electronic equivalent, is provided for by 19 CFR 122.35, 122.48, 122.48a, 122.52, 122.54, 122.73, 122.113, and 122.118, and is accessible at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%207509_0.pdf.*

Electronic Air Export Manifest: CBP will begin a pilot in 2015 to electronically collect air export manifest information. This information will be transmitted to CBP in advance via ACE's AES. The data elements to be transmitted may include the following:

- Exporting Carrier
- Marks of nationality and registration
- Flight Number
- Port of Lading
- Port of Unlading
- Scheduled date of departure
- Consolidator
- De-Consolidator
- Air Waybill type (Master, House, Simple, or Sub)
- Air Waybill Number
- Number of pieces and unit of measure
- Weight (kg./lb.)
- Number of house air waybills
- Shipper name and address
- Consignee name and address
- Cargo description
- AES Internal Transaction Number (ITN) or AES Exemption Statement/ Exception Classification
- Split air waybill indicator
- Hazmat indicator
- UN Number
- In-bond number
- Mode of transportation (Air, containerized or Air, non-containerized)

CBP Form 7533: The master or person in charge of a conveyance files CBP Form 7533, *INWARD CARGO MANIFEST FOR VESSEL UNDER FIVE TONS, FERRY, TRAIN, CAR, VEHICLE, ETC,* which is required for a vehicle or a vessel of less than 5 net tons arriving in the United States from Canada or Mexico, otherwise than by sea, with baggage or merchandise. Respondents may also submit the information on this form using a CBP-approved electronic equivalent. CBP Form 7533, and/or electronic equivalent, is provided for by 19 CFR 123.4, 123.7, 123.61, 123.91, and 123.92, and is accessible at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%207533_0.pdf.*

Electronic Rail Export Manifest: CBP will begin a pilot in 2015 to electronically collect the rail export manifest information. This information will be transmitted to CBP in advance via ACE's AES. The data elements to be transmitted may include the following:

- Mode of Transportation (Rail, containerized or Rail, non-containerized)
- Port of Departure from the United States
- Date of Departure
- Manifest Number
- Train Number
- Rail Car Order
- Car Locator Message
- Hazmat Indicator
- 6-character Hazmat Code
- Marks and Numbers
- SCAC (Standard Carrier Alpha Code) for exporting carrier
- Shipper name and address
- Consignee name and address
- Place where the rail carrier takes possession of the cargo shipment or empty rail car
- Port of Unlading
- Country of Ultimate Destination
- Equipment Type Code
- Container Number(s) (for containerized shipments) or Rail Car Number(s) (for all other shipments)
- Empty Indicator
- Bill of Lading Numbers (Master and House)
- Bill of Lading type (Master, House, Simple or Sub)
- Number of house bills of lading
- Notify Party name and address
- AES Internal Transaction Number (ITN) or AES Exemption Statement
- Cargo Description
- Weight of Cargo (may be expressed in either pounds or kilograms)
- Quantity of Cargo and Unit of Measure
- Seal Number
- Split Shipment Indicator
- Portion of split shipment
- In-bond number
- Mexican Pedimento Number

Manifest Confidentiality: An importer or consignee (inward) or a shipper (outward) may request confidential treatment of its name and address contained in manifests by following the procedure set forth in 19 CFR 103.31.

Vessel Stow Plan (Import): For all vessels transporting goods to the United States, except for any vessel exclusively carrying bulk cargo, the incoming carrier is required to electronically submit a vessel stow plan no later than 48 hours after the vessel departs from the last foreign port that includes information about the vessel and cargo. For voyages less than 48 hours in duration, CBP must receive the vessel stow plan prior to arrival at the first port in the U.S. The vessel stow plan is provided for by 19 CFR 4.7c.

Vessel Stow Plan (Export): CBP will begin a pilot in 2015 to electronically collect a vessel stow plan for vessels transporting goods from the United States, except for any vessels exclusively carrying bulk cargo. The exporting carrier will electronically submit a vessel stow plan in advance.

Container Status Messages (CSMs): For all containers destined to arrive within the limits of a U.S. port from a foreign port by vessel, the incoming carrier must submit messages regarding the status of events if the carrier creates or collects a container status message (CSM) in its equipment tracking system reporting an event. CSMs must be transmitted to CBP via a CBP-approved electronic data interchange system. These messages transmit information regarding events such as the status of a container (full or empty); booking a container destined to arrive in the United States; loading or unloading a container from a vessel; and a container arriving or departing the United States. CSMs are provided for by 19 CFR 4.7d.

Importer Security Filing (ISF): For most cargo arriving in the United States

by vessel, the importer, or its authorized agent, must submit the data elements listed in 19 CFR 149.3 via a CBP-approved electronic interchange system within prescribed time frames. Transmission of these data elements provide CBP with advance information about the shipment.

Current Actions: CBP is proposing that this information collection be extended with a change to the burden hours resulting from proposed new information collections associated with the Electronic Ocean Export Manifest, Electronic Air Export Manifest, Electronic Rail Export Manifest, and Vessel Stow Plan (Export). There are no changes to the existing information collections under this OMB approval. The burden hours are listed in the chart below.

Type of Review: Revision and Extension.

Affected Public: Businesses.

Collection	Total burden hours	Number of respondents	Number of responses per respondent	Total responses	Time per response
Air Cargo Manifest (CBP Form 7509)	366,600	260	5,640	1,466,400	15 minutes.
Inward Cargo Manifest for Truck, Rail, Vehicles, Vessels, etc. (CBP Form 7533).	962,940	33,000	291.8	9,629,400	6 minutes.
Inward Cargo Declaration (CBP Form 1302)	1,500,000	10,000	300	3,000,000	30 minutes.
Cargo Declaration Outward With Commercial Forms (CBP Form 1302A).	10,000	500	400	200,000	3 minutes.
Importer Security Filing	17,739,000	240,000	33.75	8,100,000	2.19 hours.
Vessel Stow Plan (Import)	31,803	163	109	17,767	1.79 hours.
Vessel Stow Plan (Export)	31,803	163	109	17,767	1.79 hours.
Container Status Messages	23,996	60	4,285,000	257,100,000	0.0056 minutes.
Request for Manifest Confidentiality	1,260	5,040	1	5,040	15 minutes.
Electronic Air Export Manifest	121,711	260	5,640	1,466,400	5 minutes.
Electronic Ocean Export Manifest	5,000	500	400	200,000	1.5 minutes.
Electronic Rail Export Manifest	2,490	50	300	15,000	10 minutes.
Total	20,796,603	289,996		281,217,774	

Dated: June 3, 2015.

Seth Renkema,

Acting Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–14189 Filed 6–9–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: TSA Claims Management Branch Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0039, abstracted below to OMB for review and approval of an extension of the currently approved collection 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 April 1, 2015, at 80 FR 17470. The collection involves the submission of information from claimants in order to thoroughly examine and resolve tort claims against the agency.

DATES: Send your comments by July 10, 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

Title: TSA Claims Management Branch Program.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0039.

Forms(s): Supplemental Information Form, Payment Form.

Affected Public: Members of the traveling public who believe they have experienced property loss or damage, a personal injury, or other damages due to the negligent or wrongful act or omission of a TSA employee and decide to seek compensation by filing a Federal tort claim against TSA.

Abstract: OMB Control Number 1652–0039, TSA Claims Management Branch Program, allows the agency to collect

information from claimants in order to thoroughly examine and resolve tort claims against the agency. TSA receives approximately 834 [1] tort claims per month arising from airport screening activities and other circumstances, including motor vehicle accidents and employee loss. The Federal Tort Claims Act (28 U.S.C. 1346(b), 1402(b), 2401(b), 2671–2680) is the authority under which the TSA Claims Management Branch adjudicates tort claims.

The data is collected whenever an individual believes s/he has experienced property loss or damage, a personal injury, or other damages due to the negligent or wrongful act or omission of a TSA employee, and decides to file a Federal tort claim against TSA. Submission of a claim is entirely voluntary and initiated by individuals. The claimants (or respondents) to this collection are typically the traveling public. Currently, claimants file a claim by submitting to TSA a Standard Form 95 (SF–95), which has been approved under OMB control number 1105–0008. Because TSA requires further clarifying information, claimants are asked to complete a Supplemental Information page added to the SF–95. These forms have been approved under OMB control number 1652–0039.

Claim instructions and forms are available through the TSA Web site at *http://www.tsa.gov*. Claimants must download these forms and mail or fax them to TSA. On the Supplemental Information page, claimants are asked to provide additional claim information including: (1) Email address, (2) airport, (3) location of incident within the airport, (4) complete travel itinerary, (5) whether baggage was delayed by airline, (6) why they believe TSA was negligent, (7) whether they used a third-party baggage service, (8) whether they were traveling under military orders, and (9) whether they submitted claims with the airlines or insurance companies.

If TSA determines payment is warranted, TSA sends the claimant a form requesting: (1) Claimant signature, (2) banking information (routing and account number), and (3) Social Security number (required by the U.S. Treasury for all Government payments to the public pursuant to 31 U.S.C. 3325).

Number of Respondents: 10,000.

Estimated Annual Burden Hours: An estimated 6,000 hours annually.

[1] In the 60 day notice, TSA estimated that it received approximately 1,000 tort claims per month arising from airport screening activities and other circumstances, including motor vehicle accidents and employee loss. Based on current data, the number has been adjusted to 834 tort claims.

Dated: June 5, 2015.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2015–14201 Filed 6–9–15; 8:45 am]

BILLING CODE 9110–05P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5830–N–03]

60-Day Notice of Submission of Proposed Information Collection for HUD Generic Clearance for Collection of Qualitative Feedback on Proposed New HUD Services or Products

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: As part of the Federal government-wide effort to streamline the process of seeking public feedback on service delivery, HUD is submitting to the Office of Management and Budget (OMB), for approval under the Paperwork Reduction Act, a Generic Clearance for the Collection of Qualitative Feedback on Proposed New Services or Products to seek information on new services and products that may needed by HUD customers.

DATES: *Comments Due Date: August 10, 2015.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name, or the FR number shown above, and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Executive Order 12862, entitled ''Setting Customer Service Standards,''' requires that Federal agencies provide the highest quality service to their customers by identifying needed services and seeking feedback on offered services. The information proposed to be collected under this notice is designed by HUD to garner qualitative feedback from HUD customers in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery.

In accordance with the Executive Order, the term ''customer'' means an individual or entity that is directly served by a department or agency. The term ''qualitative feedback'' refers to information that provides useful insights on perceptions and opinions, but does not constitute statistical surveys that yield quantitative results that can be generalized to the population of the study. The collections to be undertaken under this HUD proposed generic collection will allow for ongoing, collaborative, and actionable communications between HUD and its customers. The collections will also allow feedback to contribute directly to the improvement of HUD products and services, help identify where existing products and services may be lacking in some aspects, and whether there are additional products and services that could be offered by HUD. This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Generic Clearance for the Collection of Qualitative Feedback on Proposed New HUD Services or Products.

OMB Approval Number: Pending.

Type of Request: New.

Form Number: No specific form is currently contemplated.

Description of the need for the information and proposed use: For HUD to be successful in its mission, input from HUD customers and interested members of the public is essential. Such feedback takes many forms, including the solicitation of public comments through **Federal Register** notices, but also through surveys directly sent to HUD customers designed to gauge satisfaction with services and products offered by HUD. This generic clearance is designed to elicit input on possible new HUD products or services that may be helpful to HUD customers. An example of these types of services or products are the services offered by the National Resource Network that were initially determined best suited for cities with populations of 40,000 or

more, and having, among other criteria, an annual average unemployment rate of 9 percent or more. (See *http://nationalresourcenetwork.org/en/solutions/rfa.*)

A generic collection, such as HUD is proposing through this notice, would allow HUD to survey its customers to determine whether HUD has identified appropriate eligibility criteria for new products and services under consideration, and correctly identified the categories of customers in need of these products or services. The areas of inquiry anticipated to be surveyed would be those seeking information about the specific customer being surveyed, for example, the public housing agency (PHA), State and local government, private housing provider, nonprofit organizations, or other organization participating in HUD programs. Of the category or categories of program participants surveyed, the survey would inquire about: the demographics of the populations the customer serves; the type of HUD subsidized housing that is provided; energy, other utility, technological, or other infrastructure needs of the housing provided; the need for better access to community assets, such as transportation, financial services, educational services (schools, libraries or computer facilities), and sports and exercise facilities; the availability of any federal, other governmental, and local resources to address identified needs if these resources were made available; and any demonstration of community or governmental support to improve the quality of the housing provided. HUD anticipates the survey will solicit basic information regarding the customer and current or anticipated needs for which brief responses will suffice. However, the survey would provide the opportunity for the customer to present additional information pertaining to these topics that customers may choose to note.

Respondents (i.e. affected public): PHAs, State and local governments, tribal nations, multifamily housing providers, nonprofit organizations, and other organizations that participate in HUD programs.

Estimated Number of Respondents: 1,000.

Estimated Number of Responses Annually: 100.

Frequency of Response: Once.

Average Hours per Response: 1 hour.

Total Estimated Burdens: 100 hours.

Information collection	Number of respondents annually	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Demographics	1,000	1	100	1	1	0	0
Type of subsidized housing	1,000	1	100	1	1	0	0
Energy, Utility, Technology Needs	1,000	1	100	1	1	0	0
Community Assets Needs	1,000	1	100	1	1	0	0
Potential uses of federal and local resources	1,000	1	100	1	1	0	0
Totals	1,000	1	100	1	1	0	0

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: June 4, 2015.

Camille E. Acevedo,

Associate General Counsel for Legislation and Regulations.

[FR Doc. 2015–14192 Filed 6–9–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[156A2100DD/AAKC001030/A0A501010.999900 253G]

Renewal of Agency Information Collection for Student Transportation Form

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Education (BIE) is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for Student Transportation Form, authorized by OMB Control Number 1076–0134. This information collection expires September 30, 2015.

DATES: Submit comments on or before August 10, 2015.

ADDRESSES: You may submit comments on the information collection to: Dr. Joe Herrin, 1951 Constitution Ave., MS–312–SIB, Washington, DC 20245; Fax: (202) 208–3271; Email: *Joe.Herrin@bie.edu.*

FOR FURTHER INFORMATION CONTACT: Dr. Joe Herrin, phone: (202) 208–7658.

SUPPLEMENTARY INFORMATION:

I. Abstract

The BIE is requesting renewal of OMB approval for the Student Transportation Form. The Student Transportation regulations in 25 CFR part 39, subpart G, contain the program eligibility and criteria that govern the allocation of transportation funds. Information collected from the schools will be used to determine the rate per mile. The information collection provides transportation mileage for Bureau-funded schools, which determines the allocation of transportation funds. This information is collected using a Web-

based system, Office of Indian Education Programs (OIEP) MultiWeb Intranet/WebET Intranet. Response is required to obtain a benefit.

II. Request for Comments

The BIE requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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.

III. Data

OMB Control Number: 1076–0134.

Title: Student Transportation Form, 25 CFR 39.

Brief Description of Collection: This annual collection provides pertinent data concerning the school's bus transportation mileage and related long distance travel mileage to determine funding levels for school transportation. This information is collected using the Web-based system, OIEP MultiWeb Intranet/WebET Intranet and the Indian School Equalization Program (ISEP) Student Transportation form.

Type of Review: Extension without change of currently approved collection.

Respondents: Contract and Grant schools; Bureau-operated schools.

Number of Respondents: 183 per year, on average.

Total Number of Responses: 183 per year, on average.

Frequency of Response: Once per year.

Estimated Time per Response: 2 hours.

Estimated Total Annual Hour Burden: 366 hours.

Estimated Total Annual Non-Hour Dollar Cost: $0.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2015–14153 Filed 6–9–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[156A2100DD/AAKC001030/ A0A501010.999900 253G]

Renewal of Agency Information Collection for Indian Reservation Roads

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Indian Affairs (BIA) is seeking comments on the renewal of Office of Management and Budget (OMB) approval for the collection of information for the Indian Reservation Roads (IRR), authorized by OMB Control Number 1076–0161. This information collection expires September 30, 2015.

DATES: Submit comments on or before August 10, 2015.

ADDRESSES: You may submit comments on the information collection LeRoy Gishi, Chief, Division of Transportation, Bureau of Indian Affairs, 1849 C Street, NW., MS–4513–MIB, Washington, DC 20240; facsimile: (202) 208–4696; email: *LeRoy.Gishi@bia.gov.*

FOR FURTHER INFORMATION CONTACT: LeRoy Gishi, (202) 513–7711.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Indian Affairs is currently in the process of revising the regulations governing the Indian Reservations Roads (IRR) program. The proposed rule was published in the **Federal Register** on December 19, 2014 (79 FR 76192), which will update the Indian Reservation Roads program to the Tribal Transportation Program. The request for extension for this information collection request do not include the suggestions and feedback on the proposed regulations, but instead will allow current participants to submit information required under the current regulations, pending the finalization and effective date of any revisions. For this reason, the BIA is requesting an extension without change of the approval for the information collection conducted under 25 CFR part 170.

This collection allows Federally recognized tribal governments to participate in the Indian Reservation Roads (IRR) program as defined in 25 U.S.C. 202. The information collection determines the allocation of the IRR program funds to Indian tribes as described in 25 U.S.C. 202(b).

II. Request for Comments

The BIA requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) Ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) Ways we could minimize the burden of the collection of the information on the respondents.

Please note that an agency may not conduct or sponsor, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

It is our policy to make all comments available to the public for review at the location listed in the **ADDRESSES** section. 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.

III. Data

OMB Control Number: 1076–0161.

Title: Indian Reservation Roads, 25 CFR 170.

Brief Description of Collection: Some of the information such as the road inventory updates (25 CFR 170.443), the development of a long range transportation plan (25 CFR 170.411 and 170.412), the development of a tribal transportation improvement program and priority list (25 CFR 170.420 and 170.421) are mandatory for consideration of projects and for program funding form the formula. Some of the information, such as public hearing requirements, is necessary for public notification and involvement (25

CFR 170.437 and 170.439). While other information, such as data appeals (25 CFR 170.231) and requests for design exceptions (25 CFR 170.456), are voluntary.

Type of Review: Extension without change of currently approved collection.

Respondents: Federally recognized Indian Tribal governments who have transportation needs associated with the IRR Program as described in 25 CFR part 170.

Number of Respondents: 1,409.

Frequency of Response: Annually or on an as needed basis.

Estimated Time per Response: Reports require from 30 minutes to 40 hours to complete. An average would be 16 hours.

Estimated Total Annual Hour Burden: 19,628 hours.

Estimated Total Annual Non-Hour Dollar Cost: $0.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2015–14154 Filed 6–9–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000–15XL1116AF: HAG 15–0159]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 28 S., R. 4 W., approved May 15, 2015
T. 7 S., R. 3 E., approved May 29, 2015
T. 13 S., R. 2 W., approved May 29, 2015
T. 3 S., R. 5 E., approved May 29, 2015
T. 38 S., R. 3 E., approved May 29, 2015
T. 23 S., R. 9 W., approved May 29, 2015
T. 6 N., R. 42 E., approved May 29, 2015.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW. 3rd Avenue, Portland, Oregon 97204, upon required payment.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW. 3rd Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: A person or party who wishes to protest against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Oregon State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved. 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.

Mary J.M. Hartel,

Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2015–14171 Filed 6–9–15; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–ADIR–PMSP–18557; PPWOBSADA0, PPMPSAS1Y.Y00000 (155)]

Proposed Information Collection; National Park Service Lost and Found Report

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. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: You must submit comments on or before August 10, 2015.

ADDRESSES: Send your comments on the IC to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive (Room 2C114, Mail Stop 242), Reston, VA 20192 (mail); or *madonna_baucum@nps.gov* (email). Please include ''1024-New NPS Lost and Found Report'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Madonna L. Baucum, National Park Service, 12201 Sunrise Valley Drive (Room 2C114, Mail Stop 242), Reston, VA 20192 (mail); or *madonna_baucum@nps.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Park Service Act of 1916, 38 Stat 535, 16 U.S.C. 1, *et seq.,* requires that the NPS preserve national parks for the enjoyment, education, and inspiration of this and future generations. The NPS cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout this country and the world. Each year, visitors to the various units of the National Park System file reports of lost or found items. The NPS utilizes Form 10–166, ''Lost-Found Report'' to collect the following information from the visitor filing the report:

- Park name, receiving station (if appropriate), and date item was lost or found;
- Name, address, city, state, zip code, email address, and contact phone numbers (cell and home);
- Type of item, detailed description of item, and location where the item was last seen or found;
- Photograph of item (if available); and
- If item was found, does the finder wish to have the item if it is not returned to the owner within 60 days.

II. Data

OMB Control Number: 1024-New.

Title: National Park Service Lost and Found Report.

Service Form Number(s): NPS Form 10–166.

Type of Request: Collection in use without approval.

Description of Respondents: Visitors of NPS units who file reports of lost or found items.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Activity	Estimated annual number of responses	Estimated completion time per response	Estimated total annual burden hours
NPS Form 10–166, "Lost-Found Report"	2,500	5 min	10,000
Totals	2,500		10,000

Estimated Annual Nonhour Burden Cost: None.

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. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: June 3, 2015.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2015–14175 Filed 6–9–15; 8:45 am]

BILLING CODE 4310–EH–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–15–018]

Government In the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 16, 2015 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 701–TA–521 and 731–TA–1252–1255 and 1257 (Final) (Certain Steel Nails from Korea, Malaysia, Oman, Taiwan, and Vietnam). The Commission is currently scheduled to complete and file its determinations and views of the Commission on June 29, 2015.
5. Outstanding action jackets: None

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: June 4, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–14304 Filed 6–8–15; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act

On June 3, 2015, the Liquidating Trustee lodged a proposed "Stipulation By and Between the Liquidating Trustee and the United States Environmental Protection Agency" with the United States Bankruptcy Court for the District of Delaware, in the Chapter 11 bankruptcy entitled *In re: FBI Wind Down, Inc. (f/k/a Furniture Brands International, Inc.), et al.,* Case No. 13–12329 (CSS).

The Settlement Agreement resolves the claims of the United States set forth in the Proof of Claim against Thomasville Furniture Industries, Inc., for costs incurred and to be incurred in connection with the Buckingham County Landfill Site, located in Dillwyn, Buckingham County, Virginia (the "Site"), pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9607. Under the Settlement Agreement, the Liquidating Trustee agrees to an allowed and fixed general unsecured claim in the amount of six million dollars ($6,000,000) for costs incurred and to be incurred by the United States Environmental Protection Agency at the Site.

The publication of this notice opens a period for public comment on the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In re: FBI Wind Down, Inc.,* No. 90–11–2–07971/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Settlement Agreement upon written request and payment of reproduction costs. Please mail your request and payment to: Settlement Agreement Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $3.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy

without the appendices and signature pages, the cost is $2.25.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015–14102 Filed 6–9–15; 8:45 am]

BILLING CODE 4410–15–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee On Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee On Radiation Protection and Nuclear Materials; Notice of Meeting

The ACRS Subcommittee on Radiation Protection and Nuclear Materials will hold a meeting on June 23–24, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is propriety pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Tuesday, June 23, 2015—8:30 a.m. Until 5:00 p.m.; Wednesday, June 24, 2015—8:30 a.m. Until 5:00 p.m.

The Subcommittee will review and discuss the SHINE construction permit application for Mo99 medical radioisotopes production facility under 10 CFR part 50 and the staff's Safety Evaluation Report, Chapters 1, 2, 4, 5, 6a, 7, 8. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Maitri Banerjee (Telephone 301–415–6973 or Email: *Maitri.Banerjee@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 2014 (79 FR 59307–59308).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: June 3, 2015.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2015–14205 Filed 6–9–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Future Plant Designs; Notice of Meeting

The ACRS Subcommittee on Future Plant Designs will hold a meeting on June 25, 2015, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, June 25, 2015—8:30 a.m. Until 12:00 p.m.

The Subcommittee will discuss the NuScale Small Modular Reactor design. The Subcommittee will hear presentations by and hold discussions with the applicant (NuScale Power, LLC), NRC staff, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Maitri Banerjee (Telephone 301–415–6973 or Email: *Maitri.Banerjee@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 2014, (79 FR 59307–59308).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: June 3, 2015.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2015–14203 Filed 6–9–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–285 and 50–298; NRC–2012–0014]

Omaha Public Power District, Nebraska Public Power District

AGENCY: Nuclear Regulatory Commission.

ACTION: Director's decision under 10 CFR 2.206; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a director's decision with regard to petitions dated June 26 and July 3, 2011, filed by Mr. Thomas Saporito (the petitioner), requesting that the NRC take action with regard to Fort Calhoun Station (FCS), Unit 1 and Cooper Nuclear Station (CNS), respectively. The petitioner's requests and the director's decision are included in the **SUPPLEMENTARY INFORMATION** section of this document.

DATES: June 10, 2015.

ADDRESSES: Please refer to Docket ID NRC–2012–0014 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0014. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Fred Lyon, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–2296, email: *Fred.Lyon@nrc.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a director's decision (ADAMS Accession No. ML14128A141) on petitions filed by the petitioner on June 26 and July 3, 2011 (ADAMS Accession Nos. ML11182B029 and ML11192A285, respectively). The petitioner supplemented the petitions by teleconference on August 29, 2011 (ADAMS Accession No. ML11256A036).

The petitioner requested that the NRC issue a confirmatory order against Omaha Public Power District (OPPD), the licensee for FCS, prohibiting the licensee from restarting FCS, and issue a confirmatory order to Nebraska Public Power District (NPPD), the licensee for CNS, requiring the licensee to bring CNS to a cold shutdown mode of operation, until: (1) The floodwaters subside to an appreciably lower level or to sea level, (2) the licensee upgrades its flood protection plan, (3) the licensee repairs and enhances its current flood protection berms, and (4) the licensee upgrades its station blackout procedures to meet a challenging extended loss of offsite power because of floodwaters and other natural disasters or terrorist attacks.

On August 29, 2011, the petitioner participated in a teleconference with the NRC's Petition Review Board. The meeting provided the petitioner an opportunity to provide additional information and to clarify issues cited in the petition. The transcript for that meeting is available in ADAMS under Accession No. ML11256A036.

The NRC sent a copy of the proposed director's decision to the petitioner, NPPD, and OPPD for comment on April 15, 2015 (ADAMS Accession Nos. ML15062A354, ML15062A362, and ML15062A366, respectively). The petitioner and the licensees were asked to provide comments within 14 days on any part of the proposed director's decision that was considered to be erroneous or any issues in the petition that were not addressed. The staff did not receive any comments on the proposed director's decision.

The Director of the Office of Nuclear Reactor Regulation has determined that the requests, to prevent the restart of FCS or to bring CNS to cold shutdown, be denied. The reasons for this decision are explained in the director's decision DD–15–05 pursuant to 10 CFR 2.206 of the Commission's regulations.

The NRC will file a copy of the director's decision with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206. As provided by this regulation, the director's decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 3rd day of June 2015.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–14209 Filed 6–9–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285; NRC–2013–0111]

Omaha Public Power District; Fort Calhoun Station, Unit 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Director's decision under 10 CFR 2.206; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued a director's decision with regard to the petition dated June 21, 2012, filed by Mr. Wallace Taylor on behalf of the Iowa Chapter of the Sierra Club (the petitioner), requesting that the NRC take action with regard to Fort Calhoun Station (FCS), Unit 1. The petitioner's request and the director's decision are included in the **SUPPLEMENTARY INFORMATION** section of this document.

DATES: June 10, 2015.

ADDRESSES: Please refer to Docket ID NRC–2013–0111 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0111. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select

''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Fred Lyon, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–2296, email: *Fred.Lyon@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a director's decision (ADAMS Accession No. ML15128A349) on the petition filed by the petitioner on June 21, 2012 (ADAMS Accession No. ML12180A124).

The petitioner requested that the NRC revoke the license of Omaha Public Power District (OPPD, the licensee) to operate FCS. As the basis of the request, the petitioner raised the following issues: (1) Licensee event report submitted September 10, 2012, showed a support beam was not within allowable limits for stress and loading (ADAMS Accession No. ML12255A038); (2) flood protection measures at FCS are inadequate and create an ongoing, high risk danger to public safety; (3) the flood risks of the six dams upstream of FCS are either unevaluated or unresolved, and (4) the 614 primary reactor containment electrical penetration seals containing Teflon identified at FCS, a material that could degrade during design-basis accident conditions.

On August 29, 2011, the petitioner participated in a teleconference with the NRC's Petition Review Board. The meeting provided the petitioner an opportunity to provide additional information and to clarify issues cited in the petition. The transcript for that meeting is available in ADAMS under Accession No. ML11256A036. The petitioner provided supplemental material in support of the petition on August 22 and 27, November 19, and December 16, 17, and 20, 2012 (ADAMS Accession Nos. ML12240A099, ML12240A162, ML12250A714, ML12352A279, ML12352A221, and ML13109A240, respectively).

The NRC sent a copy of the proposed director's decision to the petitioner and the licensee for comment on April 15, 2015 (ADAMS Accession Nos. ML15063A047 and ML15063A050, respectively). The petitioner and the licensee were asked to provide comments within 14 days on any part of the proposed director's decision that was considered to be erroneous or any issues in the petition that were not addressed. The staff did not receive any comments on the proposed director's decision.

The Director of the Office of Nuclear Reactor Regulation has determined that the request, to revoke the operating license for FCS, be denied. The reasons for this decision are explained in the director's decision DD–15–04 pursuant to 10 CFR 2.206 of the Commission's regulations.

The NRC will file a copy of the director's decision with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206. As provided by this regulation, the director's decision will constitute the final action of the Commission 25 days after the date of the decision unless the Commission, on its own motion, institutes a review of the director's decision in that time.

Dated at Rockville, Maryland, this 3rd day of June, 2015.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–14207 Filed 6–9–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–027 and 52–028; NRC–2008–0441]

Virgil C. Summer Nuclear Station, Units 2 and 3; South Carolina Electric & Gas Company

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and issuing License Amendment No. 24 to Combined Licenses (COL), NPF–93 and NPF–94. The COLs were issued to South Carolina Electric & Gas Company (SCE&G), and South Carolina Public Service Authority (the licensee), for construction and operation of the Virgil C. Summer Nuclear Station (VCSNS), Units 2 and 3 located in Fairfield County, South Carolina.

The granting of the exemption allows the changes to Tier 1 information requested in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

ADDRESSES: Please refer to Docket ID NRC–2008–0441 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0441. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that a document is referenced. The request for the amendment and exemption was submitted by the letter dated July 17, 2014 (ADAMS Accession No. ML14202A088). The licensee supplemented this request by letters dated September 25, 2014, and January 5, 2015 (ADAMS Accession Nos. ML14268A554 and ML15006A290).

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Denise McGovern, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0681; email: *Denise.McGovern@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from Tier 1 information in the certified Design Control Document (DCD) incorporated by reference in Title 10 of *the Code of Federal Regulations* (10 CFR) part 52, appendix D, ''Design Certification Rule for the AP1000 Design,'' and issuing License Amendment No. 24 to COLs, NPF–93 and NPF–94, to the licensee. The exemption is required by Paragraph A.4 of Section VIII, ''Processes for Changes and Departures,'' appendix D to 10 CFR part 52 to allow the licensee to depart from Tier 1 information. With the requested amendment, the licensee sought proposed changes related to the design details of the containment internal structural wall modules (CA01, CA02, and CA05). The proposed changes to Tier 2 information in the VCSNS Units 2 and 3 UFSAR, and the involved plant-specific Tier 1 and corresponding combined license Appendix C information would allow the use of thicker than normal faceplates to accommodate local demand or connection loads in certain areas without the use of overlay plates or additional backup structures. Additional proposed changes to Tier 2 information and involved Tier 2* information would allow:

(1) A means of connecting the structural wall modules to the base concrete through use of structural shapes, reinforcement bars, and shear studs extending horizontally from the structural module faceplates and embedded during concrete placement as an alternative to the use of embedment plates and vertically oriented reinforcement bars;

(2) a variance in structural module wall thicknesses from the thicknesses identified in the VCSNS Units 2 and 3 UFSAR Figure 3.8.3–8, ''Structural Modules—Typical Design Details,'' for some walls that separate equipment spaces from personnel access areas;

(3) the use of steel plates, structural shapes, reinforcement bars, or tie bars between the module faceplates, as needed to support localized loads and ensure compliance with applicable codes;

(4) revision to containment internal structure (CIS) evaluations, and

(5) clarification to the definition of in-containment ''structural wall modules,'' clarifying that the west wall of the In-containment Refueling Water Storage Tank (IRWST) is not considered a ''structural wall module,'' that the CIS critical sections identified in VCSNS Units 2 and 3 UFSAR Subsection 3.8.3.5.8.1 present design summaries for areas of ''large'' demand in lieu of areas of ''largest'' demand, and revising the VCSNS Units 2 and 3 UFSAR in several places to provide consistency in terminology used to identify the structural wall modules

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in 10 CFR 50.12, 10 CFR 52.7, and 10 CFR 52.63(b)(1). The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML15061A205.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for VCSNS Units 2 and 3 (COLs NPF–93 and NPF–94). These documents can be found in ADAMS under Accession Nos. ML15061A179 and ML15061A186, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF–93 and NPF–94 are available in ADAMS under Accession Nos. ML15061A169 and ML15061A176, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VCSNS, Units 2 and 3. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated July 17, 2014 and supplemented by the letters dated September 25, 2014, and January 5, 2015, South Carolina Electric & Gas Company (licensee) requested from the NRC an exemption to allow departures from Tier 1 information in the certified Design Control Document (DCD) incorporated by reference in Title 10 of the Code of Federal Regulations (10 CFR) part 52, appendix D, ''Design Certification Rule for the AP1000 Design,'' as part of license amendment request (LAR) 14–05, ''Containment Internal Structural Wall Module Design Details.''

For the reasons set forth in Section 3.1 of the NRC staff's Safety Evaluation, which can be found at (ADAMS Accession Number ML15061A205), the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance would not serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption, and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption from the certified DCD Tier 1 Tables: 3.3–1 and 3.3–7, as described in the licensee's request dated July 17, 2014, and supplemented by letters dated September 25, 2014, and January 5, 2015. This exemption is related to and necessary for the granting of License Amendment No. 24, which is being issued concurrently with this exemption.

3. As explained in Section 5 of the NRC staff Safety Evaluation (ADAMS Accession Number ML15061A205), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

The request for the amendment and exemption was submitted by the letter dated July 17, 2014. The licensee supplemented this request by the letters dated September 25, 2014, and January 5, 2015. The proposed amendment is described in Section I, above.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as

applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on February 3, 2015 (80 FR 5798). No comments were received during the 30-day comment period.

The NRC staff has found that the amendment involves no significant hazards consideration. The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that the licensee requested on July 17, 2014, and supplemented by the letters dated September 25, 2014, and January 5, 2015. The exemption and amendment were issued on March 12, 2015, as part of a combined package to the licensee (ADAMS Accession No. ML15061A159).

Dated at Rockville, Maryland, this 3rd day of June 2015.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Acting Chief, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2015–14206 Filed 6–9–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Power Uprates; Notice of Meeting

The ACRS Subcommittee on Power Uprates will hold a meeting on June 22, 2015, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed to protect information that is propriety pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Monday, June 22, 2015—8:30 a.m. Until 5:00 p.m.

The Subcommittee will review the Nine Mile Point Maximum Extended Load Line Limit Analysis plus (MELLLA+) application. The Subcommittee will hear presentations by and hold discussions with the Constellation Energy Nuclear Group (CENG), the NRC staff, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Weidong Wang (Telephone 301–415–8716 or Email: *Zena.Abdullahi@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 2014 (79 FR 59307).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: June 3, 2015.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2015–14210 Filed 6–9–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0144; EA–15–036]

In the Matter of Issuance of a Non-Manufacturing and Distribution Service Provider Order

AGENCY: Nuclear Regulatory Commission.

ACTION: Order imposing trustworthiness and reliability requirements for unescorted access to certain radioactive material; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued an order imposing trustworthiness and reliability requirements for unescorted access to certain radioactive material by request of a service provider licensee that is not a manufacturer or distributor. The order was issued on April 27, 2015, and became effective immediately.

DATES: *Effective Date:* April 27, 2015.

ADDRESSES: Please refer to Docket ID NRC–2015–0144 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0144. Address questions about NRC dockets to Carol Gallagher; telephone: (301) 415–3463; email: *Carol.Gallagher@nrc.gov.* For questions about this Order, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the *ADAMS Public Documents collection* at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michelle Smethers, Office of Nuclear

Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: (301) 415–6711; email: *Michelle.Smethers@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 1st day of June 2015.

For the Nuclear Regulatory Commission.

Catherine Haney,

Director, Office of Nuclear Material Safety and Safeguards.

Order Imposing Trustworthiness and Reliability Requirements for Unescorted Access to Certain Radioactive Material (Effective Immediately)

United States Nuclear Regulatory Commission

In the Matter of: Certain Licensees Requesting Unescorted Access To Radioactive Material; EA–15–036.

I.

Each licensee identified in Attachment 1 [1] to this Order holds a license issued by the U.S. Nuclear Regulatory Commission (NRC) or an Agreement State, in accordance with the Atomic Energy Act (AEA) of 1954, as amended. The license authorizes it to perform services on devices containing certain radioactive material for customers licensed by the NRC or an Agreement State to possess and use certain quantities of the radioactive materials listed in Attachment 2 to this Order. Commission regulations in 10 CFR 20.1801 or equivalent Agreement State regulations require licensees to secure, from unauthorized removal or access, licensed materials that are stored in controlled or unrestricted areas. Commission regulations in 10 CFR 20.1802 or equivalent Agreement State regulations require licensees to control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

II.

Subsequent to the terrorist events of September 11, 2001, the NRC issued immediately effective Security Orders to NRC and Agreement State licensees under the Commission's authority to protect the common defense and security of the nation. The Orders required certain manufacturing and distribution (M&D) licensees to implement Additional Security Measures (ASMs) for the radioactive materials listed in Attachment 2 to this Order (the radionuclides of concern), to supplement the existing regulatory requirements. The ASMs included requirements for determining the trustworthiness and reliability of individuals that require unescorted access to the radionuclides of concern. Section 652 of the Energy Policy Act of 2005, which became law on August 8, 2005, amended Section 149 of the AEA to require fingerprinting and a Federal Bureau of Investigation (FBI) identification and criminal history records check for ''any individual who is permitted unescorted access to . . . radioactive materials or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks.'' Section 149 of the AEA also requires that ''all fingerprints obtained by an individual or entity . . . shall be submitted to the Attorney General of the United States through the Commission for identification and a criminal history records check.'' Due to the 2005 revision of the AEA, the trustworthiness and reliability requirements of the ASMs were updated and the M&D licensees were issued additional Orders imposing the new fingerprinting requirements.

In late 2005, the NRC and the Agreement States began issuing Increased Controls (IC) Orders or other legally binding requirements to licensees who are authorized to possess the radionuclides of concern (the IC licensees). Paragraph IC 1.c, in Attachment B of the December 1, 2005, IC Order, ''Increased Controls for Licensees That Possess Sources Containing Radioactive Material Quantities of Concern,'' stated that ''service providers shall be escorted unless determined to be trustworthy and reliable by an NRC-required background investigation as an employee of a manufacturing and distribution licensee'' (70 FR 72130). Starting in December 2007, the NRC and the Agreement States began issuing additional Orders or other legally binding requirements to the IC licensees, imposing the new fingerprinting requirements. In the December 13, 2007, Fingerprinting Order, paragraph IC 1.c of the December 1, 2005, Order was superseded by the requirement that ''Service provider licensee employees shall be escorted unless determined to be trustworthy and reliable by an NRC-required background investigation'' (72 FR 70901). However, the NRC did not require background investigations for non-M&D service provider licensees. Consequently, only service representatives of certain M&D licensees may be granted unescorted access to the radionuclides of concern at the facility of an IC licensee (IC licensee facility), even though non-M&D service provider licensees provide similar services and have the same degree of knowledge of the devices they service as M&D licensees. To maintain appropriate access control to the radionuclides of concern, and to allow M&D licensees and non-M&D service provider licensees to have the same level of access at customers' facilities, the NRC is imposing trustworthiness and reliability requirements for unescorted access to the radionuclides of concern set forth in Table 1 of Attachment 2 of this Order. These requirements apply to non-M&D service provider licensees that request and have a need for unescorted access by their representatives to the radionuclides of concern at IC licensee facilities and facilities licensed under 10 CFR part 37. These trustworthiness and reliability requirements are equivalent to the requirements for M&D licensees who perform services requiring unescorted access to the radionuclides of concern.

In order to provide assurance that non-M&D service provider licensees are implementing prudent measures to achieve a consistent level of protection for service providers requiring unescorted access to the radionuclides of concern at IC and part 37 licensee facilities, each licensee identified in Attachment 1 to this Order shall implement the requirements of this Order. In addition, pursuant to 10 CFR 2.202, because of potentially significant adverse impacts associated with a deliberate malevolent act by an individual with unescorted access to the radionuclides of concern, I find that the public health, safety, and interest require this Order to be effective immediately.

III.

Accordingly, pursuant to Sections 81, 149, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 20, 30 and 33, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT EACH LICENSEE IDENTIFIED IN ATTACHMENT 1 TO THIS ORDER COMPLY WITH THE REQUIREMENTS SET FORTH IN THIS ORDER.

A.1. The licensee shall establish and maintain a fingerprinting program that meets the requirements of Attachment 3 to this Order for individuals that require unescorted access to the radionuclides

[1] Attachment 1 contains sensitive information and will not be released to the public.

of concern. The licensee shall complete implementation of the requirements of Attachment 3 to this Order within one hundred eighty (180) days of the date of this Order, or before providing written verification to another licensee subject to the IC or part 37 requirements, or attesting to or certifying the trustworthiness and reliability of a service provider for unescorted access to the radionuclides of concern at a customer's facility.

A.2. Within ninety (90) days of the date of this Order, the licensee shall designate a ''Reviewing Official'' for determining unescorted access to the radioactive materials as listed in Attachment 2 to this Order by other individuals. Before submittal of the individual's fingerprints to the NRC, the licensee must perform a trustworthiness and reliability review per the requirements in Attachment 3 of the Order. The licensee must verify the employment history, education, and personal references of the designated Reviewing Official for at least the past three (3) years. Additionally, the designated Reviewing Official must be authorized unescorted access to the radioactive materials listed in Attachment 2 to this Order as part of his or her job duties or have access to Safeguards Information. After this process, the licensee shall designate the Reviewing Official to the NRC by submitting the individual's fingerprints and processing fee.

A.3. Fingerprints for unescorted access need not be taken if a designated Reviewing Official is relieved from the fingerprinting requirement by 10 CFR 73.61, or has been favorably adjudicated by a U.S. Government program involving fingerprinting and a FBI identification and criminal history records check [2] within the last five (5) years, or for any person who has an active federal security clearance (provided in the latter two cases that they make available the appropriate documentation [3]). The licensee may provide, for NRC review, written confirmation from the Agency/employer that granted the federal security clearance or reviewed the FBI identification and criminal history records results based upon a fingerprint identification check. The NRC will determine whether, based on the written confirmation, the designated Reviewing Official may have unescorted access to the radioactive materials listed in Attachment 2 to this Order and therefore be permitted to serve as the licensee's Reviewing Official.[4]

A.4. The NRC will determine whether this individual (or any subsequent Reviewing Official) may have unescorted access to the radionuclides of concern and therefore be permitted to serve as the licensee's Reviewing Official. The NRC-approved Reviewing Official shall be the recipient of the results of the FBI identification and criminal history records check of the other licensee employees requiring unescorted access to the radioactive materials listed in Attachment 2 to this Order, and shall control such information as specified in the ''Protection of Information'' section of Attachment 3 to this Order.

A.5. A designated Reviewing Official may not review the results from the FBI identification and criminal history records checks or make unescorted access determinations until the NRC has approved the individual as the licensee's Reviewing Official.

A.6. The NRC-approved Reviewing Official shall determine whether an individual may have unescorted access to radioactive materials that equal or exceed the quantities in Attachment 2 to this Order, in accordance with the requirements described in Attachment 3 to this Order.

B. Prior to requesting fingerprints from a licensee employee, the licensee shall provide a copy of this Order to that person.

C.1. The licensee shall, in writing, within twenty-five (25) days of the date of this Order, notify the Commission (1) if it is unable to comply with any of the requirements described in this Order, including Attachment 3 to this Order, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause the licensee to be in violation of the provisions of any Commission or Agreement State regulation or its license. The notification shall provide the licensee's justification for seeking relief from or variation of any specific requirement.

C.2. The licensee shall complete implementation of the requirements of Attachment 3 to this Order within one hundred eighty (180) days of the date of this Order.

C.3 The licensee shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 3 to this Order. The report shall be made within twenty-five (25) days after full compliance has been achieved.

C.4. If during the implementation period of this Order, the licensee is unable, due to circumstances beyond its control, to meet the requirements of this Order by October 24, 2015, the licensee shall request, in writing, that the Commission grant an extension of time to implement the requirements. The request shall provide the licensee's justification for seeking additional time to comply with the requirements of this Order.

C.5. Licensees shall notify the NRC's Headquarters Operations Office at (301) 816–5100 within 24 hours if the results from an FBI identification and criminal history records check indicate that an individual is identified on the FBI's Terrorist Screening Data Base.

Licensee responses to C.1, C.2., C.3., and C.4. above shall be submitted in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Licensee responses shall be marked as ''Security-Related Information—Withhold Under 10 CFR 2.390.''

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, relax or rescind any of the above conditions upon demonstration of good cause by the licensee.

IV.

In accordance with 10 CFR 2.202, the licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within twenty-five (25) days of the date of this Order. In addition, the licensee and any other person adversely affected by this Order may request a hearing on this Order within twenty-five (25) days of the date of the Order. Where good cause

[2] Examples of such programs include (1) National Agency Check, (2) Transportation Worker Identification Credentials in accordance with 49 CFR part 1572, (3) Bureau of Alcohol Tobacco Firearms and Explosives background checks and clearances in accordance with 27 CFR part 555, (4) Health and Human Services security risk assessments for possession and use of select agents and toxins in accordance with 42 CFR part 73, and (5) Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license in accordance with 49 CFR part 1572, Customs and Border Protection's Free and Secure Trade (FAST) Program. The FAST program is a cooperative effort between the Bureau of Customs and Border Protection and the governments of Canada and Mexico to coordinate processes for the clearance of commercial shipments at the U.S.-Canada and U.S.-Mexico borders. Participants in the FAST program, which requires successful completion of a background records check, may receive expedited entrance privileges at the northern and southern borders.

[3] This documentation must allow the NRC or NRC-approved Reviewing Official to verify that the individual has fulfilled the unescorted access requirements of Section 149 of the AEA by submitting to fingerprinting and a FBI identification and criminal history records check.

[4] The NRC's determination of this individual's unescorted access to the radionuclides of concern in accordance with the process described in Enclosure 4 to the transmittal letter of this Order is an administrative determination that is outside the scope of this Order.

is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made, in writing, to the Director, Division of Material Safety, State, Tribal, and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

The answer may consent to this Order. If the answer includes a request for a hearing, it shall, under oath or affirmation, specifically set forth the matters of fact and law on which the licensee relies and the reasons as to why the Order should not have been issued. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which became effective on October 15, 2007. The E-Filing Final Rule was issued on August 28, 2007 (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five (5) days prior to the filing deadline the requestor must contact the Office of the Secretary by email at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html.* Information about applying for a digital ID certificate also is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.*

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through the EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the filer submits its document through the EIE.

To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The EIE system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC technical help line, which is available between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday. The help line number is (866) 672–7640.

Participants who believe that they have good cause for not submitting documents electronically must, in accordance with 10 CFR 2.302(g), file an exemption request with the initial paper filing showing good cause as to why the participant cannot file electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for providing the document to all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at *http://ehd1.nrc.gov/EHD/,* unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their works.

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the licensee may, in addition to requesting a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty-five (25) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated this 27th day of April, 2015.

For the Nuclear Regulatory Commission.

Scott W. Moore,

Acting Director Office of Nuclear Material Safety and Safeguards.

Attachment 1: List of Applicable Materials Licensees Redacted

Attachment 2: Table 1: Radionuclides of Concern

TABLE 1—RADIONUCLIDES OF CONCERN

Radionuclide	Quantity of concern [1] (TBq)	Quantity of concern [2] (Ci)
Am-241	0.6	16
Am-241/Be	0.6	16
Cf-252	0.2	5.4
Cm-244	0.5	14
Co-60	0.3	8.1
Cs-137	1	27
Gd-153	10	270
Ir-192	0.8	22
Pm-147	400	11,000
Pu-238	0.6	16
Pu-239/Be	0.6	16
Ra-226	0.4	11
Se-75	2	54
Sr-90 (Y–90)	10	270
Tm-170	200	5,400
Yb-169	3	81
Combinations of radioactive materials listed above.[3]	See Footnote Below [4]	

[1] The aggregate activity of multiple, collocated sources of the same radionuclide should be included when the total activity equals or exceeds the quantity of concern.

[2] The primary values used for compliance with this Order are Terabecquerels (TBq). The curie (Ci) values are rounded to two significant figures for informational purposes only.

[3] Radioactive materials are to be considered aggregated or collocated if breaching a common physical security barrier (*e.g.,* a locked door at the entrance to a storage room) would allow access to the radioactive material or devices containing the radioactive material.

[4] If several radionuclides are aggregated, the sum of the ratios of the activity of each source, *i,* of radionuclide, *n,* $A_{(i,n)}$, to the quantity of concern for radionuclide *n,* $Q_{(n)}$, listed for that radionuclide equals or exceeds one. [(aggregated source activity for radionuclide A) ÷ (quantity of concern for radionuclide A)] + [(aggregate source activity for radionuclide B) ÷ (quantity of concern for radionuclide B)] + etc. . . . . ≥1.

Guidance for Aggregation of Sources

NRC supports the use of the International Atomic Energy Association's (IAEA) source categorization methodology as defined in IAEA Safety Standards Series No. RS–G–1.9, ''Categorization of Radioactive Sources,'' (2005) (see *http://www-pub.iaea.org/MTCD/publications/PDF/Code-2004_web.pdf*) and as endorsed by the agency's Code of Conduct for the Safety and Security of Radioactive Sources, January 2004 (see *http://www-pub.iaea.org/MTCD/publications/PDF/Code-2004_web.pdf*). The Code defines a three-tiered source categorization scheme. Category 1 corresponds to the largest source strength (equal to or greater than 100 times the quantity of concern values listed in Table 1) and Category 3, the smallest (equal or exceeding one-tenth the quantity of concern values listed in Table 1). Additional security measures apply to sources that are equal to or greater than the quantity of concern values listed in Table 1, plus aggregations of smaller sources that are equal to or greater than the quantities in Table 1. Aggregation only applies to sources that are collocated.

Licensees who possess individual sources in total quantities that equal or exceed the Table 1 quantities are required to implement additional security measures. Where there are many small (less than the quantity of concern values) collocated sources whose total aggregate activity equals or exceeds the Table 1 values, licensees are to implement additional security measures.

Some source handling or storage activities may cover several buildings, or several locations within specific buildings. The question then becomes, ''When are sources considered collocated for purposes of aggregation?'' For purposes of the additional controls, sources are considered collocated if breaching a single barrier (*e.g.,* a locked door at the entrance to a storage room) would allow access to the sources. Sources behind an outer barrier should be aggregated separately from those behind an inner barrier (*e.g.,* a locked source safe inside the locked storage room). However, if both barriers are simultaneously open, then all sources within these two barriers are considered to be collocated. This logic should be continued for other barriers within or behind the inner barrier.

The following example illustrates the point: A lockable room has sources stored in it. Inside the lockable room, there are two shielded safes with additional sources in them. Inventories are as follows:

The room has the following sources outside the safes: Cf-252, 0.12 TBq (3.2 Ci); Co-60, 0.18 TBq (4.9 Ci), and Pu-238, 0.3 TBq (8.1 Ci). Application of the unity rule yields: (0.12 ÷ 0.2) + (0.18 ÷ 0.3) + (0.3 ÷ 0.6) = 0.6 + 0.6 + 0.5 = 1.7. Therefore, the sources would require additional security measures.

Shielded safe #1 has a 1.9 TBq (51 Ci) Cs-137 source and a 0.8 TBq (22 Ci) Am-241 source. In this case, the sources would require additional security measures, regardless of location, because they each exceed the quantities in Table 1.

Shielded safe #2 has two Ir-192 sources, each having an activity of 0.3 TBq (8.1 Ci). In this case, the sources would not require additional security measures while locked in the safe. The combined activity does not exceed the threshold quantity 0.8 TBq (22 Ci). Because certain barriers may cease to exist during source handling operations (*e.g.,* a storage location may be unlocked during periods of active source usage), licensees should, to the extent practicable, consider two modes of source usage—''operations'' (active source usage) and ''shutdown'' (source storage mode). Whichever mode results in the greatest inventory (considering barrier status) would require additional security measures for each location.

Use the following method to determine which sources of radioactive material require implementation of the Additional Security Measures:

- Include any single source equal to or greater than the quantity of concern in Table 1.
- Include multiple collocated sources *of the same radionuclide* when the combined quantity equals or exceeds the quantity of concern.
- For combinations of radionuclides, include multiple collocated sources of *different radionuclides* when the aggregate quantities satisfy the following unity rule: [(amount of radionuclide A) ÷ (quantity of concern of radionuclide A)] + [(amount of radionuclide B) ÷ (quantity of concern of radionuclide B)] + etc. . . . .≥ 1.

Attachment 3: Requirements for Service Provider Licensees Providing Written Verification Attesting to or Certifying the Trustworthiness and Reliability of Service Providers for Unescorted Access to Certain Radioactive Material at Customer Facilities, including Requirements for Fingerprinting and Criminal History Records Checks

A. General Requirements

Licensees subject to the provisions of this Order shall comply with the requirements of this attachment. The term ''certain radioactive material'' means the radionuclides in quantities equal to or greater than the quantities listed in Attachment 2 to this Order.

1. The Licensee shall provide the customer's facility written verification attesting to or certifying the trustworthiness and reliability of an individual as a service provider only for employees the Licensee has approved in writing (see requirement A.3 below).

The Licensee shall request unescorted access to certain radioactive material at customer licensee facilities only for approved service providers that require the unescorted access in order to perform a job duty.

2. The trustworthiness, reliability, and true identity of a service provider shall be determined based on a background investigation. The background investigation shall address at least the past three (3) years, and as a minimum, include fingerprinting and a Federal Bureau of Investigation (FBI) criminal history records check as required in Section B, verification of employment history, education, and personal references. If a service provider's employment has been less than the required three (3) year period, educational references may be used in lieu of employment history.

3. The Licensee shall document the basis for concluding that there is reasonable assurance that a service provider requiring unescorted access to certain radioactive material at a customer facility is trustworthy and reliable, and does not constitute an unreasonable risk for unauthorized use of the radioactive material. The Licensee shall maintain a list of service providers approved for unescorted access to certain radioactive material.

4. The Licensee shall retain documentation regarding the trustworthiness and reliability of approved service providers for three years after the individual no longer requires unescorted access to certain radioactive material associated with the Licensee's activities.

5. Each time the Licensee revises the list of approved service providers (see requirement 3 above), the Licensee shall retain the previous list for three (3) years after the revision.

6. The Licensee shall provide to a customer written certification for each service provider for whom unescorted access to certain radioactive material at the customer's facility is required and requested. The written certification shall be dated and signed by the Reviewing Official. A new written certification is not required if an individual service provider returns to the customer facility within three years, provided the customer has retained the prior certification.

B. Specific Requirements Pertaining to Fingerprinting and Criminal History Records Checks

1. The Licensee shall fingerprint each service provider to be approved for unescorted access to certain radioactive materials following the procedures outlined in Enclosure 3 of the transmittal letter. The Licensee shall review and use the information received from the FBI identification and criminal history records check and ensure that the provisions contained in the subject Order and this attachment are satisfied.

2. The Licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record and inform the individual of the procedures for revising the record or including an explanation in the record, as specified in the ''Right to Correct and Complete Information'' section of this attachment.

3. Fingerprints for unescorted access need not be taken if an employed individual (*e.g.,* a Licensee employee, contractor, manufacturer, or supplier) is relieved from the fingerprinting requirement by 10 CFR 73.61, or any person who has been favorably-decided by a U.S. Government program involving fingerprinting and an FBI identification and criminal history records check (*e.g.,* National Agency Check, Transportation Worker Identification Credentials in accordance with 49 CFR part 1572, Bureau of Alcohol Tobacco Firearms and Explosives background checks and clearances in accordance with 27 CFR part 555, Health and Human Services security risk assessments for possession and use of select agents and toxins in accordance with 42 CFR part 73, Hazardous Material security threat assessment for hazardous material endorsement to commercial drivers license in accordance with 49 CFR part 1572, Customs and Border Protection's Free and Secure Trade Program [5]) within the last five (5) years, or any person who has an active federal security clearance (provided in the latter two cases that they make available the appropriate documentation [6]). Written confirmation from the Agency/employer which granted the federal security clearance or reviewed the FBI criminal history records results based upon a fingerprint identification check must be provided. The Licensee must retain this documentation for a period of three (3) years from the date the individual no longer requires unescorted access to certain radioactive material associated with the Licensee's activities.

4. All fingerprints obtained by the Licensee pursuant to this Order must be submitted to the Commission for transmission to the FBI.

5. The Licensee shall review the information received from the FBI and consider it, in conjunction with the trustworthiness and reliability requirements of Section A of this attachment, in making a determination whether to approve and certify the individual for unescorted access to certain radioactive materials.

6. The Licensee shall use any information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access to certain radioactive materials.

7. The Licensee shall document the basis for its determination whether to approve the individual for unescorted access to certain radioactive materials.

C. Prohibitions

A Licensee shall not base a final determination to not provide certification for unescorted access to certain radioactive material for an individual solely on the basis of information received from the FBI involving: an arrest more than one (1) year old for which there is no information of the disposition of the case, or an arrest that resulted in dismissal of the charge or an acquittal.

A Licensee shall not use information received from a criminal history check obtained pursuant to this Order in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall the Licensee use the information in any way which would discriminate among individuals on the basis of race, religion, national origin, sex, or age.

D. Right To Correct and Complete Information

Prior to any final adverse determination, the Licensee shall make available to the individual the contents of any criminal records obtained from the FBI for the purpose of assuring correct and complete information. Written confirmation by the individual of receipt of this notification must be maintained by the Licensee for a period of one (1) year from the date of the notification.

If, after reviewing the record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, or update the alleged deficiency, or to explain any matter in

[5] The FAST program is a cooperative effort between the Bureau of Customs and Border Protection and the governments of Canada and Mexico to coordinate processes for the clearance of commercial shipments at the U.S.—Canada and U.S.—Mexico borders. Participants in the FAST program, which requires successful completion of a background records check, may receive expedited entrance privileges at the northern and southern borders.

[6] This documentation must allow the Reviewing Official to verify that the individual has fulfilled the unescorted access requirements of Section 149 of the AEA by submitting to fingerprinting and an FBI identification and criminal history records check.

the record, the individual may initiate challenge procedures. These procedures include either direct application by the individual challenging the record to the agency (*i.e.,* law enforcement agency) that contributed the questioned information, or direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Assistant Director, Federal Bureau of Investigation Identification Division, Washington, DC 20537–9700 (as set forth in 28 CFR part 16.30 through 16.34). In the latter case, the FBI forwards the challenge to the agency that submitted the data and requests that agency to verify or correct the challenged entry. Upon receipt of an Official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. The Licensee must provide at least ten (10) days for an individual to initiate an action challenging the results of an FBI identification and criminal history records check after the record is made available for his/her review. The Licensee may make a final unescorted access to certain radioactive material determination based upon the criminal history record only upon receipt of the FBI's ultimate confirmation or correction of the record. Upon a final adverse determination on unescorted access to certain radioactive material, the Licensee shall provide the individual its documented basis for denial. Unescorted access to certain radioactive material shall not be granted to an individual during the review process.

E. Protection of Information

1. Each Licensee who obtains a criminal history record on an individual pursuant to this Order shall establish and maintain a system of files and procedures for protecting the record and the personal information from unauthorized disclosure.

2. The Licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his/her representative, or to those who have a need to access the information in performing assigned duties in the process of determining whether to verify the individual for unescorted access to certain radioactive material. No individual authorized to have access to the information may re-disseminate the information to any other individual who does not have a need-to-know.

3. The personal information obtained on an individual from a criminal history record check may be transferred to another Licensee if the Licensee holding the criminal history record check receives the individual's written request to re-disseminate the information contained in his/her file, and the gaining Licensee verifies information such as the individual's name, date of birth, social security number, sex, and other applicable physical characteristics for identification purposes.

4. The Licensee shall make criminal history records, obtained under this section, available for examination by an authorized representative of the NRC to determine compliance with the regulations and laws.

5. The Licensee shall retain all fingerprints and criminal history records from the FBI, or a copy if the individual's file has been transferred:

a. For three (3) years after the individual no longer requires unescorted access, or

b. for three (3) years after unescorted access to certain radioactive material was denied.

After the required three (3) year period, these documents shall be destroyed by a method that will prevent reconstruction of the information in whole or in part.

[FR Doc. 2015–14129 Filed 6–9–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412; NRC–2015–0143]

FirstEnergy Nuclear Operating Company; Beaver Valley Power Station, Unit Nos. 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed License Nos. DPR–66 and NPF–73, issued on November 5, 2009, and held by FirstEnergy Nuclear Operating Company for the operation of Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS). The proposed action would revise the Emergency Preparedness Plan (EPP) to modify the boundary of the 10-mile Emergency Planning Zone (EPZ). Specifically, the proposed change would align the BVPS EPZ boundary with the boundary that is currently in use by the emergency management agencies of the three counties that implement protective actions around BVPS.

DATES: June 10, 2015.

ADDRESSES: Please refer to Docket ID NRC–2015–0143 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0143. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Taylor Lamb, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–7128, email: *Taylor.Lamb@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an amendment to Renewed License Nos. DPR–66 and NPF–73, issued to FirstEnergy Nuclear Operating Company, for operation of the Beaver Valley Power Station, Unit Nos. 1 and 2, (BVPS) located in Beaver County, Pennsylvania. Therefore, as required by section 51.21 of Title 10 of the *Code of Federal Regulations* (10 CFR), the NRC performed an environmental assessment. Based on the results of the environmental assessment that follows, the NRC has determined not to prepare an environmental impact statement for

the amendment, and is issuing a finding of no significant impact.

II. Environmental Assessment

Description of the Proposed Action

The proposed action would revise the Emergency Preparedness Plan (EPP) to modify the boundary of the 10-mile Emergency Planning Zone (EPZ). Specifically, the proposed change would align the BVPS EPZ boundary with the boundary that is currently in use by the emergency management agencies of the three counties that implement protective actions around BVPS.

The proposed action is requested by the licensee's application dated September 4, 2014 (ADAMS Accession No. ML14247A512), as supplemented by letter dated December 1, 2014 (ADAMS Accession No. ML14336A520).

Need for the Proposed Action

The proposed action would align the BVPS EPZ boundary with the boundary that is currently in use by the emergency management agencies of the three counties that implement protective actions around BVPS.

The proposed action is needed to address the dissimilarity between the BVPS EPZ and that of Columbiana County, Ohio; Hancock County, West Virginia; and Beaver County, Pennsylvania. After 2002, the emergency management agencies of the three counties modified their emergency plans to reflect the geopolitical boundaries for the 10-mile EPZ proposed for BVPS. The regulations in 10 CFR 50.47(c)(2) provide that the exact configuration of the 10-mile EPZ is to be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The proposed revised 10-mile EPZ boundary is used in an evacuation time estimate (ETE) that was developed for BVPS. The ETE, ''Beaver Valley Power Station Development of Evacuation Time Estimates,'' December 2012, Final Report Revision 2, prepared by KLD Engineering, P.C. (ADAMS Accession No. ML130070160), was based on United States Census Bureau data for 2010. As a result of changes to the county emergency plans, BVPS proposed to make conforming changes to the BVPS 10-mile EPZ boundary in the EPP.

BVPS performed an analysis of the proposed change. The county emergency plans describe actions that would be applicable for events at BVPS that warrant a protective action of sheltering or evacuation. The BVPS analysis concluded that aligning the BVPS EPP 10-mile EPZ with the EPZ boundaries used by the offsite response organizations will ensure consistent communications are used when determining actions to protect the public health and safety.

Environmental Impacts of the Proposed Action

The NRC has completed its environmental assessment of the proposed amendment. The staff has concluded that the proposed action to align the BVPS EPZ boundary with the boundary that is currently in use by the emergency management agencies of the three counties implementing protective actions around BVPS would not significantly affect plant safety and would not have a significant adverse effect on the probability of an accident occurring.

The proposed action would not result in an increased radiological hazard beyond those previously analyzed in the updated Safety Analysis Report. There will be no change to radioactive effluents that effect radiation exposures to plant workers and members of the public. No changes will be made to plant buildings or the site property. Therefore, no changes or different types of radiological impacts are expected as a result of the proposed amendment.

The proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity or the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Stevens Act are expected. There are no impacts to the air or ambient air quality. There are no impacts to historical and cultural resources. There would be no noticeable effect on socioeconomic conditions in the region. Therefore, no changes or different types of non-radiological environmental impacts are expected as a result of the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in NUREG–1437, Supplement 36, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants; Supplement 36; Regarding Beaver Valley Power Station Units 1 and 2,'' dated May 2009 (ADAMS Accession No. ML091260011).

Agencies and Persons Consulted

On April 30, 2015, the staff consulted with the Pennsylvania State official, Mr. Rich Janati, regarding the environmental impact of the proposed action. The state official agreed with the conclusions in the environmental assessment and finding of no significant impact.

III. Finding of No Significant Impact

The NRC is considering issuance of an amendment to Renewed License Nos. DPR–66 and NPF–73 for BVPS, Units 1 and 2. The proposed amendments would revise the EPP to modify the boundary of the 10-mile EPZ. Specifically, the proposed change would align the BVPS EPZ boundary with the boundary that is currently in use by the emergency management agencies of the three counties that implement protective actions around BVPS.

The NRC has determined not to prepare an environmental impact statement for the proposed action. The proposed action will not have a significant effect on the quality of the human environment because amending the licenses to revise the EPP to align the EPZ boundary with the boundary that is currently in use by the emergency management agencies of the three counties that implement protective actions around BVPS will not result in any significant radiological or non-radiological environmental impacts. Accordingly, on the basis of the environmental assessment in Section II above, which is incorporated by reference herein, the NRC has determined that a finding of no significant impact is appropriate.

The NRC's finding of no significant impact and incorporated environmental assessment are available for public inspection by publication in this notice and are available online in ADAMS at Accession No. ML15125A217. Environmental documents related to the

NRC's finding of no significant impact are (1) Supplement 36 to NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants; Regarding Beaver Valley Power Station Units 1 and 2,'' dated May 2009; and (2) Generic Environmental Impact Statement for License Renewal of Nuclear Plants,'' NUREG–1437, Volume 1, Revision 1, dated June 2013 (ADAMS Accession No. ML13106A241). All documents described above are also available for public inspection at the NRC's Public Document Room as described in the **ADDRESSES** section, above.

Dated at Rockville, Maryland, this 29th day of May 2015.

For the Nuclear Regulatory Commission.

Douglas A. Broaddus,

Chief, Plant Licensing Branch I–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–14138 Filed 6–9–15; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–278; NRC–2015–0145]

Exelon Generation Company, LLC; Peach Bottom Atomic Power Station, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Renewed Facility Operating License No. DPR–56, issued to Exelon Generation Company, LLC (the licensee), for operation of the Peach Bottom Atomic Power Station (PBAPS), Unit 3. The proposed amendment would change a license condition pertaining to the PBAPS, Unit 3 replacement steam dryer (RSD). Currently, the license condition requires that a revised analysis for the RSD be submitted to the NRC, as a report, at least 90 days prior to the start of the Unit 3 extended power uprate (EPU) outage. The proposed amendment would reduce the period before the outage by which the analysis is to be submitted from 90 days to 30 days. The licensee indicated that the EPU outage is scheduled to start on September 14, 2015.

DATES: Submit comments by July 10, 2015. Requests for a hearing or petition for leave to intervene must be filed by August 10, 2015.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0145. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: Richard B. Ennis, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1420, email: *Rick.Ennis@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2015–0145 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0145.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The PBAPS, Unit 3, license amendment application, ''Exigent License Amendment Request—Change to Unit 3 License Condition 2.C(15)(a)1,'' dated May 29, 2015, is available in ADAMS under Accession No. ML15149A473.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2015–0145 in your comment submission.

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

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

II. Introduction

The NRC is considering issuance of an amendment to Renewed Facility Operating License No. DPR–56, issued to Exelon Generation Company, LLC, for operation of PBAPS, Unit 3, located in York and Lancaster Counties, Pennsylvania.

The proposed amendment would change license condition 2.C(15)(a)1 pertaining to the PBAPS, Unit 3 RSD. Currently, the license condition requires that revised stress analysis for the RSD be submitted to the NRC, as a report, at least 90 days prior to the start of the Unit 3 EPU outage. The proposed amendment would reduce the period before the outage by which the analysis is to be submitted from 90 days to 30 days. The EPU outage is scheduled to start on September 14, 2015. The revised analysis is based on results of recent testing and analysis for the PBAPS, Unit 2 RSD. Due to delays in the Unit 2 RSD testing and analysis, the licensee is unable to complete the Unit 3 RSD analysis and submit it to the NRC 90 days prior to the Unit 3 outage, as currently required by license condition 2.C(15)(a)1, while still maintaining the currently planned outage schedule. As such, the licensee requested a change to the licensee condition to reduce the

required time prior to the outage for submittal of the report.

The licensee has requested that the amendment be processed under exigent circumstances, in accordance with the provisions in § 50.91(a)(6) of Title 10 of the *Code of Federal Regulations* (10 CFR). Processing an amendment under exigent circumstances allows a reduced period for public comment on the proposed no significant hazards consideration determination, other than the normal 30-day comment period. However, the NRC staff has determined that there is sufficient time to allow the full 30-day public comment period. As such, the amendment is not being processed as an exigent amendment.

Before any issuance of the proposed license amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and NRC's regulations.

The NRC has made a proposed determination that the license amendment request involves no significant hazards consideration. Under the NRC's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed exigent license amendment reduces the length of time prior to the outage by which a predictive summary stress analysis of the Peach Bottom Atomic Power Station (PBAPS), Unit 3 replacement steam dryer (RSD), performed using an NRC-approved methodology benchmarked on the PBAPS, Unit 2 RSD, must be submitted to the NRC for information. There is no required review or approval of the revised analysis needed to satisfy the license condition. The proposed change is an administrative change to the period before the outage and does not impact any system, structure or component in such a way as to affect the probability or consequences of an accident previously evaluated.

The proposed amendment is purely administrative and has no technical or safety aspects.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed exigent license amendment reduces the length of time prior to the outage by which a revised stress analysis of the PBAPS, Unit 3 RSD must be submitted to the NRC for information. The proposed amendment is purely administrative and has no technical or safety aspects.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed exigent license amendment reduces the length of time prior to the outage by which a revised stress analysis of the PBAPS, Unit 3 RSD must be submitted to the NRC for information. The proposed amendment is purely administrative and has no technical or safety aspects.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the license amendment request involves no significant hazards consideration.

The NRC is seeking public comments on this proposed determination that the license amendment request involves no significant hazards consideration. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day notice period if the Commission concludes the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

III. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this **Federal Register** notice, any person whose interest may be affected by this proceeding and who desires to participate as a party in the proceeding must file a written request for hearing or a petition for leave to intervene specifying the contentions which the person seeks to have litigated in the hearing with respect to the license amendment request. Requests for hearing and petitions for leave to intervene shall be filed in accordance with the NRC's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.*

As required by 10 CFR 2.309, a request for hearing or petition for leave to intervene must set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The hearing request or petition must specifically explain the reasons why intervention should be permitted, with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The hearing request or petition must also include the specific contentions that the requestor/petitioner seeks to have litigated at the proceeding.

For each contention, the requestor/petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the requestor/petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings that the NRC must make to support the granting of a license amendment in response to the application. The hearing request or petition must also include a concise statement of the alleged facts or expert

opinion that support the contention and on which the requestor/petitioner intends to rely at the hearing, together with references to those specific sources and documents. The hearing request or petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute. If the requestor/petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the requestor/petitioner must identify each failure and the supporting reasons for the requestor's/petitioner's belief. Each contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who does not satisfy these requirements for at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Hearing requests or petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-

free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission. For further details with respect to this action, see the application for license amendment dated May 29, 2015.

Attorney for licensee: J. Bradley Fewell, Esquire, Vice President and Deputy General Counsel, Exelon Generation Company, LLC, 4300 Winfield Rd., Warrenville, IL 60555.

NRC Branch Chief: Douglas A. Broaddus.

Dated at Rockville, Maryland, this 2nd day of June 2015.

For the Nuclear Regulatory Commission.

Richard B. Ennis,

Senior Project Manager, Plant Licensing Branch I–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2015–14139 Filed 6–9–15; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Standard Form 2809, Health Benefits Election Form, 3206–0160

AGENCY: Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Healthcare & Insurance/Federal Employee Insurance Operations (FEIO), Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0160, Health Benefits Election Form. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until August 10, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Healthcare & Insurance/FEIO, Office of Personnel Management, 1900 E. Street NW., Room 3450–M, Washington, DC 20415, Attention: Jay Fritz or sent by email to *Jay.Fritz@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E. Street NW., Room 3316–AC, Washington, DC 20503, Attention: Cyrus S. Benson or sent by email to *Cyrus.Benson@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

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 submissions of responses.

The Health Benefits Election Form is used by Federal employees, annuitants other than those under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) including individuals receiving benefits from the Office of Workers' Compensation Programs, former spouses eligible for benefits under the Spouse Equity Act of 1984, and separated employees and former dependents eligible to enroll under the Temporary Continuation of Coverage provisions of the FEHB law (5 U.S.C. 8905a). A different form (OPM 2809) is used by CSRS and FERS annuitants whose health benefit enrollments are administered by OPM's Retirement Operations.

Analysis

Agency: Federal Employee Insurance Operations, Office of Personnel Management.

Title: Health Benefits Election Form.

OMB Number: 3206–0160.

Frequency: On Occasion.

Affected Public: Individuals or Households.

Number of Respondents: 18,000.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 9,000.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2015–14223 Filed 6–9–15; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Federal Annuitant Benefits Survey

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Office of Planning and Policy Analysis, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a new information collection request (ICR) 3206–NEW, the Federal Annuitant Benefits Survey. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until August 10, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Planning and Policy Analysis, Office of Personnel Management, 1900 E. Street NW., Washington, DC 20415, Attention: Cristin Kane or sent by email to *cristin.kane@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Planning and Policy Analysis, Office of Personnel Management, 1900 E. Street NW., Washington, DC 20415, Attention: Cristin Kane or sent by email to *cristin.kane@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

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 submissions of responses.

Overview: In the past, the Office of Personnel Management contracted with a vendor to administer the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey to a sample of both active Federal employees and retirees. CAHPS surveys ask consumers and patients to report on and evaluate their experiences with their health care. Since the CAHPS survey instrument is designed for the active population, it will no longer be administered to retirees. However, annuitant feedback about their health plan experience is an essential part of successful benefit administration for the Federal Employees Health Benefits (FEHB) Program. As a result, the Federal Annuitant Benefits Survey is designed to replicate CAHPS questions in order to assess annuitant satisfaction with their health plan's benefits and services. It will inform the Office of Personnel Management's Healthcare and Insurance contracting officers regarding plan performance.

Analysis

Agency: Planning and Policy Analysis, Office of Personnel Management.

Title: Federal Annuitant Benefits Survey.

OMB Number: 3260–NEW.

Frequency: Annually.

Affected Public: Federal Retirees.

Number of Respondents: Unknown at this time, as survey will be administered via ''open participation.'' No firm sample size exists; however, target completion is between 200 and 1,000 surveys.

Estimated Time Per Respondent: 20 minutes.

Total Burden Hours: Dependent on final participation numbers.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2015–14221 Filed 6–9–15; 8:45 am]

BILLING CODE 6325–63–P

POSTAL SERVICE

Sunshine Act Meeting; Temporary Emergency Committee of the Board of Governors

DATES AND TIMES: June 22, 2015, at 1:30 p.m., and June 23, 2015, at 8:30 a.m.

PLACE: Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Monday, June 22, 2015, at 1:30 p.m.

1. Strategic Issues.

Tuesday, June 23, 2015, at 8:30 a.m.

1. Compensation Issues.
2. Financial Matters.
3. Pricing.
4. Governors' Executive Session—Discussion of prior agenda items and Board governance.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Requests for information about the meeting should be addressed to the Secretary of the Board, Julie S. Moore, at 202–268–4800.

Julie S. Moore.

Secretary, Board of Governors.

[FR Doc. 2015–14240 Filed 6–8–15; 11:15 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75108; File No. SR–BYX–2015–26]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rule 13.8 Describing a Communication and Routing Service Known as BATS Connect

June 4, 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 May 27, 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.

[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).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to adopt Rule 13.8 to describe a communication and routing service known as BATS Connect. The proposed rule change is based on an identical service offered by the Exchange's affiliate, EDGX Exchange, Inc. (''EDGX'').[5]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

(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 13.8 to describe a communication and routing service known as BATS Connect. The Exchange proposes to offer BATS Connect on a voluntary basis in a capacity similar to a vendor. BATS Connect would operate in the same fashion as an identical service, also called BATS Connect, offered by the Exchange's affiliate, EDGX.[6] BATS Connect is a communication service that provides Members[7] an additional means to receive market data from and route orders to any destination connected to Exchange's network. BATS Connect does not provide any advantage to subscribers for connecting to the Exchange's affiliates[8] as compared to other method of connectivity available to subscribers. The servers of the Member need not be located in the same facilities as the Exchange in order to subscribe to BATS Connect. Members may also seek to utilize BATS Connect in the event of a market disruption where other alternative connection methods become unavailable.

Specifically, this service would allow Members to route orders to other exchanges and market centers that are connected to the Exchange's network. This communications or routing service would not effect trade executions and would not report trades to the relevant Securities Information Processor. An order sent via the service does not pass through the Exchange's matching engine before going to a market center outside of the Exchange (*i.e.,* a participant could choose to route an order directly to any market center on the Exchange's network). A participant would be responsible for identifying the appropriate destination for any orders sent through the service and for ensuring that it had authority to access the selected destination; the Exchange would merely provide the connectivity by which orders (and associated messages) could be routed by a participant to a destination and from the destination back to the participant.[9]

The Exchange will charge a monthly connectivity fee to Members utilizing BATS Connect to route orders to other exchanges and broker-dealers that are connected to the Exchange's network. BATS Connect would also allow participants to receive market data feeds from the exchanges connected to the Exchange's network. The Exchange will file a separate proposed rule change with the Commission regarding the connectivity fees for order entry and market data to be charged for the BATS Connect service.[10]

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of section 6(b) of the Act,[11] in general, and section 6(b)(5) of the Act,[12] in particular, in that it promotes just and equitable principles of trade, removes impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protects investors and the public interest. Specifically, the proposal is consistent with section 6(b)(5) of the Act,[13] in that it provides Members an alternative means to receive market data from and route orders to any destination connected to the Exchange's network, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. In addition, BATS Connect removes impediments to and perfects the mechanism of a free and open market and a national market system because, in the event of a market disruption, Members would be able to utilize BATS Connect to connect to other market centers where other alternative connection methods become unavailable. BATS Connect would operate in the same fashion as an identical service, also called BATS Connect, offered by the Exchange's affiliate, EDGX.[14] The proposed rule change is also similar to a communication and routing service implemented by the Chicago Stock Exchange, Inc. (''CHX'').[15] The proposed rule change will also not permit unfair discrimination among customers, brokers, or dealers because BATS Connect will be available to all of the Exchange's customers on an equivalent basis regardless of whether the servers of the Member are located in the same facilities as the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposal will promote competition by

[5] *See* EDGX Rule 13.9. *See also* Securities Exchange Act Release Nos. 73780 (December 8, 2014), 79 FR 73942 (December 12, 2014) (SR–EDGX–2014–28); and 74935 (May 12, 2015), 80 FR 28335 (May 18, 2015) (SR–EDGX–2015–19).

[6] *See supra* note 5.

[7] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[8] The Exchange's affiliated exchanges are EDGX, EDGA Exchange, Inc., and BATS Exchange, Inc. The Exchange understands that its affiliated Exchange's intend to file identical proposed rule changes to adopt the BATS Connect service with the Commission.

[9] This service is an alternative to a service that the Exchange already provides to its Members—current order-sending Members route orders through access provided by the Exchange to the Exchange that either check the Exchange for available liquidity and then route to other destinations or, in certain circumstances, bypass the Exchange and route to other destinations. *See* Exchange Rule 11.13(b)(3) (setting forth routing options whereby Members may select their orders be routed to other market centers).

[10] The Exchange understands that its affiliated exchanges intend to file identical proposed rule changes to adopt fees for the BATS Connect service with the Commission.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

[14] *See supra* note 5.

[15] *See* Securities Exchange Act Release No. 54846 (November 30, 2006), 71 FR 71003 (December 7, 2006) (SR–CHX–2006–34) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Implementation of a Communication and Routing Service).

the Exchange offering a service similar to those offered by the CHX and NYSE.[16] Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the proposed rule change is designed to provide Members with an alternative means to access other market centers if they chose or in the event of a market disruption where other alternative connection methods become unavailable. Therefore, the Exchange does not believe the proposed rule change will have any effect on competition.

(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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. 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. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Waiver of the 30-day operative delay would permit the Exchange to provide Members with an alternative means to access other market centers, particularly in the event of a market disruption. In addition, the Exchange represents that BATS Connect does not provide any advantage to subscribers for connecting to the Exchange's affiliates as compared to other methods of connectivity available to subscribers.[18] Based on the foregoing, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest.[19] The Commission hereby grants the waiver and designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BYX–2015–26 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–2015–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2015–26 and should be submitted on or before July 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–14135 Filed 6–9–15; 8:45 am]

BILLING CODE 8011–01–P

[16] *See* NYSE's SFTI Americas Product and Service List *available at http://www.nyxdata.com/docs/connectivity. See supra* note 15.

[17] 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.

[18] *See supra* note 8.

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75106; File No. SR–C2–2015–014]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Solicitation Auction Mechanism

June 4, 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 May 27, 2015, C2 Options Exchange, Incorporated (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rules 6.52 relating to the Solicitation Auction Mechanism (''SAM''). The text of the proposed rule change is provided below. (additions are *italicized*; deletions are [bracketed])

* * * * *

C2 Options Exchange, Incorporated

Rules

* * * * *

Rule 6.52. Solicitation Auction Mechanism

A Participant that represents agency orders may electronically execute orders it represents as agent (''Agency Order'') against solicited orders provided it submits the Agency Order for electronic execution into the solicitation auction mechanism (the ''Auction'') pursuant to this Rule.

(a) Auction Eligibility Requirements. A Participant (the ''Initiating Participant'') may initiate an Auction provided all of the following are met:

(1) The Agency Order is in a class designated as eligible for Auctions as determined by the Exchange and within the designated Auction order eligibility size parameters as such size parameters are determined by the Exchange (however, the eligible order size may not be less than 500 standard option contracts or 5,000 mini-option contracts);

(2) Each order entered into the Auction shall be designated as all-or-none *and must be stopped with a solicited order priced at or within the NBBO as of the time of the initiation of the Auction (i.e. the time that the Agency Order is received in the System (the ''initial auction NBBO'');* and

(3) The minimum price increment for an Initiating Participant's single price submission shall be determined by the Exchange on a series basis and may not be smaller than one cent.

(b) Auction Process. The Auction shall proceed as follows:

(1) Auction Period and Requests for Responses.

(A) To initiate the Auction, the Initiating Participant must mark the Agency Order for Auction processing, and specify a single price at which it seeks to cross the Agency Order with a solicited order *priced at or within the initial auction NBBO.*

(B) When the Exchange receives a properly designated Agency Order for Auction processing, a Request for Responses message indicating the price*, side,* and size *at which it seeks to cross the Agency Order with a solicited order* will be sent to all Participants that have elected to receive such messages.

(C)–(G) No change.

(2) Auction Conclusion and Order Allocation. The Auction shall conclude at the sooner of subparagraphs (b)(2)(A) through (E) of Rule 6.51. At the conclusion of the Auction, the Agency Order will be automatically executed in full or cancelled and allocated subject to the following:

(A) The Agency Order will be executed against the solicited order at the proposed execution price, provided that:

(i) The execution price must be equal to or better than the *initial auction N*BBO. If the execution would take place outside the *initial auction N*BBO, the Agency Order and solicited order will be cancelled;

(ii)–(iii) No change.

. . . Interpretations and Policies:

.01–.03 No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make changes to its existing SAM auction rules in Rule 6.52. The Exchange believes that the proposed amendments would ensure greater consistency between the Exchange's SAM auction and order protection rules [3] and provide additional clarity in the Rules regarding the Exchange's SAM Auction procedures.

Rule 6.52 permits Participants to electronically execute all-or-none (''AON'') orders for 500 or more standard options contracts or 5,000 or more mini-options contracts that they represent as agent (''Agency Order'') against solicited orders provided the Participant submits the Agency Order for electronic execution into SAM for auction (the ''Auction'') pursuant to Rule 6.52.[4] Under Rules 6.52(a)(2) and (b)(1)(A), each order entered into SAM shall be designated AON by the Initiating Participant with the Agency Order marked for auction processing with a specific single price at which the Initiating Participant seeks to cross the Agency Order with the solicited order. Pursuant to Rule 6.52(b)(2)(A)(i), the Agency Order will be executed against the solicited order at the proposed execution price, provided that, among other things, the execution price must be equal to or better than the C2 best bid or offer (''BBO''). If the execution would take place outside the BBO, the Agency Order and solicited order will be cancelled.[5]

Although Participants are subject to the Exchange's order protection rules and thus, prevented from trading through the displayed national best bid and offer (''NBBO''), including within the context of SAM auctions,[6] current Rule 6.52 does not specifically require Initiating Participants to stop Agency Orders at or within the NBBO or expressly prohibit Agency Orders from being executed against solicited orders at prices outside the NBBO.[7] In addition, current Rule 6.52 does not specify whether the Agency Order may be executed against a solicited order priced at or within the BBO as of the time that the Agency Order is received in the System,[8] as of the time of the beginning of the auction (*i.e.* the time when requests for responses (''RFRs'')

[3] *See* Section E of C2 Rules Chapter 6 relating to Intermarket Linkage (''Intermarket Linkage Rule'') (providing that the rules contained in Section E of CBOE Chapter IV relating to the Options Order Protection and Locked/Crossed Market Plan shall apply to C2).

[4] SAM functionality is currently inactive on the Exchange.

[5] *See* Rule 6.52(b)(2)(A)(i).

[6] *See* section E of C2 Rules Chapter 6 relating to Intermarket Linkage (''Intermarket Linkage Rule'') (providing that the rules contained in section E of CBOE Chapter IV relating to the Options Order Protection and Locked/Crossed Market Plan shall apply to C2).

[7] Notably, the Exchange's other auction rules expressly provide that Initiating Participants must stop Agency Orders at or within the NBBO and prohibit Agency Orders from being executed against solicited orders at prices outside the NBBO. *See* Rule 6.51(b) (Automated Improvement Mechanism (''AIM'')).

[8] *See* Rule 1.1 (System) (defining the term ''System'' to mean ''the automated trading system used by the Exchange for the trading of options contracts'').

are sent), or as of the time of execution.[9] Accordingly, the Exchange is proposing to make several clarifying amendments to Rule 6.52 to require that Agency Orders be stopped and executed at or within the NBBO and to define when the NBBO will be looked at for purposes of order protection during the SAM auction process.[10]

Specifically, the Exchange is proposing to amend Rules 6.52(a)(2), 6.52(b)(1)(A), and 6.52(b)(2)(A)(i) to provide that Agency Orders submitted into SAM must be stopped with a solicited order priced at or within the national best bid or offer (''NBBO'') as of the time of the initiation of the Auction (*i.e.* the time that the Agency Order is received for SAM auction processing in the System) (the ''initial auction NBBO'') and that Agency Orders that are submitted for electronic execution into SAM must be executed at a price at or better than the initial auction NBBO.[11] Agency Orders paired against solicited orders priced outside of the NBBO that are submitted for electronic execution into SAM would be rejected by the System and cancelled by the Exchange.

The Exchange believes that requiring SAM orders to be stopped and executed at a price equal to, or better than, the NBBO as of the time of receipt of the Agency Order in the OHS is consistent with the Exchange's Intermarket Linkage Rule. As proposed, the range of permissible crossing prices and executions would be defined based on a snapshot of the market at the time when the Agency Order is received.[12] This proposed rule change would thus, make clear that although the NBBO may update during the SAM auction response time (currently SAM auctions last one second),[13] the initial auction NBBO would be considered the NBBO for SAM auction execution purposes. Accordingly, a SAM order execution outside of the NBBO would not violate the order protection rules if the execution price were within the NBBO that existed when the Agency Order was received in the System. The Exchange believes that the proposed rule changes would promote consistency within the Rules and across the Exchange's various auction procedures.[14] The Exchange also believes that the proposed rule changes would further the interests of investors and market participants by helping to ensure best executions and protection of bids and offers across multiple exchanges.

The following example demonstrates how the Exchange's proposal would provide order protection within the context of the SAM auction rules. Assume that the NBBO for a particular option is $1.00–$1.20 with quotes on both sides for 100 contracts each. The C2 BBO is $0.95–$1.25. The minimum increment in the class is $0.01. An Initiating Participant submits an Agency Order to buy 500 contracts against a solicited order to sell 500 contracts into SAM priced at $1.21. An RFR is transmitted to Participants that have elected to receive auction messages without any response. In this case, under current Rule 6.52(b)(2)(A), the Agency Order would be executable against the solicited order because the execution price of $1.21 improves the C2 best offer price of $1.25. Such execution, however, would be in violation of the Exchange's order protection rules because the Agency Order would have been executed outside of the NBBO of $1.00–$1.20. The Exchange proposes to remedy this inconsistency in the Rules by changing references to the BBO to NBBO and defining the term ''initial auction NBBO'' to mean priced at or within the NBBO as of the time of the initiation of the Auction (*i.e.*, the time that the Agency Order is received in the System). Under the Exchange's proposal, the Agency Order would be rejected by the System and cancelled by the Exchange because, at the time when the Agency Order to buy 500 contracts priced at $1.21 was received in the System, the solicited order would have been outside of the NBBO of $1.00–$1.20.

The Exchange's proposal would not, however, change the priority of public customer orders resting in the book. Assume again that the NBBO for a particular option is $1.00–$1.20 with quotes on both sides for 100 contracts each. Assume this time, however, that there is also a public customer order to sell 50 contracts resting in the book at $1.20. The C2 BBO is $0.95–$1.20. An Initiating Participant submits an Agency Order to buy 500 contracts against a solicited order to sell 500 contracts into SAM priced at $1.20. An RFR is transmitted to Participants that have elected to receive auction messages with a single response to sell 150 contracts also at $1.20. In this case, under both current Rule 6.52(b)(2)(A) and the Exchange's proposed rule change, both the Agency Order and solicited order would be cancelled because there is a public customer order resting in the book on the opposite side of the Agency Order at the proposed price without sufficient size (considering all resting orders (*i.e.* 50), electronic quotes (*i.e.* 100), and responses (*i.e.* 150) (50 + 100 + 150 = 300)).[15]

The Exchange also proposes to amend Rules 6.52(b)(1)(B) to further make clear that upon receiving a properly designated Agency Order for SAM Auction processing, the Exchange's RFR message would indicate the price, side, and size of the Agency Order that the Initiating Participant is seeking to cross. Rule 6.52(b)(1)(B) currently provides that the Exchange will send an RFR message to all Participants that have elected to receive such messages, indicating the price and size of the Agency Order that the Initiating Participant is seeking to cross, but does not currently specify that the RFR will also indicate the side (*i.e.* buy v. sell) of the Agency Order that the Initiating Participant is seeking to cross.[16] In order to add additional clarity to the Rules and in an effort to minimize confusion among market participants, the Exchange proposes to add the ''side'' indication requirement to the SAM auction rules. The Exchange believes that the proposed changes will provide additional clarity regarding the Exchange's SAM auction processes and reduce the potential for confusion in the Rules.

[9] SAM auction functionality is not active on C2.

[10] Any future activation of SAM will be announced via Regulatory Circular prior to activation.

[11] The Exchange believes that its proposal to consider the NBBO as of the time that the Agency Order is received in the System for purposes of the entire auction period (*i.e.* 1 second) is consistent with order protection principles.

[12] *See Id.*

[13] *See* Rule 6.52(b)(1)(C).

[14] The Exchange also notes that the proposed order protection rule changes are consistent with similar electronic price improvement auction rules of other exchanges. *See, e.g.,* BOX Rule 7270(b)(2)(i) (Block Trades).

[15] *See* Rule 6.52(b)(2)(A). Note, however, that in this example, under both the current and proposed rules, had the resting order in the book to sell 50 contracts at $1.20 been a Market-Maker quote or order rather than a public customer order, the Agency Order to buy 500 contracts would trade against the solicited order at $1.20 because there would not have been a public customer order in the book on the opposite side of the Agency Order and there would have been insufficient size to execute the Agency Order at a price equal to, or better than, the initial auction NBBO. *See* Rules 6.52(b)(2)(A)(ii)–(iii).

[16] The Exchange's other auction rules require the side of the Agency Order to be indicated in the RFR. *See, e.g.,* Rule 6.51(b)(1)(B), Automated Improvement Mechanism, which provides that the Initiating Participant must expressly disclose the side of the Agency Order that it seeks to cross. (''When the Exchange receives a properly designated Agency Order for Auction processing, a Request for Responses (''RFR'') detailing the side and size of the order will be sent to all Participants that have elected to receive RFRs.'' Emphasis added.)

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.[17] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[18] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[19] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed changes would ensure further consistency within the Exchange's Rules. The Exchange also believes that the proposed rule changes would further the objectives of the Act to protect investors by promoting the intermarket price protection goals of the Exchange's order protection rules and the Options Order Protection and Locked/Crossed Market Plan.[20] The Exchange believes its proposal would help ensure intermarket competition across all exchanges, aid in preventing intermarket trade-throughs, and facilitate compliance with best execution practices. The Exchange believes that these objectives are consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of section 11A of the Act. In addition, the Exchange believes that the proposed rule changes will clarify the manner in which orders are submitted into the SAM auction process and reduce the potential for confusion in the Rules. The Exchange believes that providing additional clarity to its Rules furthers the goal of promoting transparency in markets, which is in the best interests of market participants and the general public and consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed rule would bolster intermarket competition by promoting fair competition among individual markets, while at the same time assuring that market participants receive the benefits of markets that are linked together, through facilities and rules, in a unified system, which promotes interaction among the orders of buyers and sellers. The Exchange believes its proposal would help ensure intermarket competition across all exchanges, aid in preventing intermarket trade-throughs, and facilitate compliance with best execution practices. In addition, the Exchange believes that the proposed rule change would help promote fair and orderly markets by helping to ensure compliance with the order protection rules. Thus, the Exchange does not believe the proposal creates any significant impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(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[21] and Rule 19b–4(f)(6)[22] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2015–014 on the subject line.

Paper comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2015–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *Id.*

[20] *See generally* File No. 4–546: Proposed Options Order Protection and Locked/Crossed Market Plan by BSE, CBOE, ISE, Nasdaq, NYSE Arca, NYSEALTR, and Phlx; File No. 4–546: Amendment No. 1 to Proposed Options Order Protection and Locked/Crossed Market Plan by CBOE (Nov. 21, 2008); *see also* Securities and Exchange Act Release No. 34–43086 (July 28, 2000), 65 FR 48023 (August 4, 2000) (Order Approving Options Intermarket Linkage Plan) (File No. 4–429).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such short time as designated by the Commission. The Exchange has satisfied this requirement.

submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2015–014 and should be submitted on or before July 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–14133 Filed 6–9–15; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75104; File No. SR–ISE–2014–24]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Modify the Opening Process

June 4, 2015.

On November 19, 2014, International Securities Exchange, LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the manner in which the Exchange's trading system opens trading at the beginning of the day and after trading halts and to codify certain existing functionality within the trading system regarding opening and reopening of options classes traded on the Exchange. The proposed rule change was published for comment in the **Federal Register** on December 10, 2014.[3] On January 23, 2015, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change, to March 10, 2015.[4] On March 10, 2015, the Commission instituted proceedings under section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the proposed rule change.[6] On May 13, 2015, the Commission received a letter from the Exchange responding to the Order Instituting Proceedings.[7] The Commission received one other comment letter on the proposed rule change.[8]

Section 19(b)(2) of the Act provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change.[9] The time for conclusion of the proceedings may be extended for up to 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination.[10] The 180th day for this filing is June 8, 2015.

The Commission is extending the time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the comment letters and take action on the Exchange's proposed rule change.

Accordingly, pursuant to section 19(b)(2)(B)(ii)(II) of the Act [11] and for the reasons stated above, the Commission designates August 7, 2015, as the date by which the Commission should either approve or disapprove the proposed rule change(File No. SR–ISE–2014–24).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–14131 Filed 6–9–15; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73736 (December 4, 2014), 79 FR 73354.

[4] *See* Securities Exchange Act Release No. 74126 (January 23, 2015), 80 FR 4953 (January 29, 2015).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 74465 (March 10, 2015), 80 FR 13660 (March 16, 2015) (''Order Instituting Proceedings'').

[7] *See* Letter to Brent J. Fields, Secretary, Commission, from Mike Simon, Secretary and General Counsel, dated May 13, 2015 (''ISE Letter'').

[8] *See* Letter to Brent J. Fields, Secretary, Commission, from Benjamin Londergan, Head of Options Trading and Technology, Convergex Execution Solutions LLC, dated June 1, 2015.

[9] 15 U.S.C. 78s(b)(2)(B)(ii)(I).

[10] 15 U.S.C. 78s(b)(2)(B)(ii)(II).

[11] 15 U.S.C. 78s(b)(2)(B)(ii)(II).

[12] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75107; File No. SR–BATS–2015–40]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rule 13.8 Describing a Communication and Routing Service Known as BATS Connect

June 4, 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 May 27, 2015, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') 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 Substance of the Proposed Rule Change

The Exchange is proposing to adopt Rule 13.8 to describe a communication and routing service known as BATS Connect. The proposed rule change is based on an identical service offered by the Exchange's affiliate, EDGX Exchange, Inc. (''EDGX'').[5]

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

[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).

[5] *See* EDGX Rule 13.9. *See also* Securities Exchange Act Release Nos. 73780 (December 8, 2014), 79 FR 73942 (December 12, 2014) (SR–EDGX–2014–28); and 74935 (May 12, 2015), 80 FR 28335 (May 18, 2015) (SR–EDGX–2015–19).

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

The Exchange proposes to adopt Rule 13.8 to describe a communication and routing service known as BATS Connect. The Exchange proposes to offer BATS Connect on a voluntary basis in a capacity similar to a vendor. BATS Connect would operate in the same fashion as an identical service, also called BATS Connect, offered by the Exchange's affiliate, EDGX.[6] BATS Connect is a communication service that provides Members [7] an additional means to receive market data from and route orders to any destination connected to Exchange's network. BATS Connect does not provide any advantage to subscribers for connecting to the Exchange's affiliates [8] as compared to other method of connectivity available to subscribers. The servers of the Member need not be located in the same facilities as the Exchange in order to subscribe to BATS Connect. Members may also seek to utilize BATS Connect in the event of a market disruption where other alternative connection methods become unavailable.

Specifically, this service would allow Members to route orders to other exchanges and market centers that are connected to the Exchange's network. This communications or routing service would not effect trade executions and would not report trades to the relevant Securities Information Processor. An order sent via the service does not pass through the Exchange's matching engine before going to a market center outside of the Exchange (*i.e.,* a participant could choose to route an order directly to any market center on the Exchange's network). A participant would be responsible for identifying the appropriate destination for any orders sent through the service and for ensuring that it had authority to access the selected destination; the Exchange would merely provide the connectivity by which orders (and associated messages) could be routed by a participant to a destination and from the destination back to the participant.[9]

The Exchange will charge a monthly connectivity fee to Members utilizing BATS Connect to route orders to other exchanges and broker-dealers that are connected to the Exchange's network. BATS Connect would also allow participants to receive market data feeds from the exchanges connected to the Exchange's network. The Exchange will file a separate proposed rule change with the Commission regarding the connectivity fees for order entry and market data to be charged for the BATS Connect service.[10]

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of section 6(b) of the Act,[11] in general, and section 6(b)(5) of the Act,[12] in particular, in that it promotes just and equitable principles of trade, removes impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protects investors and the public interest. Specifically, the proposal is consistent with section 6(b)(5) of the Act,[13] in that it provides Members an alternative means to receive market data from and route orders to any destination connected to the Exchange's network, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest. In addition, BATS Connect removes impediments to and perfects the mechanism of a free and open market and a national market system because, in the event of a market disruption, Members would be able to utilize BATS Connect to connect to other market centers where other alternative connection methods become unavailable. BATS Connect would operate in the same fashion as an identical service, also called BATS Connect, offered by the Exchange's affiliate, EDGX.[14] The proposed rule change is also similar to a communication and routing service implemented by the Chicago Stock Exchange, Inc. (''CHX'').[15] The proposed rule change will also not permit unfair discrimination among customers, brokers, or dealers because BATS Connect will be available to all of the Exchange's customers on an equivalent basis regardless of whether the servers of the Member are located in the same facilities as the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposal will promote competition by the Exchange offering a service similar to those offered by the CHX and NYSE.[16] Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the proposed rule change is designed to provide Members with an alternative means to access other market centers if they chose or in the event of a market disruption where other alternative connection methods become unavailable. Therefore, the Exchange does not believe the proposed rule change will have any effect on competition.

(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.

[6] *See supra* note 5.

[7] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[8] The Exchange's affiliated exchanges are EDGX, EDGA Exchange, Inc., and BATS Y-Exchange, Inc. The Exchange understands that its affiliated Exchange's intend to file identical proposed rule changes to adopt the BATS Connect service with the Commission.

[9] This service is an alternative to a service that the Exchange already provides to its Members—current order-sending Members route orders through access provided by the Exchange to the Exchange that either check the Exchange for available liquidity and then route to other destinations or, in certain circumstances, bypass the Exchange and route to other destinations. *See* Exchange Rule 11.13(b)(3) (setting forth routing options whereby Members may select their orders be routed to other market centers).

[10] The Exchange understands that its affiliated exchanges intend to file identical proposed rule changes to adopt fees for the BATS Connect service with the Commission.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *Id.*

[14] *See supra* note 5.

[15] *See* Securities Exchange Act Release No. 54846 (November 30, 2006), 71 FR 71003 (December 7, 2006) (SR–CHX–2006–34) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Implementation of a Communication and Routing Service).

[16] *See* NYSE's SFTI Americas Product and Service List *available at http://www.nyxdata.com/docs/connectivity. See supra* note 15.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. 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. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. Waiver of the 30-day operative delay would permit the Exchange to provide Members with an alternative means to access other market centers, particularly in the event of a market disruption. In addition, the Exchange represents that BATS Connect does not provide any advantage to subscribers for connecting to the Exchange's affiliates as compared to other methods of connectivity available to subscribers.[18] Based on the foregoing, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest.[19] The Commission hereby grants the waiver and designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2015–40 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–BATS–2015–40. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2015–40 and should be submitted on or before July 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–14134 Filed 6–9–15; 8:45 am]

BILLING CODE 8011–01–P

[17] 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.

[18] *See supra* note 8.

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75109; File No. SR–CBOE–2015–053]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Intermarket Order Routing

June 4, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that, on May 28, 2015, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.14B regarding order routing to other exchanges to include certain references to provisions of Rule 15c3–5 under the Act [3] and make certain miscellaneous non-substantive changes to the existing text of Rule 6.20. The text of the proposed rule change is provided below. (additions are *italicized;* deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 6.14B. Order Routing to Other Exchanges

The Exchange may automatically route intermarket sweep orders to other exchanges under certain circumstances, including pursuant to Rule 6.14A

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69792 (November 15, 2010).

(''Routing Services''). In connection with such services, the following shall apply:

(a)–(g) No change.

(h) Each routing broker is required to establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory and other risks of providing Trading Permit Holders and their customers access to other exchanges, pursuant to Rule 15c3–5 under the Exchange Act. Pursuant to the policies and procedures developed by the routing broker to comply with Rule 15c3–5, if an order or series of orders are deemed by the routing broker to violate the applicable pre-trade requirements of Rule 15c3–5, the routing broker will reject the order(s) prior to routing and may seek to cancel any orders that have been routed.

. . . Interpretations and Policies:

.01 No change.

* * * * *

Rule 6.20. Admission to and Conduct on the Trading Floor; Trading Permit Holder Education

(a)–(e) No change.

. . . Interpretations and Policies:

.01 Only those Trading Permit Holders who have been approved to perform a floor function are authorized to enter into transactions on the floor. Such Trading Permit Holders include Floor Brokers who are registered pursuant to Rule 6.71[, Board Brokers who are registered pursuant to Rules 7.2 and 7.3] and Market-Makers registered pursuant to Rules 8.2 and 8.3. While on the floor such floor Trading Permit Holders shall at all times display a floor Trading Permit Holder's badge.

.02–.10 No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Market Access Rule

The Commission adopted Rule 15c3–5 (also referred to herein as the ''Market Access Rule'') to require broker-dealers providing others with access to an exchange or alternative trading system to establish, document and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory, and other risks of providing such access.[4] Broker-dealers routing orders on behalf of exchanges or alternative trading systems for the purpose of accessing other trading centers in compliance with Rule 611 of Regulation NMS,[5] or in compliance with a national market system plan for listed options, are not required to comply with Rule 15c3–5 with regard to such routing services, except with regard to paragraph (c)(1)(ii). Paragraph (c)(1)(ii) provides in relevant part that the broker-dealer's risk management controls and supervisory procedures be reasonably designed to systematically limit the financial exposure of the broker or dealer that could arise as a result of market access, including being reasonably designed to prevent the entry of erroneous orders, by rejecting orders that exceed appropriate price or size parameters, on an order-by-order basis or over a short period of time, or that indicate duplicative orders.[6]

Proposal To Modify Rules Related to Routing Brokers

The Exchange proposes to amend Rule 6.14B to make explicit that broker-dealers routing Exchange orders to other markets must establish, document, and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory and other risks of providing Trading Permit Holders and their customers access to other options exchanges and stock trading centers (as applicable), pursuant to Rule 15c3–5 under the Act. The proposed rule change would also state that pursuant to the policies and procedures developed by the routing broker to comply with Rule 15c3–5, if an order or series of orders are deemed by the routing broker to violate the applicable pre-trade requirements of Rule 15c3–5, the routing broker will reject the order(s) prior to routing and may seek to cancel any orders that have been routed. To the extent that any Exchange-affiliated routing broker determines, based on its procedures, that an order should be rejected, the routing broker may also seek to cancel orders that have already been routed away.

Proposal To Modify Rule 6.20 To Make Miscellaneous, Non-Substantive Changes

The Exchange is also proposing certain non-substantive amendments to Rule 6.20 pertaining to admissions to, and conduct on, the CBOE trading floor and Trading Permit Holder education. In particular, the Exchange is proposing in Rule 6.20.01 to eliminate reference to the term ''Board Brokers'' as these market participants no longer exist.

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.[7] Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[9] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that, by including specific references to the existing requirements of Rule 15c3–5 under the Act within the Exchange Rules, the Exchange is reiterating a routing broker's obligation under Rule 15c3–5. The Exchange also believes that the proposed rule change will benefit Trading Permit Holders because it provides clarity on the process

[4] *Id.*

[5] 17 CFR 242.611.

[6] *See* 17 CFR 240.15c3–5(b) and (c)(1)(ii).

[7] 15 U.S. C. 78f(b).

[8] 15 U.S. C. 78f(b)(5).

[9] *Id.*

employed for away market routing consistent with the Market Access Rule. The Exchange believes that the changes to conform the text of Rule 6.14B (pertaining to options order routing to other exchanges will simplify the Rules and make it easier to administer having consistent provisions across both markets. Finally, the Exchange believes that the miscellaneous, non-substantive changes to Rule 6.20 will simplify and update the rules, and make them easier to read.

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 does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule change is technical in nature in that is designed to reiterate existing requirements under the Market Access Rule, which will provide clarity on the process employed for away market routing and make the Market Access Rule easier to administer consistently across markets. The Exchange's other proposal to make other miscellaneous, non-substantive changes to Rule 6.20 will simplify and update the Rules, and make them easier to read. For these reasons, the Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange also notes that another exchange, EDGA Exchange, Inc. (''EDGA''), has substantially similar provisions in its rules.[10] To the extent that the proposed rule change may make CBOE a more attractive venue for market participants on other exchanges, such market participants may elect to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)[12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2015–053 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number *SR–CBOE–2015–053.* This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2015–053 and should be submitted on or before July 1, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–14136 Filed 6–9–15; 8:45 am]

BILLING CODE 8011–01–P

[10] *See* EDGA Rule 11.11(i).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75105; File No. SR–NYSE–2015–16]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change To Amend the Seventh Amended and Restated Operating Agreement of the New York Stock Exchange LLC

June 4, 2015.

I. Introduction

On April 6, 2015, the New York Stock Exchange LLC (the ''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend the Seventh Amended and Restated Operating Agreement (the ''Operating Agreement'') of the Exchange. The proposed rule change was published for comment in the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Federal Register on April 24, 2015.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

NYSE proposed to amend the Exchange's Operating Agreement to remove the requirement that the independent directors that make up the majority of the board of directors of the Exchange (''Board'') also be directors of Intercontinental Exchange, Inc. (''ICE''), the Exchange's parent company. Currently, section 2.03(a)(i) of the Operating Agreement, which governs the Board's composition, provides that a majority of the Exchange's directors shall be U.S. persons who are members of the board of directors of ICE and who satisfy the Exchange's Company Director Independence Policy. Each such director is defined as an ''ICE Independent Director'' in section 2.03(a)(i)(1) of the Operating Agreement. The Exchange proposed to amend section 2.03(a)(i) to remove the requirement that the independent directors, making up the majority of the Board, also be directors of ICE, by amending the definition of ''ICE Independent Director'' to remove the reference to ICE, and to make conforming changes in both subparagraphs (i) and (ii) of section 2.03(a).

The Exchange represented that, even upon approval of this modification to its Operating Agreement, a majority of the directors of the Board would continue to satisfy the Company Director Independence Policy.[5] The Exchange also noted that it believes that eliminating the requirement that the independent directors of the Exchange also be directors of ICE will allow the Exchange to broaden the pool of potential Board members, resulting in a more diversified Board membership while still ensuring the directors' independence.[6] The Exchange further represented that eliminating the requirement that the independent directors of the Exchange also be directors of ICE will result in the Exchange's Board composition requirements being more consistent with its affiliate, NYSE Arca, Inc., which does not require any of its directors to be directors of ICE.[7]

[4] *See* Securities Exchange Act Release No. 74766 (April 20, 2015), 80 FR 23057 (''Notice'').

[5] *See* Notice, 80 FR at 23057.

[6] *Id.*

[7] *Id.*

III. Discussion and Commission Findings

After review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(1) of the Act,[9] which requires an exchange to be so organized and have the capacity to carry out the purposes of the Act and to comply and to enforce compliance by its members and persons associated with its members with the Act. The Commission also finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[10] which requires that the rules of the exchange be designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that, while the proposal removes the requirement that the independent directors who make up the majority of the Board also be ICE directors, it does not alter the requirement under the Operating Agreement that a majority of the Board must satisfy the Exchange's Company Director Independence Policy.[11] Thus, the majority of directors on the Exchange's Board must still qualify as independent directors under the Exchange's Company Director Independence Policy. Moreover, removing the requirement that the independent directors on the Exchange's Board also be directors of ICE may result in a more diversified Board composition as candidates for membership on the Board who qualify as independent under the Company Director Independence Policy need not be limited to those candidates who also serve on the board of directors of ICE.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–NYSE–2015–16) is approved.

[8] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78(b)(1).

[10] 15 U.S.C. 78(b)(5).

[11] *See* Securities Exchange Act Release No. 67564 (August 1, 2012), 77 FR 47151 (August 7, 2012) (SR–NYSE–2012–17) (approving, among other things, the Exchange's Company Director Independence Policy).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–14132 Filed 6–9–15; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 9168]

Determination by the Secretary of State Relating to Iran Sanctions

This notice is to inform the public that the Secretary of State determined on May 20, 2015, pursuant to Section 1245(d)(4)(D) of the National Defense Authorization Act for Fiscal Year 2012 (NDAA), (Pub. L. 112–81), as amended, that as of May 20, 2015, the following countries, Malaysia and Singapore, have maintained their crude oil purchases from Iran at zero over the preceding 180-day period.

Dated: June 3, 2015.

Amos Hochstein,

Special Envoy and Coordinator for International Energy Affairs, U.S. Department of State.

[FR Doc. 2015–14195 Filed 6–9–15; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice: 9167]

Culturally Significant Objects Imported for Exhibition Determinations: ''Out of the Box: The Rise of Sneaker Culture'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Out of the Box: The Rise of Sneaker Culture,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The

Brooklyn Museum, Brooklyn, New York, from on or about July 10, 2015 until on or about October 4, 2015, at The Toledo Museum of Art, Toledo, Ohio, from on or about December 3, 2015 until on or about February 28, 2016, at the High Museum of Art, Atlanta, Georgia, from on or about June 12, 2016 until on or about August 14, 2016, at The Speed Art Museum, Louisville, Kentucky, from on or about September 9, 2016 until on or about November 27, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: June 2, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs Department of State.

[FR Doc. 2015–14196 Filed 6–9–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 9164]

U.S. National Commission for UNESCO; Notice of Closed Teleconference Meeting

The U.S. National Commission for UNESCO will hold a conference call on Wednesday, July 1, 2015, beginning at 1:00 p.m. Eastern Time. The teleconference meeting will be closed to the public to allow the Commission to discuss applications for the UNESCO Young Professionals Program. This call will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(6) because it will involve discussions of information of a personal and financial nature regarding the relative merits of individual applicants where disclosure would constitute a clearly unwarranted invasion of privacy. For more information contact Allison Wright, Executive Director of the U.S. National Commission for UNESCO, Washington, DC 20037. Telephone: (202) 663–0026; Fax: (202) 663–0035; Email: *DCUNESCO@state.gov.*

Dated: June 4, 2015.

Allison Wright,

Executive Director, U.S. National Commission for UNESCO, Department of State.

[FR Doc. 2015–14191 Filed 6–9–15; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0092; FMCSA–2013–0028]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 14 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective July 9, 2015. Comments must be received on or before July 10, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2011–0092; FMCSA–2013–0028], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov*, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 202–366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 14 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 14 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Clifford L. Burruss (CA)
Brian G. Dvorak (IL)
John L. Edler, III (DE)
John T. Johnson (NM)
Thomas Korycki (NJ)
Larry W. Lunde (WA)
Chad S. Penman (UT)
Raymond Potter (RI)
David J. Rothermal (RI)
Charles T. Spears (VA)
Brian E. Tessman (WI)
Gregory J. Thurston (PA)
Donald Torbett (IA)
James Whiteway (TX)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 14 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (76 FR 25766; 76 FR 37885; 78 FR 27281; 78 FR 37270; 78 FR 41188). Each of these 14 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending theexemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2011–0092; FMCSA–2013–0028), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–2011–0092; FMCSA–2013–0028'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–2011–0092; FMCSA–2013–0028'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: May 29, 2015.

Larry W. Minor,

Associate Administration for Policy.

[FR Doc. 2015–14167 Filed 6–9–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0051]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: FMCSA announces its denial of 60 applications from individuals who requested an exemption from the Federal vision standard applicable to interstate truck and bus drivers and the reasons for the denials. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions does not provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal vision standard for a renewable 2-year period if it finds ''such an exemption would likely achieve a

level of safety that is equivalent to or greater than the level that would be achieved absent such an exemption.'' The procedures for requesting an exemption are set forth in 49 CFR part 381.

Accordingly, FMCSA evaluated 60 individual exemption requests on their merit and made a determination that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption program. Each applicant has, prior to this notice, received a letter of final disposition on the exemption request. Those decision letters fully outlined the basis for the denial and constitute final Agency action. The list published in this notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following nine applicants had no experience operating a CMV:

Erica K. Boggs
Leslie L. Dana
George S. Ginder
Destin R. Huerd
Edison Joe
Miles K. Manross
Paul R. Oja
Brandon C. Shepard
Dontrell D. Williams

The following nine applicants did not have three years of experience driving a CMV on public highways with their vision deficiencies:

Osman M. Adanalic
William R. Bissell
David A. Crawford
Michael J. Floyd
Carlson Koyukuk
Abel D. Ordonez
Richard A. Paplow
Stephen J. Smith
Arlyn E. Witker

The following four applicants did not have three years of recent experience driving a CMV with the vision deficiency:

Carl Jones III
Jim Pace
Jeffrey G. Sherrill
Veronica N. Washington

The following two applicants did not have sufficient driving experience during the past three years under normal highway operating conditions:

William L. Bowers
Bridget Johnson

The following applicant, Richard Anthony, had his CDL suspended in relation to a moving violation during the three-year period. Applicants do not qualify for an exemption with a suspension during the three-year period.

The following five applicants were unable to obtain a statement from an optometrist or ophthalmologist stating that he was able to operate a commercial vehicle from a vision standpoint:

Cesar A. Guridy, Jr.
Arthur L. Mabb
Winston Merrick
Barnett K. Moss, Sr.
Donald J. Wilson

The following applicant, Larry Defrain, did not have stable vision for the entire three-year period.

The following two applicants did not meet the vision standard in their better eye:

Leonard Hixon
Ryan R. Kepford

The following nine applicants met the current federal vision standards. Exemptions are not required for applicants who meet the current regulations for vision:

John A. Ashworth
Ronaldo A. M. Curva
Robert L. Downs
Harry J. Glynn
Julian Gonzales
Linda Jones-Hawkins
Frederik J. Koning
Pedro Torres
Robert M. Walls

The following 15 applicants were denied because they will not be driving interstate, interstate commerce, or are not required to carry a DOT medical card:

Everardo G. Cantu
Gale D. Funke
Jeffrey W. Graham
Dillon L. Hendren
Noel C. Hill
Edgar I. IzquierdoGarcia
Robert Jasniewicz
Eric J. Johnson
Marion D. Kellstadt
Jeffrey E. Leisenring, Sr.
Leonard B. Mulkey
Michael K. Preslar
Vernon D. Roberts
Barbara H. Smith
Kyle O. Wrisley

Finally, the following three applicants perform transportation for the federal government, state, or any political sub-division of the state.

Robert L. Bick
James L. Lockwood
Fredrick D. McCaskill

Issued on: May 29, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–14173 Filed 6–9–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–7363; FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2006–25246; FMCSA–2007–27333]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 20 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective June 26, 2015. Comments must be received on or before July 10, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–7363; FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2006–25246; FMCSA–2007–27333], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received

without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 20 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 20 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Gary A. Barrett (IA)
Ivan L. Beal (NE)
Johnny A. Beutler (SD)
Brett L. Condon (MD)
Christopher A. Deadman (MI)
William K. Gullett (KY)
Daryl A. Jester (DE)
James P. Jones (ME)
Clyde H. Kitzan (ND)
Larry J. Lang (MI)
Spencer E. Leonard (OH)
William A. Moore, Jr. (NV)
Richard S. Rehbein (MN)
Bernard E. Roche (VA)
Luis H. Sanchez (WI)
David E. Sanders (NC)
David B. Speller (MN)
Lynn D. Veach (IA)
Harry S. Warren (FL)
Michael C. Wines (MD)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 20 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 64 FR 16517; 65 FR 20245; 65 FR 45817; 65 FR 57230; 65 FR 77066; 65 FR 78256; 66 FR 16311; 66 FR 17743; 66 FR 17994; 66 FR 33990; 67 FR 57266; 68 FR 13360; 68 FR 19598; 68 FR 33570; 68 FR 35772; 70 FR 2701; 70 FR 16887; 70 FR 17504; 70 FR 25878; 70 FR 30997; 70 FR 33937; 72 FR 180; 72 FR 9397; 72 FR 12666; 72 FR 25831; 72 FR 28093; 72 FR 32705; 74 FR 6211; 74 FR 15586; 74 FR 26464; 76 FR 21796; 76 FR 34135; 78 FR 34140). Each of these 20 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–7363; FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–25246; FMCSA–2007–27333), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, got to *http://www.regulations.gov* and put the docket number, ''FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–7363; FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–25246; FMCSA–2007–27333'' in the ''Keyword'' box, and click ''Search.'' When the new

screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and in the search box insert the docket number, ''FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–7363; FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–25246; FMCSA–2007–27333'' in the ''Keyword'' box and click ''Search.'' Next, click ''Open Docket Folder'' button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: May 21, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–14179 Filed 6–9–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0304]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 28 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted April 18, 2015. The exemptions expire on April 18, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On March 18, 2015, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (80 FR 14223). That notice listed 28 applicants' case histories. The 28 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 28 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 28 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including retinal scar, complete loss of vision, branch retinal vein occlusion, amblyopia, corneal scar, refractive amblyopia, prosthetic eye, branch vein occlusion, exotropia, glaucoma, histoplasmosis, retinal detachment, anisometropia, and damaged cornea and retina. In most cases, their eye conditions were not recently developed. Fifteen of the applicants were either born with their vision impairments or have had them since childhood.

The thirteen individuals that sustained their vision conditions as adults have had it for a range of three to 43 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to

evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 28 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging from three to 34 years. In the past three years, two drivers were involved in crashes, and three were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the March 18, 2015 notice (80 FR 14223).

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 28 applicants, two drivers were involved in crashes, and three were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 28 applicants listed in the notice of March 18, 2015 (80 FR 14223).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 28 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy

of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 28 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)):

Dakota A. Albrecht (MN)
Joseph L. Beverly (FL)
Jaroslav Cigler (IN)
David E. Crane (OH)
Alan J. Daisey (DE)
Terry L. Daneau (NH)
Ronald A. Doyle (NY)
Darin T. Eubank (VA)
Dan J. Feik (IL)
Phillip E. Fitzpatrick (NM)
William H. Fleming (OR)
Lucien W. Foote III (NH)
Jimmy F. Garrett (AR)
Odus P. Gautney III (TX)
Dale R. Goodell (SD)
Elmer Y. Mendoza (VA)
Andrew M. Miller (IA)
Richard N. Moyer, Jr. (PA)
Heath A. Pillig (WA)
Alonzo K. Rawls (NJ)
John R. Ropp (IL)
Timothy J. Slone (KY)
David L. Sorensen (NE)
Nelson J. Stokke (CA)
Darwin L. Stuart (IL)
Ivan Tlumach (PA)
Clarence K. Watkins (TN)
Kevin D. Zaloudek (VT)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: May 29, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–14168 Filed 6–9–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2015–0007–N–16]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the renewal Information Collection Requests (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comment. 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 collections of information was published on March 30, 2015.

DATES: Comments must be submitted on or before July 10, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590 (Telephone: (202) 493–6292), or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (Telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, sec. 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), and 1320.12. On March 30, 2015, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICR for which agency is seeking OMB approval. *See* 80 FR 16725. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection request (ICR) and the expected burden. The revised request is being submitted for clearance by OMB as required by the PRA.

Title: Railworthiness Directive Notice No. 1.

OMB Control Number: 2130–0606.

Abstract: Recent FRA investigations identified several railroad tank cars transporting hazardous materials and leaking small quantities of product from the cars' liquid lines. FRA's investigation revealed that the liquid lines of the leaking tank cars were equipped with a certain type of 3 inch ball valve marketed and sold by McKenzie Valve & Machining LLC (McKenzie) (formerly McKenzie Valve & Machining Company), an affiliate company of Union Tank Car Company (UTLX). FRA further found certain closure plugs installed on the 3 inch valves cause mechanical damage to the valves, which leads to the destruction of the valves' seal integrity and that the 3 inch valves, as well as similarly-designed 1 inch and 2 inch valves provided by this manufacturer are not approved for use on tank cars.

Type of Request: Extension with Change of a Currently Approved Information Collection.

Affected Public: Businesses (Railroads).

Form(s): N/A.

Total Annual Estimated Burden: 275 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

Comments are invited on the following: Whether the proposed collections of information are necessary

for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2015–14161 Filed 6–9–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION Office of the Secretary

[Docket No. DOT–OST–2011–0022]

Request for Comments on the Reinstatement of an OMB Control Number for an Information Collection

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the request for reinstatement of an OMB Control Number for the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on February 6, 2015 (80 FR 6793–4).

DATES: Comments must be submitted on or before July 10, 2015.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Daeleen Chesley, Office of the Secretary, Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (C–70), Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, at 202 366–9342 (voice) or *Daeleen.Chesley@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: On-Line Complaint Form for Service-Related Issues in Air Transportation.

OMB Control Number: 2105–0568.

Type of Request: Request to reinstate OMB control number 2105–0568.

Abstract: The Department of Transportation's (Department) Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office) has broad authority under 49 U.S.C., subtitle VII, to investigate and enforce consumer protection and civil rights laws and regulations related to air transportation. The Enforcement Office, including its Aviation Consumer Protection Division (ACPD), monitors compliance with and investigates violations of the Department's aviation economic, consumer protection, and civil rights requirements.

Among other things, the office is responsible for receiving and investigating service-related consumer complaints filed against airlines and other travel-related companies. Once received, the complaints are reviewed by the office to determine the extent to which carriers are in compliance with federal aviation consumer protection and civil rights laws and what, if any, action should be taken.

The key reason for this request is to enable consumers to continue to file their complaints (or comments) to the Department using an on-line form, whether using their personal computer or their mobile device. If the information collection form is not available, the Department may receive fewer complaints from consumers. The lack of information could inhibit the Departments' ability to improve airline consumer satisfaction, effectively investigate individual complaints against an airline or other travel-related companies that have an air travel component, and/or determine patterns and practices that may develop in violation of our rules. The information collection also furthers the objectives of 49 U.S.C. 41712, 40101, 40127, 41702, and 41705 to protect consumers from unfair or deceptive practices, to protect the civil rights of air travelers, and to ensure safe and adequate service in air transportation.

Filing a complaint using a web-based form is voluntary and minimizes the burden on the public. Consumers can also choose to file a complaint with the Department by sending a letter using regular mail or by phone message. The type of information requested on the on-line form includes complainant's name, address, home and/or daytime phone number (including area code) and email address, name of the airline or company about which she/he is complaining, flight date, flight number, and origin and destination cities of complainant's trip. A consumer may also use the form to give a description of a specific problem or to ask for air-travel related information from the ACPD. The Department has limited its informational request to only that information necessary to meet its program and administrative monitoring and enforcement requirements.

On February 6, 2015, the Department published a 60-day notice in the **Federal Register** (80 FR 6793–4) asking for comments on whether this collection of information is necessary for the proper performance of the functions of the Department. We received one comment in the docket from a commenter who supported the Department collecting the information.

Respondents: Consumers that Choose to File an On-Line Complaint with the Aviation Consumer Protection Division.

Estimated Number of Respondents: 14,479 (based on CY 2014 data).

Frequency: 1 submission per year.

Estimated Burden per Response: 15 minutes.

Estimated Total Burden on Respondents: 3,620 hours.

Public Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents without reducing the quality of the collection of information, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC on May 28, 2015.

Patricia Lawton,

DOT Paperwork Reduction Act Clearance Officer, Office of the Secretary.

[FR Doc. 2015–13990 Filed 6–9–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number DOT–OST–2014–0031]

Confidential Business Information Reporting Requirements—BTS' Response to Public Comments

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Response to Public Comments.

SUMMARY: Pursuant to the Department's regulations, certain air carriers are required to file BTS Schedule B–7 (Airframe and Aircraft Engine Acquisitions and Retirements) and Schedule B–43 (Inventory of Airframes and Aircraft Engines). Under the Department's regulations, the Department can withhold confidential business information if release of the confidential information is likely to cause substantial competitive harm to the entity that submitted the information to the Department. The BTS routinely grants, based on the sensitive nature of this cost data, a ten-year confidentiality period. After receiving notification that, upon the expiration of the ten-year confidentiality period, the BTS intended to release the cost data, Airlines for America (A4A), an industry association representing several air carriers, filed an objection to the pending release. A4A claimed that the cost data, although twenty years old, remained sensitive and its release would result in competitive harm. Bloomberg News requested that the Department release the cost data.

FOR FURTHER INFORMATION CONTACT: Jeff Gorham, Office of Airline Information, RTS–42, Room E34, 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*.

ADDRESSES: You may submit comments identified by DOT Docket ID Number DOT–OST–2014–0031 by any of the following methods:

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

Mail: Docket Services: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Fax: 202–366–3383.

Instructions: Identify docket number, DOT–OST–2014–0031, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov*. All comments are posted electronically without charge or edits, 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) or you may visit *http://DocketInfo.dot.gov*.

Docket: 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.

Electronic Access: You may access comments received for this notice at *http://www.regulations.gov,* by searching docket DOT–OST–2014–0031.

SUPPLEMENTARY INFORMATION: Pursuant to 14 CFR part 241, certain air carriers are required to file BTS Schedule B–7 (Airframe and Aircraft Engine Acquisitions and Retirements) and Schedule B–43 (Inventory of Airframes and Aircraft Engines). These schedules contain cost data concerning airframes and aircraft engines. In previous confidentiality requests, UPS and United requested and the Department granted a ten-year period of confidentiality for the cost data reported on the Form 41, Schedules B–7 and B–43.

Prior to the expiration of the twenty-year period, BTS informed twelve air carriers that, at the close of the twenty-year period (October 1, 2014), the agency intended to release the information. Airline for America (A4A) on behalf of its members, filed objections to the release (see OST Docket No. 2014–0031). A4A claims that the information, although twenty years old, is so sensitive that each company would suffer ''competitive harm'' if the BTS releases the information.

In its objection, A4A maintains that the information is still ''commercially sensitive'' based on three main points: (1) Disclosure of the data diminishes competition among the major aircraft manufacturers; engine manufacturers, and new and used aircraft owners and lessors who can use the commercially sensitive data to closely track each other's acquisition and retirement costs; (2) disclosure of the data impairs competition among competing domestic and foreign airlines in the international arena, because United States airlines are required to reveal major elements of their cost structures when their foreign competitors are not; and (3) the Department does not use this data to support any policy initiatives.

In addition, the Department determined that withholding the information under Exemptions 3 and 4 of the Freedom of Information Act (FOIA) (See 5 U.S.C. 552(b)(3) and 4)). Exemption 3 allows the withholding of information if the disclosure is prohibited by another statute and the statute either: ''(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;'' (see 5 U.S.C. 552(b)(3)). The Department determined that a provision in the United States Code (see 49 U.S.C. 40115) qualifies as an Exemption 3 statute in that the statute allows the Department to order certain information withheld from public disclosure if the disclosure would ''have an adverse effect on the competitive position of an air carrier in foreign air transportation.'' (See 49 U.S.C. 40115(a)(2)(B)).

In light of its objections, A4A requested that ''the Department cease collecting the information because it serves no useful purpose, is burdensome to report and competitively sensitive or at the very least continue to afford confidential treatment to Form 41, Schedules B–7 and B–43 and that such confidential treatment be continued indefinitely or, at a minimum, for an additional ten year period.

Bloomberg News, in a letter dated April 13, 2015 stated the information at issue is now 20 years old. Given the passage of time, any interest in keeping the data confidential has presumably lessened. Disclosure of cost data after 20 years would seem to achieve a reasonable balance between transparency and maintaining the confidentiality of potentially sensitive commercial information.

Based on the comments received, the BTS will grant an additional 10 year confidentiality period while seeking regulatory language to delete the requirement for collecting airframe and engine cost data.

Issued in Washington, DC on June 3, 2015.

William Chadwick, Jr.,

Director, Office of Airline Information, Bureau of Transportation Statistics.

[FR Doc. 2015–14182 Filed 6–9–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2013–0014]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. OP–1465]

FEDERAL DEPOSIT INSURANCE CORPORATION

NATIONAL CREDIT UNION ADMINISTRATION

BUREAU OF CONSUMER FINANCIAL PROTECTION

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75050; File No. S7–10–15]

Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies

AGENCIES: Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); National Credit Union Administration (NCUA); Bureau of Consumer Financial Protection (CFPB); and Securities and Exchange Commission (SEC).

ACTION: Notice of final interagency policy statement; request for comments on proposed collection of information.

SUMMARY: The OCC, Board, FDIC, NCUA, CFPB, and SEC are issuing a final interagency policy statement establishing joint standards for assessing the diversity policies and practices of the entities they regulate, as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

DATES: The final interagency policy statement is effective on June 10, 2015. The agencies are soliciting comments only on the collection of information. Comments must be submitted on or before August 10, 2015. The effective date of the collection of information will be announced in the **Federal Register** following Office of Management and Budget (OMB) approval.

FOR FURTHER INFORMATION CONTACT:

OCC: Joyce Cofield, Executive Director, Office of Minority and Women Inclusion, at (202) 649–6460 or Karen McSweeney, Counsel, Law Department, at (202) 649–6295, TDD/TTY (202) 649–5597, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

BOARD: Sheila Clark, Director, Office of Diversity and Inclusion, at (202) 452–2883, Katherine Wheatley, Associate General Counsel, Legal Division, at (202) 452–3779, or Alye Foster, Senior Special Counsel, Legal Division, at (202) 452–5289.

FDIC: Segundo Pereira, Director, Office of Minority and Women Inclusion, (703) 562–6090; Melodee Brooks, Senior Deputy Director, Office of Minority and Women Inclusion, (703) 562–6090; or Robert Lee, Counsel, Legal Division, (703) 562–2020, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429–0002.

NCUA: Wendy A. Angus, Acting Director, Office of Minority and Women Inclusion at (703) 518–1650, Cynthia Vaughn, Diversity Outreach Program Analyst, Office of Minority and Women Inclusion, at (703) 518–1650, or Regina Metz, Staff Attorney, Office of General Counsel, at (703) 518–6540, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

CFPB: Stuart Ishimaru, Director, Office of Minority and Women Inclusion, at (202) 435–9012, or Stephen VanMeter, Deputy General Counsel, Legal Division at (202) 435–7319, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

SEC: Pamela A. Gibbs, Director, Office of Minority and Women Inclusion, (202) 551–6046, or Audrey B. Little, Senior Counsel, Office of Minority and Women Inclusion, (202) 551–6086, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Background

Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act or Act) required the OCC, Board, FDIC, NCUA, CFPB, and SEC (each, an Agency and collectively, the Agencies) to each establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters of the Agency relating to diversity in management, employment, and business activities.[1] The Act also instructed each OMWI Director to develop standards for assessing the diversity policies and practices of entities regulated by the Agency. To facilitate the use of these standards by regulated entities that are subject to the regulations of more than one Agency, the Agencies worked together to develop joint standards and issue this Final Interagency Policy Statement (Policy Statement).

Prior to drafting these standards, the OMWI Directors held a series of roundtable discussions and teleconferences with representatives of a variety of regulated entities, including depository institutions, holding companies, and industry trade groups, to solicit their views on appropriate standards and to learn about the successes and challenges of existing diversity policies and programs. In addition, the OMWI Directors met with financial professionals, consumer advocates, and community representatives to gain a greater understanding of the issues confronting minorities and women in obtaining employment and business opportunities within the financial services industry. The information and feedback provided during these outreach sessions guided the development of these standards.

II. Proposed Policy Statement

On October 25, 2013, the Agencies published a Notice in the **Federal Register** requesting comment on a ''Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies'' (Proposal).[2] The comment period on the Proposal was scheduled to close on December 24, 2013, but in response to requests from members of the public, the Agencies extended it to February 7, 2014.[3]

The Proposal set out standards for assessing an entity's diversity policies and practices in the following areas: Organizational Commitment to Diversity and Inclusion; Workforce Profile and Employment Practices; Procurement and Business Practices—Supplier Diversity; and Practices to Promote Transparency of Organizational Diversity and Inclusion. These proposed standards reflected the leading policies and practices for advancing workforce and supplier diversity.

The Proposal also explained the Agencies' approach to assessments,

[1] Section 342 of the Act is codified at 12 U.S.C. 5452. The Department of Treasury, the Federal Housing Finance Agency, and the Federal Reserve Banks also have established an OMWI, but only the federal financial agencies with regulated entities have joined in issuing this Policy Statement.

[2] 78 FR 64052.

[3] 78 FR 77792.

noting that the assessment envisioned by the Agencies would not be a part of the examination or supervisory process. Instead, the Proposal provided that a ''model assessment'' would include a self-assessment by an entity of its diversity policies and practices using the proposed standards; voluntary disclosure of the self-assessment to the appropriate Agency; and publication by the entity of its diversity efforts, in order to increase the public's awareness and understanding. The Proposal also stated that the Agencies may periodically review this public information to monitor diversity and inclusion practices and reach out to regulated entities to discuss diversity and inclusion.

In drafting the proposed standards, the Agencies recognized that each entity has unique characteristics, such as its governance structure, workforce size, total assets, contract volume, geographic location, and community characteristics. To reflect this, throughout the Proposal, the Agencies stated that the standards may be tailored and used in a manner reflective of an individual entity's size and other characteristics. In developing the Proposal, the Agencies were also mindful of section 342(b)(4) of the Act, which states that the directive to develop standards may not be construed to mandate any requirement on or otherwise affect the lending policies and practices of any regulated entity, or to require any specific action based on the findings of the assessment.

III. Comment Summary and the Agencies' Response

The Agencies collectively received more than 200 comments on the Proposal, although some commenters submitted either multiple comments or identical or substantially similar comments to multiple Agencies. The comments reflected the views of interested parties, including financial institutions, public interest organizations, trade associations and organizations, government officials, and other members of the public. In general, the commenters supported the concept of diversity and inclusion, particularly in the workforce. A number of commenters applauded the Agencies for jointly developing standards, while others commended the Proposal's flexible approach. Other commenters, however, expressed concern about the Proposal. Some urged the Agencies to withdraw the proposed standards, while others suggested specific changes to address certain issues.

The Agencies carefully considered all of these comments in formulating the final Policy Statement. The discussion below addresses significant issues that commenters raised and explains the changes to the Policy Statement.

A. General Comments

1. Legal Effect

The Agencies received several comments that interpreted the Proposal to impose new legal requirements on regulated entities or to mandate specific actions. Some commenters argued that these requirements and mandates exceeded the Agencies' statutory authority and were unlawful. For example, several commenters interpreted references to ''metrics'' in the Proposal to require or strongly encourage quotas in hiring and contracting. Others expressed concern that the new requirements would impose a significant compliance burden, particularly on small entities. For example, some commenters interpreted the standards to require entities to develop methods for assessing supplier diversity, and they argued that this was unduly burdensome for small entities.

Other commenters stated that the Proposal used ''prescriptive'' language, from which they inferred that some level of compliance with the standards would be expected from regulated entities. These commenters urged the Agencies to draft the final standards as ''recommendations'' and clarify that the final Policy Statement is a guidance document. Another commenter requested that the Agencies frame the final Policy Statement as a ''best practices'' guide with which regulated entities were not required to comply.

In contrast, some commenters stated that the inclusion of new requirements or mandates in the standards was consistent with the plain language of section 342(b)(2)(C). For example, some commenters argued that the Agencies should require the regulated entities to provide them with information about their diversity policies and practices, including assessment information. Others stated that the congressional intent of section 342 was to promote diversity and inclusion to the maximum extent possible and noted that the Proposal sets only minimum standards.

In light of these comments, it is clear that Agencies need to provide additional guidance about the intended legal effect of the final Policy Statement. To this end, the Agencies have added the following language: ''This document is a general statement of policy under the Administrative Procedure Act, 5 U.S.C. 553. It does not create new legal obligations. Use of the Standards by a regulated entity is voluntary.'' The Agencies believe that this will clarify the confusion noted above.

2. Meaning of ''Diversity''

Several commenters raised questions about the meaning of ''diversity,'' which the Proposal did not define. A few commenters requested the Agencies define the term to avoid differing interpretations, with one commenter stating that the standards would not be useful in the absence of a definition. Several commenters suggested definitions, ranging from a definition limited to minorities and women to an expanded definition that would include individuals with disabilities, veterans, and lesbian/gay/bisexual/transgender (LGBT) individuals. Another commenter recommended also defining ''inclusion,'' to make clear that the goal of diversity is not met by simply hiring a diverse group.

The Agencies agree that the term ''diversity'' should be defined. They also believe it should both reflect the general focus in section 342 on minorities and women and provide flexibility to regulated entities that define the term more broadly. Accordingly, the final Policy Statement provides that ''diversity'' refers to ''minorities . . . and women.'' For purposes of this definition, ''minority'' is defined as Black Americans, Native Americans, Hispanic Americans, and Asian Americans, which is consistent with the definition of ''minority'' in section 342(g)(3) of the Act.

The final Policy Statement also states that this definition of diversity ''does not preclude an entity from using a broader definition with regard to these standards.'' This language is intended to be sufficiently flexible to encompass other groups if an entity wants to define the term more broadly. For example, a broader definition may include the categories referenced by the Equal Employment Opportunity Commission (EEOC) in its Employer Information Report EEO–1 (EEO–1 Report),[4] as well

[4] Private employers with 100 or more employees and federal contractors and first-tier subcontractors with 50 or more employees that have a contract or subcontract of $50,000 or more, or serve as depository of Government funds in any amount, are required by Title VII of the Civil Rights Act of 1964 to collect data on employment diversity and file an EEO–1 Report with the EEOC.

The EEO–1 Report defines race and ethnicity categories as Hispanic or Latino; White (Not Hispanic or Latino); Black or African American (Not Hispanic or Latino); Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino); Asian (Not Hispanic or Latino); American Indian or Alaska Native (Not Hispanic or Latino); and Two or More Races (Not Hispanic or Latino). *http://www.eeoc.gov/employers/eeo1survey/2007instructions.cfm.*

as individuals with disabilities, veterans, and LGBT individuals.

The Agencies also agree that the concept of inclusion is important to include in these standards because current leading practices advocate an inclusive culture as essential in the support of diversity and inclusion programs. Therefore, the final Policy Statement defines ''inclusion'' to mean a process to create and maintain a positive work environment that values individual similarities and differences, so that all can reach their potential and maximize their contributions to an organization.''

3. Applicability to Small Entities

Although the Proposal encouraged the use of the standards ''in a manner reflective of the individual entity's size and other characteristics,'' the Agencies received questions and comments about how the standards apply or are relevant to small entities. Some commenters stated that the Proposal offered a ''one-size fits all approach'' and should be replaced with standards that reflect the unique structure of small entities. Another commenter noted that many small regulated entities do not have boards of directors, Web sites, or other attributes referenced in the Proposal. According to this commenter, even with the Proposal's caveat that the standards may be tailored for small entities, these organizations would be at a disadvantage when measuring their policies and practices in light of the proposed standards. Others suggested that the Policy Statement expressly carve out entities below a certain size, such as those with fewer than 100 employees or those that do not file EEO–1 Reports.

These comments demonstrate that the Agencies need to clarify how the standards are relevant to and may be used by small entities. Therefore, the final Policy Statement states, ''The Agencies recognize that each entity is unique with respect to characteristics such as its size, location, and structure. When drafting these standards, the Agencies focused primarily on institutions with more than 100 employees. The Agencies know that institutions that are small or located in remote areas face different challenges and have different options available to them compared to entities that are larger or located in more urban areas. The Agencies encourage each entity to use these standards in a manner appropriate to its unique characteristics.''

4. Extraterritorial Application

A few commenters requested that the Agencies clarify whether the standards apply to a regulated entity's foreign operations. These commenters observed that many regulated entities operate internationally and that the concept of diversity varies from country to country. They advocated that regulated entities be allowed the flexibility to include or exclude foreign operations when conducting an assessment. In response, the final Policy Statement clarifies that the final standards address an entity's U.S. operations. This does not, however, preclude a multinational entity from also using these standards to undertake a broader assessment of its organization.

B. Comments on the Joint Standards

1. Organizational Commitment to Diversity and Inclusion

The first set of standards in the Proposal addressed the role and importance of an entity's senior leadership in promoting diversity and inclusion across an organization. These standards described the policies and practices that demonstrate the commitment of an entity's senior leadership to diversity and inclusion in both employment and contracting, as well as to fostering a corporate culture that embraces diversity and inclusion.

Commenters were generally supportive of including standards to assess an organization's commitment, with several referencing the importance of diversity and inclusion in their own organizations. Some commenters noted that an organization's commitment to diversity and inclusion can provide a competitive advantage. Another stated that, while an institution's commitment to diversity is important, each regulated entity should be allowed to demonstrate this commitment in its own way and cautioned against assuming that extensive and formalized policies demonstrate an organization's commitment to diversity. This commenter noted, as an example, that it would be more appropriate for community banks to apply their efforts to community outreach rather than to creating documentation to show compliance.

Several commenters recommended changes to these standards. One commenter suggested adding language stating that diversity and inclusion are best served when an entity assigns senior leadership to these initiatives and provides this leadership with the appropriate resources. Another commenter suggested that the standards specify the appropriate credentials for the personnel responsible for an entity's diversity efforts, such as experience, a proven track record, and the ability to help others understand and embrace diversity efforts.

The Agencies are encouraged that the commenters generally acknowledge how essential organizational commitment is to advancing diversity and inclusion. The Agencies also agree that the senior official responsible for an entity's diversity and inclusion efforts preferably should have relevant knowledge and experience, and they have revised this standard to reflect this change. Otherwise, the final standards on Organizational Commitment to Diversity and Inclusion are consistent with the Proposal.

2. Workforce Profile and Employment Practices

The Proposal provided examples of how an entity could promote the fair inclusion of minorities and women in its workforce and noted that many entities evaluate their business objectives using analytical tools to track and measure workforce inclusiveness. It set out standards to assess an entity's workforce profile and employment practices, which included using the data prepared in connection with EEO–1 Reports and Affirmative Action Plans (AAPs),[5] as well as other metrics. The standards also addressed whether an entity holds its management accountable for these efforts and creates diverse applicant pools for workforce opportunities when hiring from both within and outside of an organization.

Several commenters expressed concern about using the EEO–1 Report data for this purpose, pointing out that it provides a purely numerical view of workforce diversity and gives little insight into the impact of diversity efforts. One commenter suggested that EEO–1 Report data should constitute, at most, a small element of a more holistic view of an entity's diversity practices. This commenter recommended that the Agencies revise the standards to focus on an entity's diversity efforts and to take into account: industry-specific considerations; the relevant labor market; and ongoing efforts to facilitate, promote and increase diversity. Other commenters observed that EEO–1 Report data does not address concepts of diversity that are broader than gender, race, and ethnicity or the extent of diversity within an entity's management and senior management ranks.

Still other commenters were concerned that references in the Proposal to ''metrics,'' as a tool for

[5] AAPs are required of certain government contractors and monitored by the Office of Federal Contract Compliance Programs.

evaluating and assessing workforce diversity and inclusion efforts, could be interpreted to encourage or require the unlawful use of quotas, classifications, or preferences. These commenters recommended that the Agencies revise the standards to clarify that the purpose of metrics is not to force certain outcomes and that the standards are not intended to encourage or require an entity to undertake an assessment based on numerical goals, metrics, or percentages.

Commenters also addressed the specific standard that would hold an entity's management accountable for diversity and inclusion efforts. One commenter stated that it is not clear who this standard is intended to cover and what constitutes accountability. Another commenter argued that this standard is overbroad and implies that regulated entities are required to include diversity and inclusion measurements in the performance evaluations of all management personnel. This commenter also expressed concern that this requirement could lead to unlawful employment decisions focused on achieving quotas and suggested that only the senior-level official(s) responsible for overseeing and directing diversity efforts, not all management personnel, should be held accountable. Another group of commenters observed, however, that accountability may be achieved most effectively by linking an entity's diversity and inclusion efforts to its leaders' performance assessments and compensation.

In the final Policy Statement, the Agencies have retained the reference to EEO–1 Report and AAP data. The Agencies recognize that the information generated from these sources is limited, particularly for entities with large workforces and those that broadly define diversity. However, this information may provide a baseline that a company may find useful. To address commenters who expressed concern that the data coming from these particular sources is limited or narrow, the Agencies have added a statement to encourage entities to use other analytical tools that they may find helpful. Finally, due to a change in how the Agencies organized the final standards, the discussion about EEO–1 data, AAP data, and other analytical tools is located in the introduction to this set of standards and not in the standards themselves.

With respect to references to ''metrics,'' the Agencies continue to believe that quantitative data is valuable for evaluating diversity and inclusion but know that qualitative data and information also can provide useful material for this purpose. In order to clarify that both types of resources are important, the Agencies have revised the final standards to reflect the importance of both quantitative and qualitative measurements.

With respect to the concern expressed by some commenters that the proposed standards could be interpreted to encourage or require the unlawful use of quotas, classifications, or preferences for personnel actions, the Agencies note that they did not intend to require or encourage unlawful usage. That said, the collection and use of data on race, gender, and ethnicity for self-evaluation is not unlawful. To address this confusion, however, the Agencies added to the Policy Statement a new standard providing that the ''entity implements policies and practices related to workforce diversity and inclusion in a manner that complies with all applicable laws.'' The final Policy Statement also includes another new standard, which provides that the ''entity ensures equal employment opportunities for all employees and applicants for employment and does not engage in unlawful employment discrimination based on gender, race, or ethnicity.'' The Agencies believe that together, these new standards will address confusion about whether the standards encourage or require the unlawful use of quotas, classifications, or preferences.

Finally, the Agencies retained the proposed standard that referenced management accountability but have clarified that this standard applies to all levels of management. The Agencies believe that management accountability at all levels is an important factor to consider when evaluating workforce diversity and employment practices. In addition, the final standards provide an example of one manner of addressing management accountability for diversity and inclusion efforts.

3. Procurement and Business Practices—Supplier Diversity

The third set of standards included in the Proposal addressed the leading practices related to supplier diversity. These included a supplier diversity policy that provides a fair opportunity for minority-owned and women-owned businesses to compete for procurement of business goods and services; methods to evaluate and assess supplier diversity (which may include metrics and analytics); and practices that promote a diverse supplier pool.

The Agencies received many comments on this set of standards. Several commenters argued that the scope of 342(b)(2)(C) is limited to diversity in employment practices and, therefore, the Agencies exceeded their statutory authority by proposing supplier diversity standards. Others argued that these standards would unlawfully compel the use of private funds to promote diversity. Another group of commenters supported these standards and noted that entities with a commitment to diversity and inclusion often have supplier diversity programs. These commenters stated that supplier diversity can contribute to an entity's efficiency and innovation, reflect its customer base, promote growth and development, and support job creation and economic development. Additional commenters urged the Agencies to include stronger or additional standards on this topic. For example, some encouraged the Agencies to set targets for the percentage of an entity's procurement dollars that should be spent with diverse vendors and to establish other quantifiable measures to ensure the full and fair inclusion of diverse suppliers.

After careful consideration of these comments, the Agencies have elected not to make any substantive changes to the standards for policies and practices related to supplier diversity. The Agencies believe that consideration of an entity's supplier diversity policies and practices is within the scope of section 342(b)(2)(C) and is appropriate for a comprehensive self-assessment. The Agencies do not believe, however, that it is appropriate for them to dictate quantifiable targets for supplier diversity and have not included targets in the final Policy Statement.

4. Practices To Promote Transparency

As explained in the Proposal, transparency of an entity's diversity and inclusion program promotes the objectives of section 342. Transparency and publicity are important because they give members of the public information to assess an entity's diversity policies and practices. Accordingly, the Proposal included standards setting out the leading practices in this area, which include the entity making information about its diversity and inclusion strategic plans, commitment, and progress available to the public.

Several commenters supported the goal of transparency, arguing that it is critical to the fair and efficient manner in which our financial markets operate. They also believe that transparency provides valuable information to an entity's management, employees, prospective employees, customers, and investors, as well as to the general

public. In contrast, other commenters expressed concern that these standards would be interpreted to encourage or require the release of proprietary, privileged or confidential information and compromise an entity's competitive position. This concern, they argued, would create a disincentive for an entity to conduct a self-assessment. Another commenter argued that these standards are unnecessary because regulated entities can achieve diversity and inclusion without disclosing this information, while others noted that many entities already publish information about their diversity and inclusion efforts.

The Agencies believe that the goals of section 342 can be best achieved when an entity is transparent with respect to its diversity and inclusion efforts and progress. They believe that the proposed standards accomplished this goal in the appropriate manner and have included them in the final Policy Statement with no material changes.

5. Entities' Self-Assessment

The Proposal included a section entitled ''Proposed Approach to Assessment,'' in which the Agencies explained that in a ''model assessment,'' a regulated entity would use the standards to undertake a self-assessment, disclose the self-assessment and other relevant information to the appropriate Agency, and share with the public its efforts to comply with the standards. The Agencies received many comments on this section.

a. Implementation Comments

A number of commenters requested more information on the frequency of self-assessments. To address this, the final Policy Statement provides that an entity with successful diversity policies and practices conducts a self-assessment annually and monitors and evaluates its performance under its diversity policies and practices on an ongoing basis. An annual review and ongoing monitoring are consistent with both leading practices and other types of business assessments.

Other commenters asked for clarification on where a regulated entity should submit its assessment data and recommended that the Agencies designate a ''lead'' agency for this purpose. In the final Policy Statement, the Agencies clarify that entities that choose to share their self-assessment information with their regulator may provide it to the OMWI Director of the entity's primary federal financial regulator.[6] The primary federal financial regulator will share information with other Agencies when appropriate to support coordination of efforts and to avoid duplication.

Finally, to assist entities in viewing the final Policy Statement as an integrated whole, the model assessment concepts introduced in this section of the Proposal are now a fifth set of standards entitled ''Entities' Self-Assessment.''

b. Self-Assessments

The Agencies received many comments on the Proposal's description of a model assessment as a ''self-assessment.'' Some commenters viewed a self-assessment as a reasonable interpretation of statutory intent, while others asserted that it was the only permissible interpretation. Others expressed concern with the concept of an entity conducting its own assessment and questioned whether this approach either would undermine regulatory oversight or was inconsistent with the statute. Some commenters suggested that the Agencies were required by statute to conduct the assessments.

In the final Policy Statement, the Agencies have retained the self-assessment approach to assessments. While it is clear to the Agencies that the statute contemplates that assessments will take place, they interpret the statutory language as ambiguous with respect to who should conduct the assessments or the form that assessments should take. The Agencies also believe that the entities are in the best position to assess their own diversity policies and practices and that these self-assessments can provide entities with an opportunity to focus on areas of strength and weakness in their own policies and programs.

c. Disclosure of Assessment Information to the Agencies

The Agencies received many comments about the Proposal's ''disclosure'' component of a model assessment. Some commenters argued that by encouraging disclosure, the Agencies would discourage candid self-assessments. Another group of commenters was concerned about protecting the confidentiality of disclosed information and recommended including a safe harbor in the final standards to protect the disclosed information from release.

Other commenters interpreted the statute to mandate disclosure and rejected the idea of a voluntary disclosure. One of these commenters argued that ''voluntary disclosure'' conflicted with congressional intent, as evidenced by the section 342(b)(4) statement that nothing in the directive to develop standards may be construed to require any specific action based on the findings of the assessment. This commenter argued that the phrase ''findings of the assessment'' in the statutory language indicates that the Agencies will obtain assessment information from the regulated entities and, therefore, the disclosure cannot be voluntary.

One commenter expressed concern that the permissiveness of voluntary disclosures would invite the regulated entities to disregard the Agencies and treat their oversight as optional and irrelevant. This commenter expressed concern that very few regulated entities would share their assessment information with the Agencies unless they were required to do so. Another commenter noted that financial institutions have been required to disclose information on lending practices, including lending by ethnic group, since 1975 pursuant to the Home Mortgage Disclosure Act and that this requirement has provided transparency without endangering the institutions.

With respect to the final Policy Statement, the Agencies view a voluntary scheme as more consistent with the framework set out by the statute, and therefore, the final Policy Statement provides for voluntary disclosure. Nevertheless, the final Policy Statement reflects leading practices with respect to transparency by encouraging the entities to disclose assessment information to the Agencies. Entities submitting information may designate such information as confidential commercial information as appropriate, and the Agencies will follow the Freedom of Information Act in the event of requests for particular submissions.

d. Entities' Disclosure of Assessment Information to the Public

Finally, the Agencies received comments about the Proposal's provision encouraging entities to disclose to the public information about their efforts to comply with the standards. Some commenters supported

[6] In the case of institutions identified in 12 U.S.C. 1813(q), the primary federal financial regulator is the 'appropriate federal banking agency' identified in that section. For credit unions, the primary federal financial regulator is the NCUA. For brokers, dealers, transfer agents, investment advisers, municipal advisors, investment companies, self-regulatory organizations (including national securities exchanges, registered securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board), nationally recognized statistical rating organizations, securities information processors, security-based swap dealers, major security-based swap participants, security-based swap execution facilities, and securities-based swap data repositories, the primary federal financial regulator is the SEC. For any other entity that meets the definition of 'covered person' under 12 U.S.C. 5481(6), the primary federal financial regulator is the CFPB.

this public disclosure, asserting that it was necessary to increase public accountability. Others argued that an entity that elects to publish information about its diversity progress may not undertake an honest self-assessment of this progress. Other commenters stated that public disclosures which focus on metrics may have the unintended consequence of encouraging numerical targets, rather than diversity and inclusion. These commenters also stated that publicly disclosing certain information could expose an entity to potential liability or reveal trade secrets.

In the final Policy Statement, the Agencies have retained the concept of an entity publicly displaying information regarding its efforts with respect to the standards. As noted above, disclosure reflects leading practices with respect to transparency. In addition, the final Policy Statement, consistent with the Proposal, also does not specify the types of information that regulated entities might consider making publicly available. The Agencies believe the regulated entities should have discretion to decide the type of information and the level of detail to share publicly.

6. Use of Assessment Information by Agencies

In describing the model assessment, the Proposal stated that the Agencies would monitor the information submitted to them as a resource in carrying out their diversity and inclusion responsibilities. It also stated that the Agencies may periodically review entities' public information to monitor diversity and inclusion practices. The Agencies may contact entities and other interested parties to discuss diversity and inclusion practices and methods of assessment. The Agencies did not receive any specific or material comments on these statements.

In the final Policy Statement, these concepts are retained. The final Policy Statement states that the Agencies may publish information disclosed to them provided they do not identify a particular entity or individual or disclose confidential business information in an effort to balance concerns about confidentiality of information with the importance of sharing information.

Paperwork Reduction Act of 1995

The Paperwork Reduction Act of 1995 (PRA)[7] generally provides that a federal agency may not conduct or sponsor a collection of information unless the Office of Management and Budget (OMB) has approved the collection and the agency has obtained a valid OMB control number. Furthermore, no person may be subject to a collection of information unless the collection displays a valid OMB control number. These provisions apply to any collection of information, regardless of whether the responses to the collection are voluntary or mandatory.

PRA requires an agency to provide the public and other agencies with an opportunity to comment on any proposed information collection. This helps to ensure that: the public understands the agency's collection and instructions; respondents provide the requested data in the desired format; reporting burden (time and financial resources) is minimized; interested parties understand the collection instruments; and the agency can properly assess the impact of its information collection on respondents.

This Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies contains a collection of information within the meaning of the PRA. The Agencies intend to submit this new collection of information to OMB for review and approval in accordance with the PRA and its implementing regulations. For collections of information not contained in a proposed rule, the PRA requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment. To comply with this requirement, the Agencies are publishing this notice in conjunction with the issuance of this final Policy Statement.

A. Overview of the Collection of Information

1. Description of the Collection of Information and Proposed Use

The title for the proposed collection of information is:

- Joint Standards for Assessing Diversity Policies and Practices

The Joint Standards entitled ''Practices to Promote Transparency of Organizational Diversity and Inclusion'' contemplate that the regulated entity is transparent about its diversity and inclusion activities by making certain information available to the public annually on its Web site or in other appropriate communications, in a manner reflective of the entity's size and other characteristics. The information noted in this standard is: The entity's diversity and inclusion strategic plan; its policy on its commitment to diversity and inclusion; progress toward achieving diversity and inclusion in its workforce and procurement activities (which may include the entity's current workforce and supplier demographic profiles); and employment and procurement opportunities available at the entity that promote diversity.

In addition, the Joint Standards entitled ''Self-Assessment'' envision that the regulated entity uses the Joint Standards to conduct a voluntary self-assessment of its diversity policies and practices at least annually, provides to its primary federal financial regulator information pertaining to the entity's self-assessment of diversity policies and practices, and publishes information pertaining to its efforts with respect to the standards. The information provided to the Agencies would be used to monitor progress and trends among regulated entities with regard to diversity and inclusion in employment and contracting activities, and to identify and publicize promising diversity policies and practices.

2. Description of Likely Respondents and Estimate of Annual Burden

The collections of information contemplated by the Joint Standards would impose no new recordkeeping burdens as regulated entities would only publish or provide information pertaining to diversity policies and practices that they maintain during the normal course of business. The Agencies estimate that it would take a regulated entity approximately 12 burden hours on average to annually publish information pertaining to diversity policies and practices on the entity's Web site or in other appropriate communications, and retrieve and submit information pertaining to the entity's self-assessment of its diversity policies and practices to the primary federal financial regulator. The Agencies estimate the total burden for all regulated entities as follows:

Information Collection: Joint Standards for Assessing Diversity Policies and Practices.

Estimated Number of Respondents:[8].

OCC: 215.

Board: 488.

FDIC: 398.

NCUA: 367.

CFPB: 750.

SEC: 1,250.

Frequency of Collection: Annual.

Average Response Time per Respondent: 12 hours.

Estimated Total Annual Burden Hours:

[7] 44 U.S.C. 3501 *et seq.*

[8] The burden estimates are based on the average number of responses anticipated by each Agency.

OCC: 2,580 hours.
Board: 5,856 hours.
FDIC: 4,776 hours.
NCUA: 4,404 hours.
CFPB: 9,000 hours.
SEC: 15,000 hours.
Obligation to respond: Voluntary.

B. Solicitation of Public Comments

The Agencies specifically invite comment on: (a) Whether the collections of information are necessary for the proper performance of the Agencies' functions, including whether the information will have practical utility; (b) The accuracy of the Agencies' estimate of the information collection burden, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information proposed to be collected; (d) Ways to minimize the information collection burden 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.

The Agencies will summarize the comments submitted in response to this notice and/or include them in the request for OMB approval. All comments will be a matter of public record.

Commenters may submit their comments to the Agencies at:

OCC: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–NEW, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Board: You may submit comments, identified by OMWI Policy Statement, 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 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments on this information collection, which should refer to ''Policy Statement Establishing Joint Standards for Assessing the Diversity,'' by any of the following methods:

Agency Web site: *http://www.fdic.gov/regulations/laws/federal/.* Follow the instructions for submitting comments on the FDIC Web site.

Email: *comments@FDIC.gov.* Include ''Policy Statement Establishing Joint Standards for Assessing the Diversity'' in the subject line of the message.

Mail: Gary A. Kuiper, Counsel, MB–3074, or John Popeo, Counsel, MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

NCUA: Interested persons are invited to submit written comments on the information collection to Jessica Khouri, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

CFPB: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1275 First Street NE., Washington, DC 20002.

SEC: Please direct your written comments to Pamela Dyson, 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, and include* ''SEC File 270–664 OMWI Policy Statement'' *in the subject line of the message.*

Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies

I. Introduction

Section 342(b)(2)(C) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) requires the Directors of the Offices of Minority and Women Inclusion (OMWI) to develop standards for assessing the diversity policies and practices of the entities regulated by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Bureau of Consumer Financial Protection, and Securities and Exchange Commission (Agencies). To promote consistency, the Agencies worked together to develop joint standards (Standards) for assessing diversity policies and practices. This Interagency Policy Statement (Policy Statement) announces those Standards.

This document is a general statement of policy under the Administrative Procedure Act, 5 U.S.C. 553. It does not create new legal obligations. Use of the Standards by a regulated entity is voluntary. The Agencies will not use their examination or supervisory processes in connection with these Standards.

For purposes of this Policy Statement, the Agencies define ''diversity'' to refer to minorities, as defined in section 342(g)(3) of the Dodd-Frank Act (that is, Black Americans, Native Americans, Hispanic Americans, and Asian Americans), and women. This definition of diversity does not preclude an entity from using a broader definition with regard to these standards. In addition, as used in this Policy Statement, the Agencies define ''inclusion'' to mean a process to create and maintain a positive work environment that values individual similarities and differences, so that all can reach their potential and maximize their contributions to an organization. The Standards set forth below may be used to assess policies and practices that impact the inclusion

of minorities and women in the regulated entity's workforce and the existence of minority-owned and women-owned businesses among a regulated entity's suppliers of products and services.

II. Joint Standards

The Agencies designed these Standards to provide a framework for an entity to create and strengthen its diversity policies and practices, including its organizational commitment to diversity, workforce and employment practices, procurement and business practices, and practices to promote transparency of organizational diversity and inclusion. The Agencies recognize that each entity is unique with respect to characteristics such as its size, location, and structure. When drafting these standards, the Agencies focused primarily on institutions with more than 100 employees. The Agencies know that institutions that are small or located in remote areas face different challenges and have different options available to them compared to entities that are larger or located in more urban areas. The Agencies encourage each entity to use these Standards in a manner appropriate to its unique characteristics. Finally, the Agencies intend that the Standards will address an entity's U.S. operations.

(1) Organizational Commitment to Diversity and Inclusion

The leadership of an organization with successful diversity policies and practices demonstrates its commitment to diversity and inclusion. Leadership comes from the governing body, such as a board of directors, as well as senior officials and those managing the organization on a day-to-day basis. These Standards inform how an entity promotes diversity and inclusion in both employment and contracting and how it fosters a corporate culture that embraces diversity and inclusion.

Standards

In a manner reflective of the individual entity's size and other characteristics,

- The entity includes diversity and inclusion considerations in both employment and contracting as an important part of its strategic plan for recruiting, hiring, retention, and promotion.
- The entity has a diversity and inclusion policy that is approved and supported by senior leadership, including senior management and the board of directors.
- The entity provides regular progress reports to the board and senior management.
- The entity regularly conducts training and provides educational opportunities on equal employment opportunity and on diversity and inclusion.
- The entity has a senior level official, preferably with knowledge of and experience in diversity and inclusion policies and practices, who oversees and directs the entity's diversity and inclusion efforts. For example, this official may be an executive-level Diversity Officer (or equivalent position) with dedicated resources to support diversity strategies and initiatives.
- The entity takes proactive steps to promote a diverse pool of candidates, including women and minorities, in its hiring, recruiting, retention, and promotion, as well as in its selection of board members, senior management, and other senior leadership positions.

(2) Workforce Profile and Employment Practices

Many entities promote the fair inclusion of minorities and women in their workforce by publicizing employment opportunities, creating relationships with minority and women professional organizations and educational institutions, creating a culture that values the contribution of all employees, and encouraging a focus on these objectives when evaluating the performance of managers. Entities with successful diversity and inclusion programs also regularly evaluate their programs and identify areas to be improved.

Entities use various analytical tools to evaluate a wide range of business objectives, including metrics to track and measure the inclusiveness of their workforce (*e.g.,* race, ethnicity, and gender). Entities that are subject to the recordkeeping and reporting requirements of the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs currently collect and maintain data and supporting documentation that may assist in evaluating and assessing their policies and practices related to workforce diversity and inclusion. Specifically, entities that file EEO–1 Reports [9] required under Title VII of the Civil Rights Act of 1964 routinely track and analyze employment statistics by gender, race, ethnicity, and occupational group. Entities that develop and implement the affirmative action programs required under the regulations implementing Executive Order 11246 track and analyze employer-created job groups. Entities also are encouraged to use other analytical tools that they may find helpful.

Standards

In a manner reflective of the individual entity's size and other characteristics,

- The entity implements policies and practices related to workforce diversity and inclusion in a manner that complies with all applicable laws.
- The entity ensures equal employment opportunities for all employees and applicants for employment and does not engage in unlawful employment discrimination based on gender, race, or ethnicity.
- The entity has policies and practices that create diverse applicant pools for both internal and external opportunities that may include:
  - Outreach to minority and women organizations;
  - Outreach to educational institutions serving significant minority and women student populations; and
  - Participation in conferences, workshops, and other events to attract minorities and women and to inform them of employment and promotion opportunities.
- The entity utilizes both quantitative and qualitative measurements to assess its workforce diversity and inclusion efforts. These efforts may be reflected, for example, in applicant tracking, hiring, promotions, separations (voluntary and involuntary), career development, and retention across all levels and occupations of the entity, including the executive and managerial ranks.
- The entity holds management at all levels accountable for diversity and inclusion efforts, for example by ensuring that such efforts align with business strategies and individual performance plans.

(3) Procurement and Business Practices—Supplier Diversity

Companies increasingly understand the competitive advantage of having a broad selection of available suppliers to choose from with respect to factors such as price, quality, attention to detail, and future relationship building. A number of entities have achieved success at

[9] The Employer Information Report EEO–1 (EEO–1 Report) is required to be filed annually with the EEOC by (a) private employers with 100 or more employees and (b) federal contractors and first tier subcontractors with 50 or more employees that have a contract or subcontract of $50,000 or more or that serve as a depository of government funds in any amount.

expanding available business options by increasing outreach to minority-owned and women-owned businesses.

As in the employment context, entities often use metrics to identify the baseline of how much they spend procuring and contracting for goods and services, how much they spend with minority-owned and women-owned businesses, and the availability of relevant minority-owned and women-owned businesses, as well as changes over time. Similarly, entities may use outreach to inform minority-owned and women-owned businesses (and affinity groups representing these constituencies) of these opportunities and of the procurement process.

In addition, entities' prime contractors often use subcontractors to fulfill the obligations of various contracts. The use of minority-owned and women-owned businesses as subcontractors provides valuable opportunities for both the minority-owned and women-owned businesses and the prime contractor. Entities may encourage the use of minority-owned and women-owned subcontractors by incorporating this objective in their business contracts.

Standards

In a manner reflective of the individual entity's size and other characteristics,

- The entity has a supplier diversity policy that provides for a fair opportunity for minority-owned and women-owned businesses to compete for procurement of business goods and services. This includes contracts of all types, including contracts for the issuance or guarantee of any debt, equity, or security, the sale of assets, the management of the entity's assets, and the development of the entity's equity investments.
- The entity has methods to evaluate its supplier diversity, which may include metrics and analytics related to:
  - Annual procurement spending;
  - Percentage of contract dollars awarded to minority-owned and women-owned business contractors by race, ethnicity, and gender; and
  - Percentage of contracts with minority-owned and women-owned business sub-contractors.
- The entity has practices to promote a diverse supplier pool, which may include:
  - Outreach to minority-owned and women-owned contractors and representative organizations;
  - Participation in conferences, workshops, and other events to attract minority-owned and women-owned firms and inform them of contracting opportunities; and
  - An ongoing process to publicize its procurement opportunities.

(4) Practices To Promote Transparency of Organizational Diversity and Inclusion

Transparency and publicity are important aspects of assessing diversity policies and practices. Greater awareness and transparency give the public information to assess those policies and practices. Entities publicize information about their diversity and inclusion efforts through normal business methods, which include displaying information on their Web sites, in their promotional materials, and in their annual reports to shareholders, if applicable. By making public an entity's commitment to diversity and inclusion, its plans for achieving diversity and inclusion, and the metrics it uses to measure success in both workplace and supplier diversity, an entity informs a broad constituency of investors, employees, potential employees, suppliers, customers, and the general community about its efforts. The publication of this information can make new markets accessible for minorities and women and illustrate the progress made toward an important business goal.

Standards

In a manner reflective of the individual entity's size and other characteristics, the entity is transparent with respect to its diversity and inclusion activities by making the following information available to the public annually through its Web site or other appropriate communication methods:

- The entity's diversity and inclusion strategic plan;
- The entity's policy on its commitment to diversity and inclusion;
- The entity's progress toward achieving diversity and inclusion in its workforce and procurement activities (which may include the entity's current workforce and supplier demographic profiles); and
- Opportunities available at the entity that promote diversity, which may include:
  - Current employment and procurement opportunities;
  - Forecasts of potential employment and procurement opportunities; and
  - The availability and use of mentorship and developmental programs for employees and contractors.

(5) Entities' Self-Assessment

The Agencies interpret the term ''assessment'' to mean self-assessment. Entities that have successful diversity policies and practices allocate time and resources to monitoring and evaluating performance under their diversity policies and practices on an ongoing basis. Entities are encouraged to disclose their diversity policies and practices, as well as information related to their assessments, to the Agencies and the public. Entities submitting information may designate such information as confidential commercial information as appropriate, and the Agencies will follow the Freedom of Information Act in the event of requests for particular submissions.

Standards

In a manner reflective of the individual entity's size and other characteristics,

- The entity uses the Standards to conduct self-assessments of its diversity policies and practices annually.
- The entity monitors and evaluates its performance under its diversity policies and practices on an ongoing basis.
- The entity provides information pertaining to the self-assessments of its diversity policies and practices to the OMWI Director of its primary federal financial regulator.
- The entity publishes information pertaining to its efforts with respect to the Standards.

III. Use of Assessment Information by Agencies

The Agencies may use information submitted to them to monitor progress and trends in the financial services industry with regard to diversity and inclusion in employment and contracting activities and to identify and highlight those policies and practices that have been successful. The primary federal financial regulator will share information with other agencies when appropriate to support coordination of efforts and to avoid duplication. The OMWI Directors will also continue to reach out to regulated entities and other interested parties to discuss diversity and inclusion practices and methods of assessment. The Agencies may publish information disclosed to them, such as best practices, in any form that does not identify a particular entity or individual or disclose confidential business information.

Dated: May 22, 2015.

Thomas J. Curry,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, June 3, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

Dated at Washington, DC, this 21st of May, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

By the National Credit Union Administration Board on May 26, 2015.

John H. Brolin,

Senior Staff Attorney.

Dated: May 18, 2015.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

By the Securities and Exchange Commission.

Date: May 27, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015–14126 Filed 6–9–15; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6741–01–P; 7590–01–P; 4810–AM–P; 8010–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to the Cuban Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of five individuals, 53 entities, and one vessel whose property and interests in property have been unblocked pursuant to the Cuban Assets Control Regulations, 31 CFR part 515.

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons (SDN List) of the individuals, entities, and vessel identified in this notice is effective June 4, 2015.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On June 4, 2015, the Associate Director of OFAC removed from the SDN List the individuals, entities, and vessel listed below, whose property and interests in property were blocked pursuant to the Cuban Assets Control Regulations:

Individuals

1. ALOARDI, Carlo Giovanni, Milan, Italy (individual) [CUBA].
2. CRUZ REYES, Antonio Pedro, Milan, Italy (individual) [CUBA].
3. HERNANDEZ CARBALLOSA, Alexis Eneilo, Milan, Italy (individual) [CUBA].
4. LOPEZ, Quirino Gutierrez, c/o ANGLO CARIBBEAN SHIPPING CO., LTD., 7th Floor, Ibex House, the Minories, London EC3N 1DY, United Kingdom (individual) [CUBA].
5. ORS, Jose Antonio Rego, Tokyo, Japan (individual) [CUBA].

Entities

1. MARINE REGISTRATION COMPANY, Panama [CUBA].
2. CANIPEL S.A. (a.k.a. CANAPEL S.A.), c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
3. EAST ISLAND SHIPPING CO. LTD., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
4. NORTH ISLAND SHIPPING CO. LTD., c/o UNION MARITIMA PORTUARIA, 9-Piso, Apartado B, Esquina Cuarteles y Pena Pobre 60, Havana Vieje, Havana, Cuba [CUBA].
5. SOUTH ISLAND SHIPPING CO. LTD., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
6. WEST ISLAND SHIPPING CO. LTD., c/o UNION MARITIMA PORTUARIA, 9-Piso, Apartado B, Esquina Cuarteles y Pena Pobre 60, Havana Vieja, Havana, Cuba [CUBA].
7. BRADFIELD MARITIME CORPORATION INC., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
8. WADENA SHIPPING CORPORATION, c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
9. ACEFROSTY SHIPPING CO., LTD., 171 Old Bakery Street, Valletta, Malta [CUBA].
10. ARION SHIPPING CO., LTD., 60 South Street, Valletta, Malta [CUBA].
11. GOLDEN COMET NAVIGATION CO. LTD., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
12. GRETE SHIPPING CO. S.A., c/o EMPRESA DE NAVEGACION CARIBE, Edificio Lonja del Comercio, Lamparilla 2, Caja Postal 1784, Havana 1, Cuba [CUBA].
13. KASPAR SHIPPING CO. S.A., c/o EMPRESA DE NAVEGACION CARIBE, Edificio Lonja del Comercio, Lamparilla 2, Caja Postal 1784, Havana 1, Cuba [CUBA].
14. MARYOL ENTERPRISES INC., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
15. NAVIGABLE WATER CORPORATION, c/o EMPRESA DE NAVEGACION CARIBE, Edificio Lonja del Comercio, Lamparilla 2, Caja Postal 1784, Havana 1, Cuba [CUBA].
16. VALETTA SHIPPING CORPORATION, c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
17. ACE INDIC NAVIGATION CO. LTD., c/o ANGLO-CARIBBEAN SHIPPING CO. LTD., 4th Floor, South Phase 2, South Quay Plaza II, 183, March Wall, London, United Kingdom [CUBA].
18. ACECHILLY NAVIGATION CO. LTD., c/o ANGLO-CARIBBEAN SHIPPING CO. LTD., 4th Floor, South Phase 2, South Quay Plaza II, 183, March Wall, London, United Kingdom [CUBA].
19. AIRMORES SHIPPING CO. LTD. (a.k.a. AIMOROS SHIPPING CO. LTD.), c/o MELFI MARINE CORPORATION S.A., Oficina 7, Edificio Senorial, Calle 50, Apartado 31, Panama City 5, Panama [CUBA].
20. ANTILLANA SALVAGE CO. LTD., c/o EMPRESA ANTILLANA DE SALVAMENTO, 4th Floor, Lonja del Comercio, Havana Vieja, Havana, Cuba [CUBA].
21. ATAMALLO SHIPPING CO. LTD. (a.k.a. ANTAMALLO SHIPPING CO. LTD.), c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
22. BETTINA SHIPPING CO. LTD., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
23. EPAMAC SHIPPING CO. LTD., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].
24. FLIGHT DRAGON SHIPPING LTD., c/o ANGLO–CARIBBEAN

SHIPPING CO. LTD., 4th Floor, South Phase 2, South Quay Plaza II, 183, March Wall, London, United Kingdom [CUBA].

25. HUNTSLAND NAVIGATION CO. LTD., c/o NIPPON CARIBBEAN SHIPPING CO. LTD., 8th Floor, Tsukiji Hosoda Building, 2–1, Tsukiji 2-chome, Chuo-ku, Tokyo, Japan [CUBA].

26. HUNTSVILLE NAVIGATION CO. LTD., c/o NIPPON CARIBBEAN SHIPPING CO. LTD., 8th Floor, Tsukiji Hosoda Building, 2–1, Tsukiji 2-chome, Chuo-ku, Tokyo, Japan [CUBA].

27. SOCIETA COMMERCIA MINERALI E METTALLI, SRL (a.k.a. SOCOMET, SPA), Milan, Italy [CUBA].

28. YAMARU TRADING CO., LTD., Tokyo, Japan [CUBA].

29. TRAMP PIONEER SHIPPING CO., c/o Anglo Caribbean Shipping Co., Ltd., 4th Floor, South Phase 2, South Quay Plaza, 183 Mars, London E14 9SH, United Kingdom; Panama [CUBA].

30. CARIBBEAN PRINCESS SHIPPING LTD., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].

31. CARIBBEAN QUEEN SHIPPING LTD., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].

32. SENANQUE SHIPPING CO. LTD., c/o EMPRESA DE NAVEGACION CARIBE, Edificio Lonja del Comercio, Lamparilla 2, Caja Postal 1784, Havana 1, Cuba [CUBA].

33. WHITE SWAN SHIPPING CO. LTD., c/o EMPRESA DE NAVEGACION CARIBE, Edificio Lonja del Comercio, Lamparilla 2, Caja Postal 1784, Havana 1, Cuba [CUBA].

34. CIMECO, SRL, Milan, Italy [CUBA].

35. DESARROLLO INDUSTRIAL CUBANO ESPANOL, S.A. (a.k.a. DICESA), Paseo De La Castellana 157, Madrid, Spain; Jose Lazaro Caldeano, 6–6, Madrid 28016, Spain [CUBA].

36. OCTUBRE HOLDING SOCIETE ANONIME (a.k.a. OCTOBER HOLDING COMPANY), Vaduz, Liechtenstein [CUBA].

37. QUIMINTER GMBH, Vienna, Austria [CUBA].

38. UNITED FAIR AGENCIES, 1202 Carrian Center, 151 Gloucester Road, Wanchai, Hong Kong [CUBA].

39. CARIBERIA, S.A., Spain [CUBA].

40. CORPORACION IBEROAMERICANA DEL COMERCIO (a.k.a. CIDECO), Spain [CUBA].

41. DURGACO, London, United Kingdom [CUBA].

42. GUAMATUR, Buenos Aires, Argentina [CUBA].

43. HABANOS TRADING, Geneva, Switzerland [CUBA].

44. PESCABRAVA, S.A., France [CUBA].

45. PESCABRAVA, S.A., Italy [CUBA].

46. PEONY SHIPPING CO. LTD., c/o NORDSTRAND MARITIME & TRADING CO. LTD., 26 Skouze Street, Piraeus, Greece [CUBA].

47. PIRANHA NAVIGATION CO. LTD., c/o NORDSTRAND MARITIME & TRADING CO. LTD., 26 Skouze Street, Piraeus, Greece [CUBA].

48. REDESTOS SHIPPING CO. LTD., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].

49. STANDWEAR SHIPPING CO. LTD., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].

50. VIOLET NAVIGATION CO. LTD., c/o EMPRESA DE NAVEGACION MAMBISA, Apartado 543, San Ignacio 104, Havana, Cuba [CUBA].

51. PAMIT C. SHIPPING CO., LTD., Limassol, Cyprus [CUBA].

52. PIONEER SHIPPING LTD., 171 Old Bakery Street, Valletta, Malta; c/o Anglo Caribbean Shipping Co., Ltd., 4th Floor, South Phase 2, South Quay Plaza 2, 183 Marsh Wall, London E14 9SH, United Kingdom [CUBA].

53. GUAMAR SHIPPING CO. S.A., c/o EMPRESA DE NAVEGACION CARIBE, Edificio Lonja del Comercio, Lamparilla 2, Caja Postal 1784, Havana 1, Cuba [CUBA].

Vessels

1. STAR 1 Unknown vessel type (Canapel, S.A., Panama) (vessel) [CUBA].

Dated: June 4, 2015.

Gregory T. Gatjanis,

Associate Director, Office of Global Targeting, Office of Foreign Assets Control.

[FR Doc. 2015–14215 Filed 6–9–15; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals and three entities whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, ''Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers.'' Additionally, OFAC is publishing an update to the identifying information of two individuals currently included in the list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: The unblocking and removal from the list of SDN List of two individuals and three entities identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on June 4, 2015. Additionally, the update to the SDN List of the identifying information of the two individuals identified in this notice is also effective on June 4, 2015.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the Order). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The foreign persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and the Secretary of State: (a) to play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the

Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On June 4, 2015, the Associate Director of the Office of Global Targeting removed from the SDN List the individuals and entities listed below, whose property and interests in property were blocked pursuant to the Order:

Individuals

1. SANCHEZ JIMENEZ, Jesus Maria Alejandro (a.k.a. ''CHUCHO''; a.k.a. ''EL PRIMO''; a.k.a. ''SCUBI''; a.k.a. ''SCUBY''), c/o GANADERIA ARIZONA, Medellin, Colombia; Calle 11 No. 23–80, Pereira, Colombia; Hacienda Arizona, Caucasia, Antioquia, Colombia; DOB 06 Nov 1975; POB Pereira, Colombia; Cedula No. 10026001 (Colombia); Passport AF400955 (Colombia) (individual) [SDNT].

2. TRONCOSO POSSE, Jose Manuel, c/o INVERSIONES BRASILAR S.A., Bogota, Colombia; c/o AGROPECUARIA LINDARAJA S.A., Cali, Colombia; DOB 26 Nov 1953; POB Bogota, Colombia; nationality Colombia; citizen Colombia; Cedula No. 19233258 (Colombia); Passport AE297484 (Colombia) (individual) [SDNT].

Entities

1. AGROPECUARIA LINDARAJA S.A., Calle 4N No. 1N–10, Ofc. 901, Cali, Colombia; NIT # 890327360–0 (Colombia) [SDNT].

2. GANADERIA ARIZONA, Carrera 43A No. 1 Sur-188 of. 903, Medellin, Colombia; Hacienda Arizona, Caucasia, Antioquia, Colombia; NIT # 10026001–7 (Colombia) [SDNT].

3. INVERSIONES BRASILAR S.A. (f.k.a. INVERSIONES RIVERA CAICEDO Y CIA S.C.S.; f.k.a. ''INRICA''), Carrera 11 No. 73–44, Ofc. 803, Bogota, Colombia; NIT # 891305286–2 (Colombia) [SDNT].

Additionally, on June 4, 2015, the Associate Director of the Office of Global Targeting updated the SDN record for the individuals listed below, whose property and interests in property continue to be blocked pursuant to the Order:

Individuals

1. CAMACHO VALLEJO, Francisco Jose, Calle 23 BN No. 5–37 of. 202, Cali, Colombia; Carrera 37 No. 6–36, Cali, Colombia; Cedula No. 14443381 (Colombia) (individual) [SDNT] (Linked To: CRETA S.A.; Linked To: ILOVIN S.A.; Linked To: JOSAFAT S.A.; Linked To: CAMACHO VALLEJO ASESORES E.U.; Linked To: CANADUZ S.A.; Linked To: AGROPECUARIA EL NILO S.A.).

2. QUINTANA FUERTES, Andres Fernando; DOB 03 Jul 1966; POB Candelaria, Valle, Colombia; nationality Colombia; citizen Colombia; Cedula No. 16989000 (Colombia); Passport AI375038 (Colombia); alt. Passport 16989000 (Colombia) expires 13 Dec 2000 (individual) [SDNT] (Linked To: TARRITOS S.A.).

Dated: June 4, 2015.

Gregory T. Gatjanis,

Associate Director, Office of Global Targeting, Office of Foreign Assets Control.

[FR Doc. 2015–14216 Filed 6–9–15; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

AGENCY: Department of the Treasury.

ACTION: Notice.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before July 10, 2015 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by email at *PRA@treasury.gov* or the entire information collection request may be found at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

OMB Number: 1545–0725.

Type of Review: Reinstatement without change of a previously approved collection.

Title: Fuel Bond.

Form: 928.

Abstract: Certain sellers of gasoline and diesel fuel may be required under section 4101 to post bond before they incur liability for gasoline and diesel fuel excise taxes imposed by sections 4081 and 4091. This form is used by taxpayers to give bond and provide other information required by regulations sections 48.4101–2.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 1,280.

Dated: June 4, 2015.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2015–14120 Filed 6–9–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for Appointment to the Advisory Committee on Structural Safety of Department of Veterans Affairs (VA) Facilities

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA), Office of Construction and Facilities Management, is seeking nominations of qualified candidates to be considered for appointment to the Advisory Committee on Structural Safety of Department Facilities (''the Committee''). In accordance with 38 U.S.C. 8105, the Committee advises the Secretary on all matters of structural safety in the construction and altering of medical facilities and recommends standards for use by VA in the construction and alteration of facilities. Nominations of qualified candidates are being sought to fill current and upcoming vacancies on the Committee.

Authority: The Committee was established in accordance with 38 U.S.C. 8105.

DATES: Nominations for membership on the Committee must be received no later than 5:00 p.m. EST on June 26, 2015.

ADDRESSES: All nominations should be submitted to Mr. Juan Archilla by email at *juan.archilla@va.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Juan Archilla, Office of Construction and Facilities Management (CFM), Department of Veterans Affairs, via email at *juan.archilla@va.gov,* or via telephone at (202) 632–5967. A copy of the Committee charter and list of the current membership can be obtained by contacting Mr. Archilla or by accessing the Web site: *http://www.va.gov/ADVISORY/Advisory_Committee_on_Structural_Safety_of_Department_of_*

Veterans_Affairs_facilities_Statutory.asp.

SUPPLEMENTARY INFORMATION: The Committee was established pursuant to 38 U.S.C. 8105. The Committee responsibilities include:

(1) Providing advice to the Secretary of VA on all matters of structural safety in the construction and altering of medical facilities and recommending standards for use by VA in the construction and alteration of facilities.

(2) Reviewing of appropriate State and local laws, ordinances, building codes, climatic and seismic conditions, relevant existing information, and current research.

(3) Recommending changes to the current VA standards for structural safety, on a state or regional basis.

(4) Recommending the engagement of the services of other experts or consultants to assist in preparing reports on present knowledge in specific technical areas.

(5) Reviewing of questions regarding the application of codes and standards and making recommendations regarding new and existing facilities when requested to do so by VA.

Membership Criteria and Professional Qualifications:

CFM is requesting nominations for current and upcoming vacancies on the Committee. The Committee is composed of five members, in addition to ex-officio members. The Committee is required to include at least one architect and one structural engineer who are experts in structural resistance to fire, earthquake, and other natural disasters and who are not employees of the Federal Government. To satisfy this requirement and ensure the Committee has the expertise to fulfill its statutory objectives, VA seeks nominees from the following professions:

(1) ARCHITECT: Candidate must be a licensed Architect experienced in the design requirements of health care facilities. Expert knowledge in codes and standards for health care and life safety is required;

(2) PRACTICING STRUCTURAL ENGINEER: Candidate must have experience in both new building seismic analysis and design and strengthening of existing buildings in high seismic regions. Expert knowledge of building codes and standards, with a focus on seismic safety, is required. Experience designing for structural resistance to other natural disasters is desired. A licensed Structural Engineer or Professional Engineer with a focus on structural engineering is required;

(3) RESEARCH STRUCTURAL ENGINEER: Candidate must have experience leading experimental and/or computational research in the field of structural engineering to advance building structural performance and/or design methods against natural disasters, such as earthquakes, fire, hurricanes, tornados, etc.;

(4) GEOTECHNICAL ENGINEER: Candidate must be an expert in earthquake geotechnical engineering and foundation engineering, with experience in the topics of liquefaction, earthquake ground motions, soil-structure interaction, and soil improvement. A practicing, licensed Professional Engineer with a focus on geotechnical engineering is required; and

(5) FIRE SAFETY ENGINEER: Candidate must be an expert in fire protection engineering and building codes and standards, in particular related to the National Fire Protection Association (NFPA). A practicing, licensed Professional Engineer with expert knowledge in fire protection systems and experience with life safety requirements is required.

Prior experience serving on nationally recognized professional and technical committees is also desired.

Requirements for Nomination Submission:

Nominations should be type written (one nomination per nominator). Nomination package should include: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.* specific attributes which qualify the nominee for service in this capacity), and a statement from the nominee indicating a willingness to serve as a member of the Committee; (2) the nominee's contact information, including name, mailing address, telephone numbers, and email address; (3) the nominee's curriculum vitae, and (4) a summary of the nominee's experience and qualification relative to the *professional qualifications* criteria listed above.

Membership Terms

Individuals selected for appointment to the Committee shall be invited to serve a two-year term. At the Secretary's discretion, members may be reappointed to serve an additional term. All members will receive travel expenses and a per diem allowance in accordance with the Federal Travel Regulation for any travel made in connection with their duties as members of the Committee.

The Department makes every effort to ensure that the membership of its Federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that a broad representation of geographic areas, gender, racial and ethnic minority groups, and the disabled are given consideration for membership. Appointment to this Committee shall be made without discrimination because of a person's race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age, disability, or genetic information. Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Dated: June 5, 2015.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2015–14142 Filed 6–9–15; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of Energy

10 CFR Part 430

Energy Conservation Program: Energy Conservation Standards for Residential Conventional Ovens; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2014–BT–STD–0005]

RIN 1904–AD15

Energy Conservation Program: Energy Conservation Standards for Residential Conventional Ovens

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

ACTION: Notice of proposed rulemaking (NOPR) and public meeting.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential conventional ovens. EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would save a significant amount of energy. DOE is proposing new and amended energy conservation standards for residential conventional ovens. DOE is also announcing a public meeting to receive comment on these proposed standards and associated analyses and results.

DATES: DOE will hold a public meeting on Tuesday, July 14, 2015, from 9 a.m. to 4 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See section VII Public Participation for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) before and after the public meeting, but no later than August 10, 2015. See section VII Public Participation for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585. To attend, please notify Ms. Brenda Edwards at (202) 586–2945. Persons can attend the public meeting via webinar. For more information, refer to the Public Participation section near the end of this notice.

Any comments submitted must identify the NOPR for Energy Conservation Standards for residential conventional cooking products, and provide docket number EE–2014–BT–STD–0005 and/or regulatory information number (RIN) number 1904–AD15. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the instructions for submitting comments.

2. *Email: ConventionalCookingProducts2014STD0005@ee.doe.gov*. Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Office of Energy Efficiency and Renewable Energy through the methods listed above and by email to *Chad_S_Whiteman@omb.eop.gov*.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section VII of this document (Public Participation).

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at regulations.gov. All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2014-BT-STD-0005*. This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section VII for further information on how to submit comments through *www.regulations.gov*.

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT:

Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1692. Email: *kitchen_ranges_and_ovens@ee.doe.gov*.

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov*.

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I. Synopsis of the Proposed Rule

Title III, Part B [1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles.[2] These products include residential conventional ovens, the subject of this rulemaking.

Pursuant to EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)) In accordance with these and other statutory provisions discussed in this notice, DOE proposes new and amended energy conservation standards for residential conventional ovens. The proposed standards, which are the maximum allowable integrated annual energy consumption (IAEC), are shown in Table I–1. The integrated annual energy consumption includes active mode (including fan-only mode for conventional ovens), standby mode, and off mode energy use. These proposed standards, if adopted, would apply to all products listed in Table I–1 and manufactured in, or imported into, the United States on or after the date three years after the publication of any final rule for this rulemaking. The proposed standards correspond to trial standard level (TSL) 2, which is described in section V.A. DOE also notes that any newly adopted performance standards for conventional ovens resulting from this current rulemaking would not affect the current prescriptive standards prohibiting constant burning pilots for all gas cooking products (10 CFR 430.32(j)).

TABLE I–1—PROPOSED ENERGY CONSERVATION STANDARDS FOR CONVENTIONAL OVENS

Product class	Maximum integrated annual energy consumption (IAEC)
Electric Standard Oven, Free-standing	122.5 + (31.8 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Electric Standard Oven, Built-In/Slide-In	128.6 + (31.8 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Electric Self-Clean Oven, Free-Standing	163.2 + (42.3 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Electric Self-Clean Oven, Built-In/Slide-In	169.1 + (42.3 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Gas Standard Oven, Free-Standing	492.9 + (214.4 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Gas Standard Oven, Built-In/Slide-In	499.5 + (214.4 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Gas Self-Clean Oven, Free-Standing	746.7 + (214.4 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Gas Self-Clean Oven, Built-In/Slide-In	755.5 + (214.4 × Rated Cavity Volume in cubic feet) *kWh/yr.*

Note: The Rated Cavity Volume is the volume of the oven cavity in cubic feet as measured using the final DOE test procedure at 10 CFR part 430, subpart B, appendix I.

As discussed in section III.B, DOE has decided to defer its decision regarding whether to adopt amended energy conservation standards for conventional cooking tops, pending further rulemaking. In both the test procedure NOPR published on January 30, 2013 (78 FR 6232, the January 2013 TP NOPR) and the test procedure supplemental NOPR (SNOPR) published on December 3, 2014 (79 FR 71894, the December 2014 TP SNOPR), DOE proposed amendments to the cooking products test procedure in Appendix I to subpart B of Title 10 of the CFR part 430 that would allow for the testing of active mode energy consumption of induction cooking tops. After reviewing public comments on the December 2014 TP SNOPR, conducting interviews with manufacturers, and performing

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[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).

additional analyses, DOE believes further study is required before a cooking top test procedure can be established that produces test results which measure energy use during a representative average use cycle, is repeatable and reproducible, and is not unduly burdensome to conduct. For these reasons, this NOPR is limited to addressing energy conservation standards for conventional ovens. As discussed in section III.A, the proposed standards would cover conventional ovens, including conventional ovens that are a part of conventional ranges. DOE intends to complete the rulemaking process for conventional cooking tops once additional key data and information become available.

A. Benefits and Costs to Consumers

Table I–2 presents DOE's evaluation of the economic impacts of the proposed standards on consumers of residential conventional ovens, as measured by the average life-cycle cost (LCC) savings and the simple payback period (PBP).[3] The average LCC savings are positive for all product classes, and the PBP is less than the average lifetime of the equipment, which is estimated to be 15 years for electric and 17 years for gas ovens.

TABLE I–2—IMPACTS OF PROPOSED ENERGY CONSERVATION STANDARDS (TSL 2) ON CONSUMERS OF RESIDENTIAL CONVENTIONAL OVENS

Product class	Average LCC savings * (2014$)	Simple payback period (years)
Electric Standard Oven, Free-standing	$15.18	4.0
Electric Standard Oven, Built-in/Slide-in	15.25	4.0
Electric Self-Clean Oven, Free-Standing	14.10	0.9
Electric Self-Clean Oven, Built-in/Slide-in	14.20	0.9
Gas Standard Oven, Free-Standing	289.73	1.7
Gas Standard Oven, Built-in/Slide-in	289.77	1.7
Gas Self-Clean Oven, Free-Standing	282.80	1.2
Gas Self-Clean Oven, Built-In/Slide-in	282.85	1.2

* Calculation does not include households with zero LCC savings (no impact).

DOE's analysis of the impacts of the proposed standards on consumers is described in section IV.F of this notice.

B. Impact on Manufacturers

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2015 to 2048). Using a real discount rate of 9.1 percent, DOE estimates that the industry net present value (INPV) for manufacturers of residential conventional ovens is $783.5 million in 2014$. Under the proposed standards, DOE expects that manufacturers may lose up to 11.0 percent of their INPV, which is approximately $86.4 million in 2014$. Additionally, based on DOE's interviews with the manufacturers of residential conventional ovens, DOE does not expect any plant closings or significant loss of employment.

DOE's analysis of the impacts of the proposed standards on manufacturers is described in section IV.J of this NOPR notice.

C. National Benefits and Costs [4]

DOE's analyses indicate that the proposed standards would save a significant amount of energy. The lifetime energy savings from residential conventional oven products purchased in the 30-year period that begins in the assumed year of compliance with the proposed standards (2019–2048), relative to the base case without the proposed standards, amount to 0.71 quadrillion Btu (quads).[5] This represents a savings of 11.2 percent relative to the energy use of these products in the base case.

The cumulative net present value (NPV) of total consumer costs and savings of the proposed standards for ovens in residential conventional cooking products ranges from $4.7 billion (at a 7-percent discount rate) to $11.0 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for products purchased in 2019–2048.

In addition, the proposed standards would have significant environmental benefits. The energy savings described above are estimated to result in cumulative emission reductions of 41.1 million metric tons (Mt) [6] of carbon dioxide (CO_2), 221.2 thousand tons of methane, 29.5 thousand tons of sulfur dioxide (SO_2), 69 thousand tons of nitrogen oxides (NO_X), 0.52 thousand tons of nitrous oxide (N_2O), and 0.09 tons of mercury (Hg).[7] The cumulative reduction in CO_2 emissions through 2030 amounts to 7.5 Mt, which is equivalent to the emissions resulting from the annual electricity use of 0.7 million homes.

[3] The average LCC savings are measured relative to the base-case efficiency distribution, which depicts the market in the compliance year (see section IV.F.9). The simple PBP, which is designed to compare specific efficiency levels, is measured relative to the baseline model.

[4] All monetary values in this section are expressed in 2013 dollars and, where appropriate, are discounted to 2014.

[5] A quad is equal to 10^{15} British thermal units (Btu). The quantity refers to full-fuel-cycle (FFC) energy savings. FFC energy savings includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy efficiency standards. For more information on the FFC metric, see section IV.H.2.

A quad is equal to 10^{15} British thermal units (Btu).

[6] A metric ton is equivalent to 1.1 short tons. Results for emissions other than CO_2 are presented in short tons.

[7] DOE calculated emissions reductions relative to the *Annual Energy Outlook 2014* (*AEO 2014*) Reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of October 31, 2013.

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.[8] The derivation of the SCC values is discussed in section IV.L. Using discount rates appropriate for each set of SCC values (see Table I–4), DOE estimates the present monetary value of the CO_2 emissions reduction is between $0.3 billion and $4.1 billion, with a value of $1.3 billion using the central SCC case represented by $41.2/t in 2015.[9] DOE also estimates the present monetary value of the NO_X emissions reduction, is $0.1 billion at a 7-percent discount rate and $0.2 billion at a 3-percent discount rate.[10]

Table I–3 summarizes the national economic costs and benefits expected to result from the proposed standards for residential conventional ovens.

TABLE I–3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL CONVENTIONAL OVENS *

Category	Present value (Billion 2014$)	Discount rate (%)
Benefits		
Operating Cost Savings	5.0	7
	11.6	3
CO_2 Reduction Monetized Value ($12.2.0/t case) **	0.3	5
CO_2 Reduction Monetized Value ($41.2/t case) **	1.3	3
CO_2 Reduction Monetized Value ($63.4/t case) **	2.1	2.5
CO_2 Reduction Monetized Value ($121/t case) **	4.1	3
NO_X Reduction Monetized Value †	0.1	7
	0.2	3
Total Benefits ††	6.4	7
	13.2	3
Costs		
Incremental Installed Costs	0.3	7
	0.6	3
Total Net Benefits		
Including Emissions Reduction Monetized Value ††	6.1	7
	12.6	3

* This table presents the costs and benefits associated with residential conventional ovens shipped in 2019–2048. These results include impacts to consumers which accrue after 2048 from the products purchased in 2019–2048. The results account for the incremental variable and fixed costs incurred by manufacturers due to any final standard, some of which may be incurred in preparation for the rule.

** The CO_2 values represent global monetized values of the SCC, in 2014$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series incorporate an escalation factor.

† The $/ton values used for NO_X are described in section IV.L.2.

†† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with 3-percent discount rate ($40.5/t case).

The benefits and costs of these proposed standards, for products sold in 2019–2048, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from consumer operation of products that meet the new or amended standards (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[11]

Although DOE believes that the values of operating savings and CO_2 emission reductions are both important, two issues are relevant. First, the national operating savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, whereas the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of residential conventional ovens shipped in 2019–2048. Because CO_2 emissions have a very long residence time in the atmosphere,[12] the SCC values in future years reflect future climate-related impacts resulting from the emission of CO_2 that continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed standards are shown in Table I–4. The results under

[8] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government. May 2013; revised November 2013. *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*

[9] The values only include CO_2 emissions, not CO_2 equivalent emissions; other gases with global warming potential are not included.

[10] DOE is currently investigating valuation of avoided Hg and SO_2 emissions.

[11] To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2014, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (*e.g.,* 2020 or 2030), and then discounted the present value from each year to 2014. The calculation uses discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions, for which DOE used case-specific discount rates, as shown in Table I.3. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year that yields the same present value.

[12] The atmospheric lifetime of CO_2 is estimated of the order of 30–95 years. Jacobson, MZ (2005). ''Correction to ''Control of fossil-fuel particulate black carbon and organic matter, possibly the most effective method of slowing global warming.'' '' *J. Geophys. Res.* 110. pp. D14105.

the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the average SCC series that has a value of $41.2/t in 2015, the cost of the proposed standards is $33.5 million per year in increased equipment costs, while the benefits are $494 million per year in reduced equipment operating costs, $74 million in CO_2 reductions, and $9 million in reduced NO_X emissions. In this case, the net benefit amounts to $543 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series that has a value of $41.2/t in 2015, the cost of the proposed standards is $33.1 million per year in increased equipment costs, while the benefits are $648 million per year in reduced operating costs, $74 million in CO_2 reductions, and $13 million in reduced NO_X emissions. In this case, the net benefit amounts to $701 million per year.

TABLE I–4—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL CONVENTIONAL OVENS

	Discount rate	(million 2014$/year)		
		Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Benefits				
Operating Cost Savings	7%	494	457	542.
	3%	648	593	719.
CO_2 Reduction Monetized Value ($12.2/t case) *	5%	21	20	24.
CO_2 Reduction Monetized Value ($41.2/t case) *	3%	74	68	81.
CO_2 Reduction Monetized Value ($63.4/t case) *	2.5%	108	100	119.
CO_2 Reduction Monetized Value ($121/t case) *	3%	228	211	252.
NO_X Reduction Monetized Value†	7%	9.24	8.66	10.11.
	3%	13.43	12.46	14.80.
Total Benefits ††	7% plus CO_2 range	524 to 731	485 to 677	576 to 804.
	7%	577	534	634.
	3% plus CO_2 range	682 to 889	625 to 817	758 to 986.
	3%	734	674	815.
Costs				
Consumer Incremental Product Costs	7%	34	34	33.
	3%	33	34	33.
Net Benefits				
Total ††	7% plus CO_2 range	491 to 697	451 to 642	543 to 771.
	7%	543	499	601.
	3% plus CO_2 range	649 to 856	592 to 783	725 to 953.
	3%	701	640	783.

* This table presents the annualized costs and benefits associated with residential conventional ovens shipped in 2019–2048. These results include benefits to consumers which accrue after 2048 from the products purchased in 2014–2043. The results account for the incremental variable and fixed costs incurred by manufacturers due to any final standard, some of which may be incurred in preparation for the rule. The Primary, Low Benefits, and High Benefits Estimates utilize projections of energy prices from the *AEO 2015*[13] Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental product costs reflect a medium decline rate in the Primary Estimate, a low decline rate in the Low Benefits Estimate, and a high decline rate f in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.1.

** The CO_2 values represent global monetized values of the SCC, in 2014$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series incorporate an escalation factor.

† The $/ton values used for NO_X are described in section IV.L.2.

†† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to the average SCC with 3-percent discount rate ($41.2/t case). In the rows labeled "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

DOE's analysis of the national impacts of the proposed standards is described in sections IV.H, IV.K and IV.L of this notice.

D. Conclusion

DOE has tentatively concluded that the proposed standards represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in the significant conservation of energy. DOE further notes that products achieving these standard levels are already commercially available for at least some, if not most, product classes covered by this proposal. Based on the analyses described above, DOE has tentatively concluded that the benefits of the proposed standards to the Nation (energy savings, positive NPV of consumer benefits, consumer LCC savings, and emission reductions) would outweigh the burdens (loss of INPV for manufacturers and LCC increases for some consumers).

DOE also considered more-stringent energy efficiency levels as trial standard levels, and is considering them in this rulemaking. However, DOE has tentatively concluded that the potential burdens of the more-stringent energy efficiency levels would outweigh the projected benefits. Based on consideration of the public comments DOE receives in response to this notice and related information collected and

[13] *http://www.eia.gov/forecasts/AEO/.*

analyzed during the course of this rulemaking effort, DOE may adopt energy efficiency levels presented in this notice that are either higher or lower than the proposed standards, or some combination of level(s) that incorporate the proposed standards in part.

II. Introduction

The following section briefly discusses the statutory authority underlying this proposal, as well as some of the relevant historical background related to the establishment of standards for residential cooking products.

A. Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances (collectively referred to as ''covered products''), which includes residential cooking products [14], and specifically residential conventional ovens, that are the subject of this rulemaking. (42 U.S.C. 6292(a)(10)) EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(h)(1)), and directed DOE to conduct rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(h)(2)) (DOE notes that under 42 U.S.C. 6295(m), the agency must periodically review its already established energy conservation standards for a covered product. Under this requirement, the next review that DOE would need to conduct must occur no later than six years from the issuance of a final rule establishing or amending a standard for a covered product.)

Pursuant to EPCA, DOE's energy conservation program for covered products consists essentially of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. The Federal Trade Commission (FTC) is primarily responsible for labeling, and DOE implements the remainder of the program. Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. (42 U.S.C. 6293) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c) and 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. *Id.* The DOE test procedures for residential conventional cooking products currently appear at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix I (Appendix I).

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products. As indicated above, any new or amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) Moreover, DOE may not prescribe a standard: (1) For certain products, including residential conventional ovens, if no test procedure has been established for the product, or (2) if DOE determines by rule that the standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether a standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven statutory factors:

1. The economic impact of the standard on manufacturers and consumers of the products subject to the standard;
2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the imposition of the standard;
3. The total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard;
4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;
5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;
6. The need for national energy and water conservation; and
7. Other factors the Secretary of Energy (Secretary) considers relevant. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

Additionally, 42 U.S.C. 6295(q)(1) specifies requirements when promulgating a standard for a type or class of covered product that has two or more subcategories. DOE must specify a different standard level than that which applies generally to such type or class of products for any group of covered products that have the same function or intended use if DOE determines that products within such group (A) consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6294(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of

[14] DOE's regulations define kitchen ranges and ovens, or ''cooking products'', as one of the following classes: Conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, microwave/conventional ranges and other cooking products. (10 CFR 430.2) Based on this definition, in this notice, DOE interprets kitchen ranges and ovens to refer more generally to all types of cooking products including, for example, microwave ovens.

products, 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))

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d)).

Finally, pursuant to the amendments contained in section 310(3) of EISA 2007, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, are required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into the standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedures for residential conventional cooking products address standby mode and off mode energy use. In this rulemaking, DOE intends to incorporate such energy use into any amended energy conservation standards it adopts in the final rule.

DOE has also reviewed this proposed regulation pursuant to Executive Order 13563. 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 the NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized. Consistent with EO 13563, and the range of impacts analyzed in this rulemaking, the energy efficiency standards proposed herein by DOE achieve maximum net benefits. For further discussion of how this NOPR achieves maximum net benefits, see section V.

B. Background

1. Current Standards

In a final rule published on April 8, 2009 (April 2009 Final Rule), DOE prescribed the current energy conservation standards for residential cooking products to prohibit constant burning pilots for all gas cooking products (*i.e.,* gas cooking products both with or without an electrical supply cord) manufactured on or after April 9, 2012. 74 FR 16040, 16041–16044. DOE's regulations, codified at 10 CFR 430.2, define conventional cooking tops, conventional ovens, and conventional ranges as classes of cooking products. As noted in the April 2009 Final Rule, DOE considered standards for conventional cooking tops and conventional ovens separately, and noted that any cooking top or oven standard would apply to the individual components of the conventional range. 74 FR 16040, 16053.

Based on DOE's review of gas cooking products available on the market in the United States, DOE notes that there may be confusion regarding how the current standards apply to different pilot ignition systems. Specifically, DOE is aware of a gas range that is designed to heat and cook food based on the principle of heat storage. A low input rate burner continuously heats the cooking top surface and cast iron oven cavities, and maintains these components at a constant temperature. A secondary ''pilot burner'' is used to ignite the main burner and this pilot remains lit between cooking cycles as well as when the main burner is shut off for short periods of non-use. Although the secondary pilot may provide additional heating to the body of the range, its primary function is to ignite the main burner, and would thus be considered a constant burning pilot because it is a continuous gas flame used to ignite the gas at the main burner. It is the main burner that provides the primary source of heat for the cooking function of the range.

In this NOPR, DOE is clarifying that a constant burning pilot in conventional cooking products is considered to be a continuous gas flame having the primary purpose to ignite the gas at the burner(s) that is (are) used to heat or cook food and which remains lit between cooking cycles. The design and configuration, including whether it incorporates any air premixing or whether it has a secondary heating function, does not exclude the device from consideration as constant burning pilot.

DOE also notes that any newly adopted performance standards for conventional cooking products resulting from this current rulemaking would not affect the current prescriptive standards prohibiting constant burning pilots for all gas cooking products.

2. History of Standards Rulemaking for Residential Conventional Cooking Products

The National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, amended EPCA to establish prescriptive standards for gas cooking products, requiring gas ranges and ovens with an electrical supply cord that are manufactured on or after January 1, 1990, not to be equipped with a constant burning pilot light. NAECA also directed DOE to conduct two cycles of rulemakings to determine if more stringent or additional standards were justified for kitchen ranges and ovens. (42 U.S.C. 6295 (h)(1)–(2))

DOE undertook the first cycle of these rulemakings and published a final rule on September 8, 1998, which found that no standards were justified for conventional electric cooking products at that time. In addition, partially due to the difficulty of conclusively demonstrating that elimination of standing pilots for conventional gas

cooking products without an electrical supply cord was economically justified, DOE did not include amended standards for conventional gas cooking products in the final rule. 63 FR 48038. For the second cycle of rulemakings, DOE published the April 2009 Final Rule amending the energy conservation standards for conventional cooking products to prohibit constant burning pilots for all gas cooking products (*i.e.,* gas cooking products both with or without an electrical supply cord) manufactured on or after April 9, 2012. DOE decided to not adopt energy conservation standards pertaining to the cooking efficiency of conventional electric cooking products because it determined that such standards would not be technologically feasible and economically justified at that time. 74 FR 16040, 16041–16044.[15]

EPCA also requires that, not later than 6 years after the issuance of a final rule establishing or amending a standard, DOE publish a NOPR proposing new standards or a notice of determination that the existing standards do not need to be amended. (42 U.S.C. 6295(m)(1)) Based on this provision, DOE must publish by March 31, 2015, either a NOPR proposing new standards for conventional electric cooking products and/or amended standards for conventional gas cooking products[16] or a notice of determination that the existing standards do not need to be amended.

On February 12, 2014, DOE published a request for information (RFI) notice (the February 2014 RFI) to initiate the mandatory review process imposed by EPCA. As part of the RFI, DOE sought input from the public to assist with its determination on whether new or amended standards pertaining to conventional cooking products are warranted. 79 FR 8337. In making this determination, DOE must evaluate whether new or amended standards would (1) yield a significant savings in energy use and (2) be both technologically feasible and economically justified. (42 U.S.C. 6295(o)(3)(B))

III. General Discussion

A. Scope of Coverage

As discussed in section II.A, 6292(a)(10) of EPCA covers kitchen ranges and ovens, or ''cooking products.'' DOE's regulations define ''cooking products'' as consumer products that are used as the major household cooking appliances. They are designed to cook or heat different types of food by one or more of the following sources of heat: Gas, electricity, or microwave energy. Each product may consist of a horizontal cooking top containing one or more surface units[17] and/or one or more heating compartments. They must be one of the following classes: Conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, microwave/conventional ranges and other cooking products. (10 CFR 430.2) In this NOPR, DOE is considering energy conservation standards for certain residential conventional cooking products, namely, conventional ovens.

DOE notes that conventional ranges are defined in 10 CFR 430.2 as a class of kitchen ranges and ovens which is a household cooking appliance, consisting of a conventional cooking top and one or more conventional ovens. In this rulemaking, DOE is not considering gas and electric conventional ranges as a distinct product category and is not basing its product classes on that category. Instead, DOE plans to consider energy conservation standards for conventional cooking tops and conventional ovens separately. Because ranges consist of both a cooking top and oven, any potential cooking top or oven standards would apply to the individual components of the range. DOE invites comment on its proposal to develop two distinct component standards under separate timetables, and whether issues of product design and development, consumer utility, and more broadly, cumulative regulatory burden concerns that could arise as a result of its proposal (see sections IV.J and VII.E). DOE anticipates issuing a NOPR for energy conservation standards for cooktops in the next year. In this NOPR, DOE is proposing to clarify in the definitions of conventional cooking tops and conventional ovens, in 10 CFR 430.2, that these include the individual cooking top or oven portion of a conventional range.

As part of the most recent standards rulemaking for conventional cooking products, DOE decided to exclude residential conventional gas cooking products with higher burner input rates, including products marketed as ''commercial-style'' or ''professional-style,'' from consideration of energy conservation standards due to a lack of available data for determining efficiency characteristics of those products. DOE considers these products to be gas cooking tops with burner input rates greater than 14,000 British thermal units (Btu)/hour (h) and gas ovens with burner input rates greater than 22,500 Btu/h. 74 FR 16040, 16054 (Apr. 8, 2009); 72 FR 64432, 64444–64445 (Nov. 15, 2007). DOE also stated that the current DOE cooking products test procedures may not adequately measure performance of gas cooking tops and ovens with higher burner input rates. 72 FR 64432, 64444–64445 (Nov. 15, 2007).

As part of the February 2014 RFI, DOE stated that it tentatively planned to consider energy conservation standards for all residential conventional cooking products, including gas cooking products with higher burner input rates. In addition, DOE stated that it may consider developing test procedures for these products and determine whether separate product classes are warranted. 79 FR 8337, 8340 (Feb. 12, 2014).

The Association of Home Appliance Manufacturers (AHAM) and Whirlpool Corporation (Whirlpool) commented that because there is no test procedure to test commercial-style products, they cannot effectively comment on how these products should be treated in a standards rulemaking, nor can DOE effectively evaluate their energy use. (AHAM, STD No. 9 at p. 2;[18] Whirlpool, STD No. 13 at p. 2) AHAM added that nothing has changed since DOE determined in the April 2009 Final Rule that it lacks efficiency data to determine whether commercial-style cooking products should be excluded from the rulemaking, and thus, DOE cannot make a tentative conclusion to consider energy conservation standards for commercial-style products. (AHAM, STD No. 9 at pp. 2–3) In response to the December 2014 TP SNOPR, Sub Zero Group, Inc. (Sub Zero) stated that DOE's conclusion that the existing test procedure in Appendix I should be used to test ovens with high input rates is incorrect. Sub Zero commented that, due to the lack of data, complexity, and

[15] As part of the April 2009 Final Rule, DOE decided not to adopt energy conservation standards pertaining to the cooking efficiency of microwave ovens. DOE also published a final rule on June 17, 2013 adopting energy conservation standards for microwave oven standby mode and off mode. 78 FR 36316. DOE is not considering energy conservation standards for microwave ovens as part of this rulemaking.

[16] As discussed in section III.A, DOE is also tentatively planning to consider new energy conservation standards for gas cooking products with higher burner input rates, which were previously excluded from standards.

[17] The term surface unit refers to burners for gas cooking tops, electric resistance heating elements for electric cooking tops, and inductive heating elements for induction cooking tops.

[18] A notation in the form ''AHAM, STD No. 9 at p. 2'' identifies a written comment (1) made by AHAM; (2) recorded in document number 9 that is filed in the docket of this energy conservation standards rulemaking (Docket No. EERE–2014–BT–STD–0005) and maintained in the Resource Room of the Building Technologies Program; and (3) which appears on page 2 of document number 9.

small potential for energy savings, DOE should exempt commercial-style or ''high performance'' products from coverage. (Sub Zero, TP No. 20 at p. 3 [19])

Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SCGC), San Diego Gas and Electric (SDG&E), and Southern California Edison (SCE) (collectively, the California investor-owned utilities (IOUs)) supported DOE's decision to consider standards for professional-style gas cooking products and commented that DOE should refer to American National Standards Institute (ANSI) Standard Z83.11–2006/CSA Standard 1.8–2006 (R2011), ''Gas Food Service Equipment,'' when developing a definition for these products. (California IOUs, STD No. 11 at p. 1)

As discussed in section III.B, DOE proposed to amend the conventional cooking top test procedure in Appendix I to, among other things, measure the energy use of gas cooking tops with high burner input rates and to clarify that the existing conventional oven test procedure is appropriate for ovens with high burner input rates, including products marketed as commercial-style. *See* 79 FR 71894 (Dec. 3, 2014). DOE notes that the current definitions for ''conventional cooking top,'' ''conventional oven,'' and ''conventional range'' in 10 CFR 430.2 already cover conventional gas cooking products with higher burner input rates, as these products are household cooking appliances with surface units or compartments intended for the cooking or heating of food by means of a gas flame. As a result, DOE is proposing energy conservation standards for all residential conventional cooking products, including gas cooking products with higher burner input rates. As discussed in section IV.A.2, DOE is not considering establishing a separate product class for gas cooking products with higher burner input rates that are marketed as ''commercial-style'' and, as a result, DOE is not proposing separate definitions for these products.

Natural Resources Defense Council (NRDC) commented that DOE should separately define commercial and residential gas cooking products. NRDC noted that because of the availability of residential gas cooking tops with higher burner input rates previously associated with commercial use, these burner types are not what define commercial units. NRDC stated that the definitions should be based on more fundamental distinctions between commercial and residential products, such as configuration of the burners on the cooking top, number of burners, or number of high-input rate burners. (NRDC, STD No. 12 at p. 2) As part of this rulemaking, DOE is considering energy conservation standards for residential conventional cooking products. As discussed above, this includes residential conventional gas cooking products with high burner input rates, including those marketed as commercial-style. For these products, DOE tentatively concludes that the existing definitions for conventional cooking top, conventional oven, and conventional range accurately describe the products that are the subject of this rulemaking. In addition, DOE clarifies that the proposed scope of coverage for this rulemaking relates only to consumer products. Thus, this rule applies to those residential conventional cooking products that are of a type which, to any significant extent, are distributed into commerce for personal use or consumption. (*See* 42 U.S.C. 6291(1)). These consumer products can be distinguished from commercial/industrial equipment, which are of a type not sold for consumer use. (42 U.S.C. 6311(2)(A)) Thus, DOE is not proposing to define commercial cooking products as part of this rulemaking.

DOE notes that the test procedures for conventional ranges, cooking tops, and ovens found at Appendix I do not address all possible types of combined cooking products (*i.e.,* residential products that combine a conventional cooking product with other appliance functionality, which may or may not include another cooking product), such as microwave/conventional ovens or any other products that may combine a conventional cooking product with other appliance functionality that is not a conventional cooking product. DOE stated in the February 2014 RFI that because test procedures are not available addressing products that combine a conventional cooking product with other appliance functionality that is not a conventional cooking product (*e.g.,* microwave/conventional ovens), DOE is not considering energy conservation standards for such products at this time. 79 FR 8337, 8340 (Feb. 12, 2014).

AHAM and Whirlpool agreed with DOE's tentative determination to not consider standards for combined cooking products. (AHAM, STD No. 9 at p. 3; Whirlpool STD No. 13 at p. 2) AHAM stated that combined products are too diverse and probably do not occupy enough of the market to justify coverage by DOE. AHAM stated that DOE has not provided sufficient analysis on each of these products to justify their coverage, nor has DOE provided adequate definitions. Thus, AHAM continues to oppose the inclusion of combined products in the scope of covered products in the conventional cooking products rulemakings. (AHAM, STD No. 9 at p. 3) In the absence of comments opposing this determination and for the reasons discussed above, DOE is not considering energy conservation standards in this NOPR for products that may combine a conventional cooking product with other appliance functionality that is not a conventional cooking product.

B. Further Rulemaking To Consider Energy Conservation Standards for Conventional Cooking Tops

As part of this rulemaking, DOE intends only to address energy conservation standards for conventional ovens, including conventional ovens that are a part of conventional ranges. In response to the concurrent cooking products test procedure proposed rulemaking, DOE received a number of comments from interested parties that presented information and arguments for deferring the rulemaking process to consider standards for conventional cooking tops until a representative, repeatable, and reproducible test procedure could be developed. DOE also conducted a series of manufacturer interviews and performed additional testing in order to confirm stakeholder comments that additional study was warranted before establishing both a test procedure and amended standards for conventional cooking tops. These comments and DOE's response are discussed below.

In the January 2013 TP NOPR, DOE proposed amendments to the cooking products test procedure in Appendix I to subpart B of Title 10 of the CFR part 430 that would allow for testing the active mode energy consumption of induction cooking products; *i.e.,* conventional cooking tops and ranges equipped with induction heating technology for one or more surface units on the cooking top. DOE proposed to incorporate induction cooking tops by amending the definition of ''conventional cooking top'' to include induction heating technology. Furthermore, DOE proposed to require for all cooking tops the use of test equipment compatible with induction technology. Specifically, DOE proposed to replace the solid aluminum test

[19] A notation in the form ''Sub Zero, TP No. 20 at p. 3'' identifies a written comment (1) made by Sub Zero; (2) recorded in document number 20 that is filed in the docket of the concurrent cooking products test procedures rulemaking (Docket No. EERE–2012–BT–TP–0013) and maintained in the Resource Room of the Building Technologies Program; and (3) which appears on page 3 of document number 20.

blocks currently specified in the test procedure for cooking tops with hybrid test blocks comprising two separate pieces: An aluminum body and a stainless steel base. 78 FR 6232, 6234 (Jan. 30, 2013).

AHAM commented that DOE should rely on the finalized version of the test procedure (*i.e.,* the October 2012 TP Final Rule) and not a proposed test procedure when evaluating energy conservation standards, particularly given the significant opposing comments that question the validity of the proposed test procedure for cooking tops (as discussed in AHAM's comments on the January 2013 TP NOPR). Accordingly, AHAM stated that DOE should address AHAM's and other stakeholder comments regarding induction cooking and finalize amendments to the test procedure before using those amendments to conduct any analysis for the standards rulemaking, or else proceed without addressing induction cooking products in this round of standards rulemaking. (AHAM, STD No. 9 at pp. 3–4, 6, 7)

AHAM and Whirlpool commented that a test procedure should be developed to address commercial-style cooking products if DOE plans to evaluate them in a standards analysis. (AHAM, STD No. 9 at p. 2; Whirlpool, STD No. 13 at p. 1) AHAM also commented that DOE should either proceed without addressing commercial-style products as it did for the April 2009 Final Rule or delay the rulemaking analysis until there is a finalized test procedure that can measure commercial-style products. (AHAM, STD No. 9 at p. 4, 6, 7) AHAM added that it cannot provide data regarding the differences between residential-style and commercial-style gas cooking products without a test procedure to measure higher input rated burners. (AHAM, STD No. 9 at p. 7) The California IOUs supported amending the test procedure to measure the energy use of residential conventional gas cooking products with higher burner input rates. (California IOUs, STD No. 11 at p. 2)

In the December 2014 TP SNOPR, DOE modified its proposal from the January 2013 TP NOPR to specify different test equipment that would allow for measuring the energy efficiency of induction cooking tops, and would include an additional test block size for electric surface units with large diameters (both induction and electric resistance). 79 FR 71894 (Dec. 3, 2014). In addition, DOE proposed methods to test non-circular electric surface units, electric surface units with flexible concentric cooking zones, and full-surface induction cooking tops. *Id.* In the December 2014 TP SNOPR, DOE also proposed amendments to add a larger test block size to test gas cooking top burners with higher input rates. *Id.*

AHAM formally requested an extension of the comment period for the December 2014 TP SNOPR, citing the difficulty the members had procuring the specified hybrid test block materials, and noting that many manufacturers were not able to properly assess the new specifications, testing variation, repeatability, and reproducibility of the proposed test procedure before the comment period closed. (AHAM, TP No. 14 at p. 1) AHAM also expressed concern with DOE's choice to pursue an accelerated rulemaking schedule for cooking products, stating that DOE's deadlines did not allow for a thorough technical examination. AHAM believes DOE has not conducted adequate outreach to manufacturers, has not been sufficiently transparent in its data collection and analysis, and has failed to adhere to its own Process Improvement Rule, which calls for all of the above. AHAM asked DOE to conduct more substantive dialogue with stakeholders that would result in more in-depth comments on the test procedure SNOPR and advised DOE that the cooking top test procedure as proposed in the December 2014 TP SNOPR may result in technical problems. (AHAM, TP No. 18 at pp. 1–2)

Both the BSH Home Appliances Corporation (BSH) and General Electric Appliances (GE) confirmed that delays associated with acquiring the hybrid test block materials meant they needed additional time to evaluate DOE's proposed cooking top test procedure. (BSH, TP No. 16 at p. 2; GE, TP No. 17 at p. 1) BSH commented that the proposed hybrid test block method fails to cover several aspects which are necessary to enhance the reproducibility of measuring cooking top energy consumption, such as test load sizing and positioning, and recommended DOE take into account important specifications which are already fixed in International Electrotechnical Commission (IEC) Standard 60350–2 Edition 2, ''Household electric appliances—Part 2: Hobs—Method for measuring performance'' (IEC Standard 60350–2). (BSH, TP No. 16 at p. 1) Further, both manufacturers and AHAM suggested that DOE specify additional test block diameters because the test block sizes proposed by DOE do not adequately reflect the surface unit sizes currently available on the market. (BSH, TP No. 16 at p. 5; GE, TP No. 17 at p 2; AHAM, TP No. 18 at p. 2)

Stakeholders also expressed a significant number of concerns with the use of thermal grease. GE noted that since receiving DOE's proposal, it has not been able to replicate the DOE test results using the methods described. (GE, TP No. 17 at p. 2) Specifically, GE observed that the aluminum body slid off the stainless steel base during the test, that the thermal grease dried out, and that the amount of grease between the blocks changed from one test to another. (GE, TP No. 17 at p. 2) Both manufacturers and AHAM requested that DOE specify an operating temperature range for the thermal grease as well as an application thickness to address these issues, but also noted that the thermal conductivity and viscosity of the grease may still change over time or after repeated use at high temperatures. (BSH, TP No. 16 at p. 11; GE, TP No. 17 at p. 2; AHAM, TP No. 18 at p. 3) GE further commented that the variation introduced by the hybrid test block due to block construction, flatness, thermal grease, and inadequate sizing, may be small sources of variation individually, but collectively, these issues result in a test method that is incapable of being able to reliably discern efficiency differences between similar products, alternate technology options, and product classes. Thus, GE believes the test method proposed for conventional cooking tops in the December 2014 TP SNOPR results in too much variability to serve as the basis for establishing a standard. (GE, TP No. 17 at p. 3)

The California IOUs also stated that they prefer an alternative to the hybrid test block and recommended that DOE require water-heating test methods to measure the cooking efficiency of conventional cooking tops. Specifically, the California IOUs requested that DOE align the residential cooking product test methods with existing industry test procedures, such as ASTM F1521–12 and IEC Standard 60350–2. (California IOUs, TP No. 19 at p. 1) The California IOUs commented that they plan to conduct additional testing to better characterize the differences between the water-heating and hybrid test block test procedures, and will provide these results to DOE. According to the California IOUs, the differences in test procedure standard deviation between the hybrid test block and water-heating test method as presented in the December 2014 TP SNOPR did not sufficiently show that the hybrid test block method is more repeatable than a water-heating method. (California IOUs, TP No. 19 at p. 2) Additionally, the California IOUs believe cooking

efficiencies derived using a water-heating test method are more representative of the actual cooking performance of cooking tops as opposed to a test procedure using hybrid test blocks since many different foods prepared on cooktops will have relatively high liquid content. (California IOUs, TP No. 19 at p. 1)

In February and March of 2015, DOE conducted a series of interviews with manufacturers of conventional cooking products, representing the majority of the U.S. market, regarding the proposed cooking top test procedure. Manufacturers agreed that the hybrid test block method, as proposed, presented many issues which had not yet been addressed, and which left the repeatability and reproducibility of the test procedure in question. These concerns were similar to those expressed in written comments but came from a larger group of contributing manufacturers and included:

- Difficulty obtaining the hybrid test block materials;
- Difficulty obtaining and applying the thermal grease without more detailed specifications (*i.e.,* thermal conductivity alone was not sufficient to identify a grease that performed according to DOE's descriptions in the SNOPR);
- Difficulty testing induction cooking tops that use different programming techniques to prevent overheating (some manufacturers still observed that power to the heating elements cut off prematurely during testing with the hybrid test block, despite adding thermal grease); and
- The need for larger test block sizes to test electric surface units having 12-inch and 13-inch diameters and gas surface units with high input rates.

Interviewed manufacturers that produce and sell products in Europe overwhelmingly supported the use of water-heating test method and harmonization with IEC Standard 60350–2 for measuring the energy consumption of electric cooking tops. These manufacturers noted that the benefits of pursuing a test method similar to the IEC water-heating method include compatibility with all electric cooking top types, additional cookware diameters to account for the variety of surface unit sizes on the market, and the test load's ability to represent a real-world cooking top load.

For these reasons, DOE has decided to continue the energy conservation standards rulemaking for conventional ovens but to defer its decision regarding adoption of energy conservation standards for conventional cooking tops until a representative, repeatable and reproducible test method for cooking tops is finalized. At such time, DOE will consider further modifications to DOE's cooking top active mode test procedure and, on the basis of such an amended test procedure, DOE will analyze potential energy conservation standards for cooking top energy consumption. DOE invites data and information that will allow it to further conduct the analysis of cooking tops, particularly when using a water-heating method to evaluate energy consumption. DOE anticipates issuing additional notices for cooking top test procedures and standards in order to obtain public input on DOE's updated proposals. As part of these notices, DOE will carefully consider and address any cooking top-related comments on the December 2014 TP SNOPR and the February 2014 RFI that remain relevant.

C. Test Procedure

DOE's test procedures for conventional ranges, conventional cooking tops, conventional ovens, and microwave ovens are codified at appendix I to subpart B of Title 10 of the CFR part 430.

DOE established the test procedures in a final rule published in the **Federal Register** on May 10, 1978. 43 FR 20108, 20120–20128. DOE revised its test procedures for cooking products to more accurately measure their efficiency and energy use, and published the revisions as a final rule in 1997. 62 FR 51976 (Oct. 3, 1997). These test procedure amendments included: (1) A reduction in the annual useful cooking energy; (2) a reduction in the number of Self-Clean oven cycles per year; and (3) incorporation of portions of IEC Standard 705–1988, ''Methods for measuring the performance of microwave ovens for household and similar purposes,'' and Amendment 2–1993 for the testing of microwave ovens. *Id.* The test procedures for conventional cooking products establish provisions for determining estimated annual operating cost, cooking efficiency (defined as the ratio of cooking energy output to cooking energy input), and energy factor (defined as the ratio of annual useful cooking energy output to total annual energy input). 10 CFR 430.23(i); Appendix I.

DOE subsequently conducted a rulemaking to address standby and off mode energy consumption, as well as certain active mode (*i.e.,* fan-only mode) testing provisions, for residential conventional cooking products. DOE published a final rule on October 31, 2012 (77 FR 65942, the October 2012 TP Final Rule), adopting standby and off mode provisions that satisfy the EPCA requirement that DOE include measures of standby mode and off mode energy consumption in its test procedures for residential products, if technically feasible. (42 U.S.C. 6295(gg)(2)(A))

In the December 2014 TP SNOPR, DOE proposed modifications to the test block used to evaluate conventional cooking top energy consumption. As discussed in section III.B, DOE plans to consider further modifications to DOE's cooking top active mode test procedure in a future rulemaking. In the December 2014 TP SNOPR, DOE also proposed to incorporate methods for measuring conventional oven volume, clarified that the existing oven test block must be used to test all ovens regardless of input rate, and provided a method to measure the energy consumption and efficiency of conventional ovens equipped with an oven separator. 79 FR 71894 (Dec. 3, 2014). DOE is proposing energy conservation standards for conventional ovens in this NOPR based on these proposals in the December 2014 TP SNOPR. DOE intends to update the standards rulemaking analyses based on any final amendments related to ovens developed as part of the concurrent test procedure rulemaking. DOE recognizes that interested parties need sufficient time to evaluate the proposed energy conservation standards using the final test procedure for conventional ovens. DOE considers the stated energy conservation standards rulemaking process to provide sufficient time to submit meaningful comments based on a finalized DOE conventional oven test procedure.

D. Technological Feasibility

1. General

In each energy conservation standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of those means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(i).

After DOE has determined that particular technology options are technologically feasible, it further

evaluates each technology option in light of the following additional screening criteria: (1) Practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. 10 CFR part 430, subpart C, appendix A, section 4(a)(4)(ii)–(iv). Section IV.B of this notice discusses the results of the screening analysis for residential conventional ovens, particularly the designs DOE considered, those it screened out, and those that are the basis for the trial standard levels (TSLs) in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the NOPR Technical Support Document (TSD).

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such product. (42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for residential conventional ovens, using the design parameters for the most efficient products available on the market or in working prototypes, and information from the previous rulemaking. The max-tech levels that DOE determined for this rulemaking are described in section IV.C.3 of this proposed rule and in chapter 5 of the NOPR TSD.

E. Energy Savings

1. Determination of Savings

For each TSL, DOE projected energy savings from the products that are the subject of this rulemaking purchased in the 30-year period that begins in the year of compliance with new and amended standards (2019 to 2048).[20] The savings are measured over the entire lifetime of products purchased in the 30-year analysis period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. The base case represents a projection of energy consumption in the absence of new and amended efficiency standards, and it considers market forces and policies that affect demand for more efficient products.

DOE uses its national impact analysis (NIA) spreadsheet models to estimate energy savings from potential new and amended standards. The NIA spreadsheet model (described in section IV.H of this notice) calculates energy savings in site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE calculates national energy savings in terms of primary energy savings, which is the savings in the energy that is used to generate and transmit the site electricity. For electricity, natural gas, and oil, DOE also calculates full-fuel-cycle (FFC) energy savings. As discussed in DOE's statement of policy and notice of policy amendment, the FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy efficiency standards. 76 FR 51281 (Aug. 18, 2011), as amended at 77 FR 49701 (Aug. 17, 2012).

To calculate primary energy savings, DOE derives annual conversion factors from the model used to prepare the Energy Information Administration's (EIA) most recent *Annual Energy Outlook* (*AEO*).[21] For FFC energy savings, DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products or equipment. For more information, see section IV.H.2.

2. Significance of Savings

To adopt standards for a covered product, DOE must determine that such action would result in ''significant'' energy savings. (42 U.S.C. 6295(o)(3)(B)) Although the term ''significant'' is not defined in the Act, the U.S. Court of Appeals for the District of Columbia Circuit, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (D.C. Cir. 1985), opined that Congress intended ''significant'' energy savings in the context of EPCA to be savings that were not ''genuinely trivial.'' The energy savings for the proposed standards (presented in section IV.H.2) are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

F. Economic Justification

1. Specific Criteria

EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)) The following sections discuss how DOE has addressed each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of a potential amended standard on manufacturers, DOE conducts a manufacturer impact analysis (MIA), as discussed in section IV.J. DOE first uses an annual cash-flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include industry net present value (INPV), which values the industry on the basis of expected future cash flows; cash flows by year; changes in revenue and income; and other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in LCC and PBP associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national net present value of the economic impacts applicable to a particular rulemaking. DOE also evaluates the LCC impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a national standard.

b. Savings in Operating Costs Compared to Increase in Price

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered product that are likely to result from a standard. (42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis.

[20] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

[21] For this NOPR, DOE used AEO 2014. Available at *http://www.eia.gov/forecasts/AEO/.*

The LCC is the sum of the purchase price of a product (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the product. The LCC analysis requires a variety of inputs, such as product prices, product energy consumption, energy prices, maintenance and repair costs, product lifetime, and consumer discount rates. 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 for the considered efficiency levels are calculated relative to a base case that reflects projected market trends in the absence of amended standards. DOE identifies the percentage of consumers estimated to receive LCC savings or experience an LCC increase, in addition to the average LCC savings associated with a particular standard level. DOE's LCC and PBP analysis is discussed in further detail in section IV.F.

c. Energy Savings

Although significant conservation of energy is a separate statutory requirement for adopting an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(III)) As discussed in section IV.H.2, DOE uses spreadsheet models to project national energy savings.

d. Lessening of Utility or Performance of Products

In establishing classes of products, and in evaluating design options and the impact of potential standard levels, DOE evaluates potential standards that would not lessen the utility or performance of the considered products. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) Based on data available to DOE, the standards proposed in this notice would not reduce the utility or performance of the products under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from a proposed standard. (42 U.S.C. 6295(o)(2)(B)(i)(V)) It also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(ii)) DOE will transmit a copy of this proposed rule to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue. DOE will publish and respond to the Attorney General's determination in the final rule.

f. Need for National Energy Conservation

DOE also considers the need for national energy conservation in determining whether a new or amended standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(VI)) The energy savings from new or amended standards are likely to provide improvements to the security and reliability of the nation's energy system. Reductions in the demand for electricity also may result in reduced costs for maintaining the reliability of the nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the nation's needed power generation capacity, as discussed in section IV.M.

New or amended standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases (GHGs) 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 IV.K of this notice. 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 of Energy, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) To the extent interested parties submit any relevant information regarding economic justification that does not fit into the other categories described above, DOE could consider such information under ''other factors.''

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii), EPCA creates a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first year's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values used to calculate the effects that proposed energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the Nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section IV.F.11 of this proposed rule.

IV. Methodology and Discussion of Comments

DOE used several analytical tools to estimate the impact of the proposed standards. The first tool is a spreadsheet that calculates the LCC and PBP of potential energy conservation standards. The national impacts analysis uses a spreadsheet set that provides shipments forecasts and calculates national energy savings and net present value resulting from potential energy conservation standards. DOE uses the third spreadsheet tool, the Government Regulatory Impact Model (GRIM), to assess manufacturer impacts of potential standards. These three spreadsheet tools are available at the Web site for this rulemaking: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=85.* Additionally, DOE used output from the EIA's *Annual Energy Outlook* (*AEO) 2014,* a widely known energy forecast for the United States, for the emissions and utility impact analyses.

A. Market and Technology Assessment

1. General

For the market and technology assessment, DOE develops information

that provides an overall picture of the market for the products concerned, including the purpose of the products, the industry structure, and market characteristics. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. Chapter 3 of the NOPR TSD contains additional discussion of the market and technology assessment.

2. Product Classes

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used or by capacity or other performance-related features that justifies a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q))

During the previous energy conservation standards rulemaking for cooking products, DOE evaluated product classes for conventional ovens based on energy source (*i.e.,* gas or electric). These distinctions initially yielded two conventional oven product classes: (1) Gas ovens; and (2) electric ovens. DOE later determined that the type of oven-cleaning system is a utility feature that affects performance. DOE found that standard ovens and ovens using a catalytic continuous-cleaning process use roughly the same amount of energy. On the other hand, Self-Clean ovens use a pyrolytic process that provides enhanced consumer utility with lower overall energy consumption as compared to either standard or catalytically lined ovens. DOE defined the following product classes in the TSD for the April 2009 Final Rule (2009 TSD) [22] for conventional ovens:

- Electric ovens—standard oven with or without a catalytic line;
- Electric ovens—self-clean oven;
- Gas ovens—standard oven with or without a catalytic line; and
- Gas ovens—self-clean oven.

As part of the February 2014 RFI, DOE stated that it tentatively plans to maintain the product classes for conventional ovens from the previous standards rulemaking, as presented above. DOE stated that it may consider whether separate product classes are warranted for conventional gas ovens with higher burner input rates. 79 FR 8337, 8341–8342 (Feb. 12, 2014).

Based on DOE's review of gas conventional ovens and ranges available on the U.S. market, and based on manufacturer interviews and testing conducted as part of the engineering analysis described in section IV.C and Chapter 5 of the TSD, DOE notes that the self-cleaning function of the self-clean oven may employ methods other than a high temperature pyrolytic cycle to perform the cleaning action. Specifically, DOE is aware of a type of self-cleaning oven that uses a proprietary oven coating and water to perform a self-clean cycle with a shorter duration and at a significantly lower temperature setting. The self-cleaning cycle for these ovens, unlike catalytically-lined standard ovens that provide continuous cleaning during normal baking, still have a separate self-cleaning mode that is user-selectable and must be tested separately. In this NOPR, DOE is clarifying that a self-clean electric or gas conventional oven is an oven that has a user-selectable mode separate from the normal baking mode, not intended to heat or cook food, which is dedicated to cleaning and removing cooking deposits from the oven cavity walls.

With regard to commercial-style products, AHAM commented that without a definition or test procedure for such products, neither AHAM nor DOE can determine at this stage whether these products would warrant a separate product class. AHAM noted that DOE should first develop a test procedure for these products to allow for analysis of them. (AHAM, No. 9 at p. 12)

Based on DOE's review of the residential conventional gas ovens available on the market, residential-style gas ovens typically have an input rate of 16,000 to 18,000 Btu/h whereas residential gas ovens marketed as commercial-style typically have burner input rates ranging from 22,500 to 30,000 Btu/h.[23] Additional review of both the residential-style and commercial-style gas oven cavities indicated that there is significant overlap in oven cavity volume between the two oven types. Standard residential-style gas oven cavities range from 2.5 to 5.6 cubic feet (ft^3) in volume and gas ovens marketed as commercial-style have cavity volumes ranging from 3.0 to 6.0 ft^3. Sixty percent of the commercial-style models surveyed had cavity volumes between 4.0 and 5.0 ft^3 while fifty percent of the standard models had cavity volumes between 4.0 and 5.0 ft^3. The primary differentiating factor between the two oven types was burner input rate, which is greater than 22,500 Btu/h for commercial-style gas ovens.

As discussed in the December 2014 TP SNOPR, DOE determined that the test load for ovens as specified in the existing DOE test procedure in Appendix I is appropriate for gas ovens with burner input rates greater than 22,500 Btu/h. 79 FR at 71915–71916. As a result, DOE conducted testing for this NOPR to determine whether conventional gas ovens with higher burner input rates warrant establishing a separate product class. DOE evaluated the cooking efficiency of the eight conventional gas ovens listed in Table IV–1. Five of these ovens had burners rated at 18,000 Btu/h or less and the remaining three had burner input rates ranging from 27,000 Btu/h to 30,000 Btu/h.

TABLE IV–1—PERFORMANCE CHARACTERISTICS OF GAS OVEN TEST SAMPLE

Test unit No.	Type	Installation configuration	Burner input rate (Btu/h)	Cavity volume (cubic feet (ft^3))	Measured cooking efficiency (percent)	Normalized cooking efficiency** (percent)
1	Standard	Freestanding	18,000	4.8	6.6	7.0
2	Standard	Freestanding	18,000	4.8	6.0	6.3
3	Self-Clean	Freestanding	18,000	5.0	7.6	8.1
4	Standard	Freestanding	16,500	4.4	6.2	6.2
5	Self-Clean	Built-in	13,000	2.8	9.4	8.3
6	Standard*	Freestanding	28,000	5.3	4.3	5.1

[22] The technical support document from the previous residential cooking products standards rulemaking is available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2006-STD-0127-0097.*

[23] However, DOE noted that many gas ranges, while marketed as commercial- or professional-style and having multiple surface units with high input rates, did not have a gas oven with a burner input rate above 22,500 Btu/h.

TABLE IV–1—PERFORMANCE CHARACTERISTICS OF GAS OVEN TEST SAMPLE—Continued

Test unit No.	Type	Installation configuration	Burner input rate (Btu/h)	Cavity volume (cubic feet (ft^3))	Measured cooking efficiency (percent)	Normalized cooking efficiency** (percent)
7	Standard*	Slide-in	27,000	4.4	5.2	5.2
8	Standard*	Freestanding	30,000	5.4	3.9	4.7

*These products are marketed as commercial-style gas ovens.
**Measured cooking efficiency normalized to a fixed cavity volume of 4.3 cubic feet.

The measured cooking efficiencies for ovens with burner input rates above 22,500 Btu/h were lower than for ovens with ratings below 22,500 Btu/h, even after normalizing cooking efficiency to a fixed cavity volume. However, DOE also noted that the conventional gas ovens with higher burner input rates in DOE's test sample were marketed as commercial-style and had greater total thermal mass, including heavier racks and thicker cavity walls, even after normalizing for cavity volume. To determine whether the lower measured efficiency of these ovens was due to the higher input rate burners, DOE isolated the heating element from the thermal mass of the oven by placing 1-inch thick insulation on all surfaces inside the oven cavity, except for the bottom of the cavity where the burner was located, and ran tests according to the DOE test procedure. By adding insulation, heat transfer to the cavity walls was minimized and retained in the cavity to heat the test block. DOE selected test unit 3 and test unit 8 in Table IV–1 for test because of the similarity in cavity volume, their difference in efficiency, and their differing input rate (18,000 Btu/h and 30,000 Btu/h, respectively). Figure IV.1 displays the resulting test block temperature increase as a function of test time, measured with and without insulation lining the interior oven cavity walls.

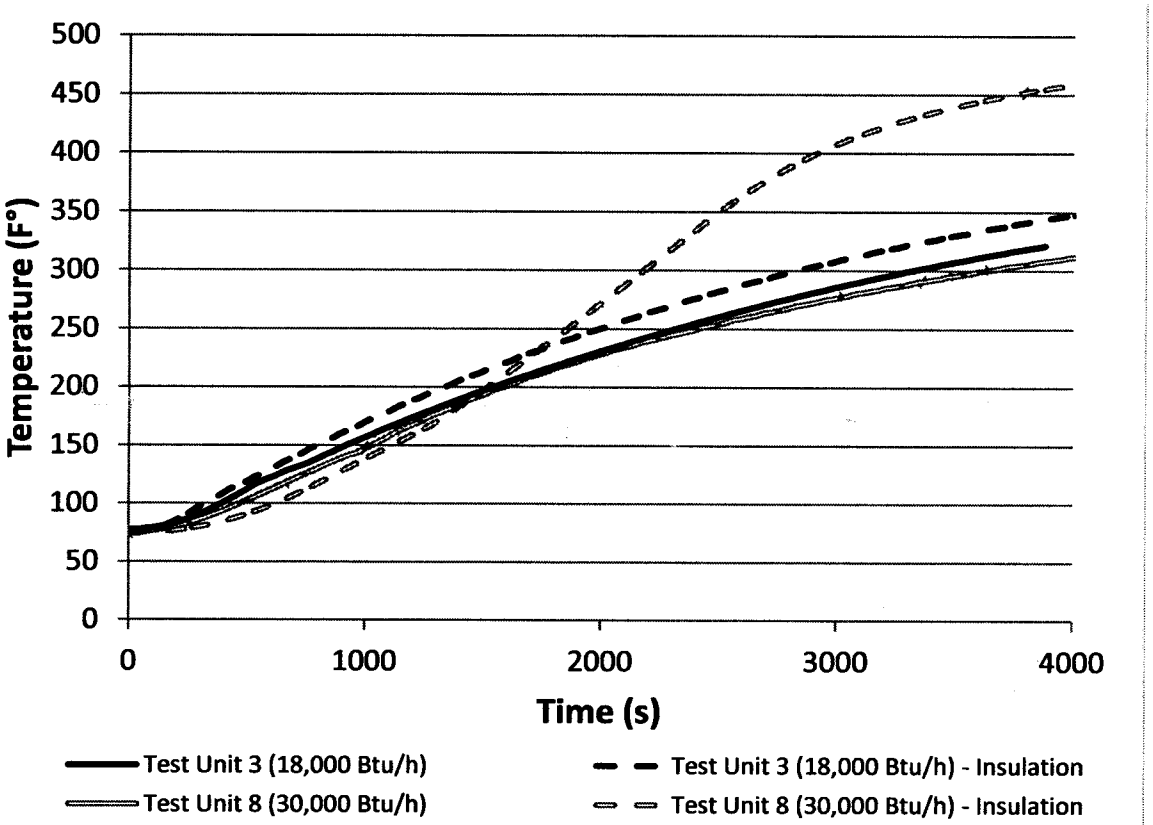

Figure IV.1 Test Load Temperature With and Without Insulation Lining the Interior Cavity Walls

Without the added insulation inside the oven cavity, the temperature rise in the test block was similar for each oven, despite the large difference in burner input rate. In contrast, by adding insulation inside the cavity, the test block temperature in the 30,000 Btu/h oven increased at a faster rate than in the 18,000 Btu/h oven. This suggests that much of the energy input to the 30,000 Btu/h oven goes to heating the added mass of the cavity, rather than the test load, resulting in relatively lower measured efficiency.

DOE also investigated the time it took each oven in the test sample to heat the test load to a final test temperature of 234 degrees Fahrenheit (°F) above its initial temperature, specified in the DOE test procedure in Appendix I. As shown in Table IV–2, gas ovens with burner input rates greater than 22,500 Btu/h do not heat the test load significantly faster than the ovens with lower burner input rates, and two out of the three units with the higher burner input rates took longer than the average time to heat the test load. Therefore, DOE preliminarily concludes that there is no unique utility associated with faster cook times that is provided by gas ovens with burner input rates greater than 22,500 Btu/h.

TABLE IV–2—GAS OVEN TEST TIMES

Unit	Type	Burner input rate (Btu/h)	Bake time to reach 234 °F above initial temp (min)	Difference in time from avg (min)
1	Standard	18,000	43.6	−3.8
2	Standard	18,000	43.6	−3.8
3	Self-Clean	18,000	47.2	−0.2
4	Standard	16,500	44.9	−2.5
5	Self-Clean	13,000	48.9	1.5
6	Standard*	28,000	48.9	1.5
7	Standard*	27,000	45.4	−2.0
8	Standard*	30,000	57.2	9.8
Average			47.4	

*Test units 6, 7, and 8 are marketed as commercial-style ovens.

In response to the December 2014 TP SNOPR, Sub Zero commented that categorizing all ovens under the term conventional cooking suggests that DOE is unaware of the significant positive differences provided to a subset of consumers by commercial-style products. (Sub Zero, TP No. 20 at p. 2) If standards are to be proposed, Sub Zero requested that the product classes be significantly expanded in number to recognize the unique and important utility and performance attributes associated with ''high performance'' cooking products. (Sub Zero, TP No. 20 at p. 3) Sub Zero suggested that these products offer residential consumers performance similar to that found in restaurants, at a safety and convenience level that is acceptable for residential use. Commercial-style ovens would thus include gas ranges in widths up to 60 inches, gas ovens up to 36 inches wide with high output infrared broilers and convection fans, dual fuel ranges combining gas cooktops with sealed burners and large, electric self-cleaning convection ovens that use hidden bake elements and multiple heating circuits for added control, as well as separate convection elements or multiple convection fans. Sub Zero believes that analysis based largely on the traditional 30-inch wide gas or electric range cannot adequately evaluate the very different performance attributes offered by high performance products which are essential to consumer utility. (Sub Zero, TP No. 20 at p. 2)

In selecting a test sample to support DOE's engineering analysis, discussed in section IV.C.2 and Chapter 5 of the TSD, DOE attempts to capture a wide range of products having features that may result in the determination of additional product classes. DOE included two commercial-style gas ovens greater than 30-inches in width as part of its test sample. DOE is not aware of data showing the improved cooking performance of these products due to the features described in the comments as compared to conventional gas ovens not marketed as commercial-style or commercial-style gas ovens less than or equal to 30 inches in width. All of the commercial-style ovens evaluated by DOE contained features such as infrared broilers, convection fans, and hidden bake elements, but DOE observed that many of the same features were also available in conventional gas ovens with lower input rates. DOE welcomes data demonstrating the improved cooking performance associated with the features for commercial-style gas ovens with widths greater than 30-inches that result in increased energy consumption, but are not available in conventional gas ovens with lower input rates or commercial-style gas ovens with widths of 30 inches or less.

Based on DOE's testing, reverse engineering, and additional discussions with manufacturers, DOE determined that the major differentiation between conventional gas ovens with lower burner input rates and those with higher input rates, including those marketed as commercial-style, was design and construction related to aesthetics rather than improved cooking performance. Further, DOE did not identify any unique utility conferred by commercial-style gas ovens. For the reasons discussed above, DOE is not proposing to establish a separate product class for conventional gas ovens with higher burner input rates.

As discussed in section III.B, in the October 2012 TP Final Rule, DOE amended appendix I to include methods for measuring fan-only mode.[24] Based on DOE's testing of freestanding, built-in, and slide-in conventional gas and electric ovens, DOE noted that all of the built-in and slide-in ovens tested consumed energy in fan-only mode, whereas freestanding ovens did not. The energy consumption in fan-only mode for built-in and slide-in ovens ranged from approximately 1.3 to 37.6 watt-hours (Wh) per cycle (0.25 to 7.6 kWh/yr). Based on DOE's reverse engineering analyses discussed in section IV.C.2, DOE noted that built-in and slide-in products had an additional exhaust fan and vent assembly that was not present in freestanding products. The additional energy required to exhaust air from the oven cavity is necessary for slide-in and built-in installation configurations to meet safety-related temperature requirements because the oven is enclosed in cabinetry. For these reasons, DOE proposes to include separate product classes for freestanding and built-in/slide-in ovens.

[24] Fan-only mode is an active mode that is not user-selectable in which a fan circulates air internally or externally to the cooking product for a finite period of time after the end of the heating function.

In summary, DOE proposes the product classes listed in Table IV–3 for the NOPR.

TABLE IV–3—PROPOSED PRODUCT CLASSES FOR CONVENTIONAL OVENS

Product class	Product type	Sub-category	Installation type
1	Electric oven	Standard with or without a catalytic line	Freestanding.
2			Built-in/Slide-in.
3		Self-clean	Freestanding.
4			Built-in/Slide-in.
5	Gas oven	Standard with or without a catalytic line	Freestanding.
6			Built-in/Slide-in.
7		Self-clean	Freestanding.
8			Built-in/Slide-in.

3. Technology Options

As part of the market and technology assessment, DOE uses information about existing and past technology options and prototype designs to help identify technologies that manufacturers could use to improve energy efficiency. Initially, these technologies encompass all those that DOE believes are technologically feasible. Chapter 3 of the NOPR TSD includes the detailed list and descriptions of all technology options identified for this equipment.

In the February 2014 RFI, DOE stated that based on a preliminary review of the cooking products market and information published in recent trade publications, technical reports, and manufacturer literature, the results of the technology screening analysis performed during the previous standards rulemaking remain largely relevant for this rulemaking. 79 FR 8337, 8341 (Feb. 12, 2014). DOE stated in the February 2014 RFI that it planned to consider the technology options presented in Table IV–4 for conventional ovens. 79 FR 8337, 8342–8343 (Feb. 12, 2014).

TABLE IV–4—FEBRUARY 2014 RFI TECHNOLOGY OPTIONS FOR CONVENTIONAL OVENS

1. Bi-radiant oven (electric only).
2. Electronic spark ignition (gas only).
3. Forced convection.
4. Halogen lamp oven (electric only).
5. Improved and added insulation.
6. Improved door seals.
7. No oven-door window.
8. Oven separator.
9. Radiant burner (gas only).
10. Reduced conduction losses.
11. Reduced thermal mass.
12. Reduced vent rate.
13. Reflective surfaces.
14. Steam cooking.
15. Low-standby-loss electronic controls.

In response to the February 2014 RFI, DOE received a number of comments regarding the technology options for conventional ovens.

AHAM commented that forced convection should not be considered a technology option for gas or electric ovens. AHAM stated that only some foods can be cooked with convection and that accelerating the cooking time or baking rate for other foods will not produce acceptable results. Accordingly, AHAM believes this technology option would impact consumer utility. (AHAM, STD No. 9 at p. 5) DOE recognizes that using forced convection for cooking certain foods may be undesirable. DOE is not considering forced convection as a complete replacement to the conventional bake cooking function. Instead DOE considered forced convection as a separate heating mode in addition to the bake function for the engineering analysis. DOE also notes that the test procedure in Appendix I averages the energy consumption measured during bake-only mode with the energy consumption measured during forced convection mode to calculate the total cooking efficiency and IAEC for the oven, representing equal use of forced convection and bake-only cooking cycles. As a result, DOE is retaining forced convection as a technology option for this NOPR.

AHAM and Whirlpool commented that reducing the vent rate should not be considered because it could result in incomplete combustion. In addition, AHAM stated that it would impact the ability of the product to manage moisture release. (AHAM, STD No. 9 at p. 6; Whirlpool, STD No. 13 at p. 4) As noted in the 2009 TSD, DOE believes that vent size of both standard electric and standard gas ovens could be reduced while maintaining a satisfactory combustion environment. Since all Self-Clean ovens are already designed with this technology, no new improvements are required by the industry to incorporate this technology option. DOE noted in the 2009 TSD that an increase of approximately 0.62 absolute percentage points for standard electric ovens and 0.5 absolute percentage points for standard gas ovens was possible with this technology option. As a result, DOE retained reduced vent rate as a technology option for standard ovens for this NOPR.

AHAM commented that improved door seals may not provide a significant improvement in efficiency. (AHAM, STD No. 9 at p. 6) DOE notes that door seals for standard ovens generally consist of a strip of silicone rubber, while Self-Clean ovens usually incorporate fiberglass seals. Because some venting is required for proper cooking performance, a complete seal on the oven is undesirable. As DOE noted in the 2009 TSD, the oven door seals can be improved further without sealing the oven completely. Based on discussions with manufacturers, DOE believes that fiberglass seals can be installed in standard ovens to improve efficiency. As a result, DOE retained improved door seals as a technology option for standard ovens.

Whirlpool commented that it has already optimized insulation in its ovens for safety reasons. (Whirlpool, STD No. 13 at p. 4) DOE noted in the 2009 TSD that standard ovens used low-density insulation (1.09 pounds (lb)/ft^3) whereas self-clean ovens used higher-density insulation (1.90 lb/ft^3). Based on interviews with manufacturers for this rulemaking, DOE notes that manufacturers generally use the same amount of insulation for standard ovens versus self-clean ovens, but with different densities. Insulation is added primarily to pass Underwriters Laboratory (UL) surface temperature safety testing requirements, which explains why Self-Clean ovens, which require high temperatures for pyrolysis, tend to have a more effective insulation package. DOE notes that higher-density insulation can be used in standard

ovens to improve efficiency. As a result, DOE retained improved insulation as a technology option for standard ovens.

Whirlpool commented that there may be savings associated with steam cooking realized by the user, but these savings would likely not be measured in the DOE test procedure. (Whirlpool, STD No. 13 at p. 4) While there are several residential steam ovens currently on the market, DOE is unaware of any test procedures that accurately measure the energy use of the steam cooking mode while producing repeatable and reproducible results. As a result, DOE is unaware of any data regarding the efficiency of steam cooking. For these reasons, DOE did not consider steam cooking in the analysis.

Whirlpool commented that there could be savings for gas ovens from electronic spark ignition over a glo-bar igniter, which could use 250–500W throughout the cooking cycle. (Whirlpool, STD No. 13 at p. 4) As discussed in section IV.C.2, based on DOE's testing, DOE agrees that switching from a glo-bar to an electronic spark ignition system would result in energy savings. As a result, DOE is maintaining electronic spark ignition as a technology option for this NOPR.

Based on DOE's review of products on the market, DOE notes that radiant burners for gas ovens are only incorporated into broiling, which is a secondary cooking function not measured under the test procedure; energy use is instead measured during the primary bake function. As a result, the benefits of radiant burners are not measured by the current test procedure. Accordingly, DOE eliminated radiant burners in gas ovens from further analysis.

In the previous standards rulemaking, DOE noted that oven separators had only been researched, but never put into production. 72 FR 64432, 64456 (Nov. 15, 2007). Based on DOE's review of products on the market, DOE notes that one manufacturer offers a conventional electric oven with an oven separator. As a result, DOE plans to consider oven separators as a technology option for electric ovens.

In addition to the technology options presented in Table IV–4, DOE considered an additional technology option for optimizing the burner and cavity design for gas ovens based on product testing and reverse engineering analyses conducted for this NOPR. As described in section IV.A.2 and further in section IV.C.2, DOE's testing indicated that reducing the thermal mass of the oven cavity can increase cooking efficiency. Because oven cavity and burner design are interdependent, DOE is proposing to consider optimized burner and cavity design as a technology option for increasing efficiency for gas ovens consistent with products available on the market rather than the reduced thermal mass technology option considered for the previous rulemaking.

Table IV–5 lists the proposed technology options that DOE is considering for the NOPR.

TABLE IV–5—PROPOSED TECHNOLOGY OPTIONS FOR CONVENTIONAL OVENS

1. Bi-radiant oven (electric only).
2. Electronic spark ignition (gas only).
3. Forced convection.
4. Halogen lamp oven (electric only).
5. Improved and added insulation (standard ovens only).
6. Improved door seals.
7. No oven-door window.
8. Oven separator (electric only).
9. Reduced conduction losses.
10. Reduced vent rate.
11. Reflective surfaces.
12. Low-standby-loss electronic controls.
13. Optimized burner and cavity design.

DOE seeks comment on the use of optimized burner and cavity design (and other options listed in Table IV–5) to meet the proposed efficiency levels discussed in section I.A.1.b. (See section VII.E)

B. Screening Analysis

DOE uses the following four screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

1. *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

2. *Practicability to manufacture, install, and service.* If it is determined that mass production and reliable installation and servicing of a technology in commercial products could not be achieved on the scale necessary to serve the relevant market at the time of the compliance date of the standard, then that technology will not be considered further.

3. *Impacts on product utility or product availability.* If it is determined that a technology would have significant adverse impact on the utility of the product to significant subgroups of consumers or would result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

4. *Adverse impacts on health or safety.* If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further. (10 CFR part 430, subpart C, appendix A, 4(a)(4) and 5(b))

In sum, if DOE determines that a technology, or a combination of technologies, fails to meet one or more of the above four criteria, it will be excluded from further consideration in the engineering analysis. The reasons for eliminating any technology are discussed below.

The subsequent sections include comments from interested parties pertinent to the screening criteria, DOE's evaluation of each technology option against the screening analysis criteria, and whether DOE determined that a technology option should be excluded (''screened out'') based on the screening criteria.

1. Screened-Out Technologies

For conventional ovens, DOE screened out added insulation, bi-radiant oven, halogen lamp oven, no oven door window, and reflective surfaces, for the reasons that follow.

Although some analyses have shown reduced energy consumption by increasing the thickness of the insulation in the oven cabinet walls and doors from two inches to four inches, consumer utility would be negatively impacted by the necessary reduction in cavity volume to maintain the same oven footprint and overall cabinet volume. Therefore, DOE screened out added insulation. The improved insulation design option, however, will be retained, because insulation with a higher density (*i.e.,* greater insulating value) does not require additional space and thus would not impact oven cavity size.

The last working prototype of a bi-radiant oven known to DOE was tested in the 1970s. The technology requires a low-emissivity cavity, electronic controls, and highly absorptive cooking utensils. The need for specialized cookware and cavity maintenance issues negatively impact consumer utility. Therefore, DOE screened out bi-radiant ovens from further analysis.

DOE is not aware of any ovens that utilize halogen lamps alone as the heating element, and no data were found or submitted to demonstrate how efficiently halogen elements alone perform relative to conventional ovens. DOE believes that it would not be practicable to manufacture, install, and service halogen lamps for use in

consumer cooking products on the scale necessary to serve the relevant market at the time of the standard's effective date. Therefore, DOE screened out halogen lamp ovens.

Whirlpool commented that oven door windows are a key consumer utility and purchase driver, and there may even be more energy used from increased door openings to check on food (associated with no oven door window) versus looking through the window. (Whirlpool, STD No. 13 at p. 4) DOE notes that the 2009 TSD reported a small annual energy savings associated with no oven door window, but that consumer practices of opening the door to inspect the food while cooking could negate any benefit. Comments during manufacturer interviews and comments from stakeholders in previous rulemakings agreed that removing the window was not a feasible option for most ovens. 63 FR 48038, 48040–48041 (Sep. 8, 1998); 72 FR 64432, 64456 (Nov. 15, 2007). Reduced consumer utility and the potential for increased energy use along with decreased safety due to the additional door openings, justify elimination of this design option from further analysis. In addition, DOE addresses the efficiency impact of double-pane or other highly insulated oven door windows by means of the reduced conduction losses design option, which has been retained for further analysis.

Whirlpool commented that reflective surfaces would be very difficult to implement correctly. Whirlpool stated that there would be reduced consumer savings if the surface gets dirty and reduced consumer functionality from the appearance of stains. (Whirlpool, STD No. 13 at p. 4) In the 2009 TSD, DOE noted that manufacturers have stated that it has been very difficult to obtain satisfactory cooking performance with reflective surfaces and that reflective surfaces degrade after the first baking function and continue to degrade through the life of the product. DOE also noted in the 2009 TSD that is uncertain whether, or how much, energy savings is realizable with this technology option. Because of the uncertainty of the potential energy savings and the general lack of sophistication in the technology in terms of maintaining clean, reflective surfaces over the lifetime of the product, DOE screened out this technology option from further analysis.

2. Remaining Technologies

Based on the screening analysis, DOE considered the design options listed in Table IV–6 for conventional ovens.

TABLE IV–6—REMAINING CONVENTIONAL OVEN TECHNOLOGY OPTIONS

1. Electronic spark ignition (gas only).
2. Forced convection.
3. Improved insulation.
4. Improved door seals (standard ovens only).
5. Oven separator (electric only).
6. Reduced conduction losses.
7. Reduced vent rate.
8. Low-standby-loss electronic controls.
9. Optimized burner and cavity design (gas only).

C. Engineering Analysis

The engineering analysis estimates the cost-efficiency relationship of products at different levels of increased energy efficiency. This relationship serves as the basis for the cost-benefit calculations for consumers, manufacturers, and the Nation. In determining the cost-efficiency relationship, DOE estimates the increase in manufacturer cost associated with increasing the efficiency of products from the baseline up to the maximum technologically feasible (''max-tech'') efficiency level for each product class.

1. Methodology

DOE typically structures the engineering analysis using one of three approaches: (1) The design-option approach, which provides the incremental costs of adding design options to a baseline model that will improve its efficiency (*i.e.,* lower its energy use); (2) the efficiency-level approach, which provides the incremental costs of moving to higher energy efficiency levels, without regard to the particular design option(s) used to achieve such increases; and (3) the reverse-engineering (or cost-assessment) approach, which provides ''bottom-up'' manufacturing cost assessments for achieving various levels of increased efficiency, based on teardown analyses (or physical teardowns) that provide detailed data on costs for parts and material, labor, overhead, and equipment, tooling, conveyor, and space investments for models that operate at particular efficiency levels.

In the February 2014 RFI, DOE stated that in order to create the cost-efficiency relationship, it anticipated having to structure its engineering analysis using a design-option approach, supplemented by reverse engineering (physical teardowns and testing of existing products in the market) to identify the incremental cost and efficiency improvement associated with each design option or design option combination. In addition, DOE stated that it intends to consider cost-efficiency data from the 2009 TSD. 79 FR 8337, 8347 (Feb. 12, 2014). DOE maintained this approach for this NOPR. DOE also conducted interviews with manufacturers of conventional ovens to develop a deeper understanding of the various combinations of design options used to increase product efficiency, and their associated manufacturing costs.

2. Product Testing and Reverse Engineering

To develop the cost-efficiency relationships for the engineering analysis, DOE conducted testing and reverse engineering teardowns on products available on the market. Because there are no performance-based energy conservation standards or energy reporting requirements for conventional cooking products, DOE selected test units based on performance-related features and technologies advertised in product literature. DOE's test sample included 1 gas wall oven, 7 gas ranges, 5 electric wall ovens, and 2 electric ranges for a total of 15 conventional ovens covering all of the product classes considered in this NOPR. The test units are described in detail in chapter 5 of the NOPR TSD.

Each test unit was tested according to the oven test procedure clarifications proposed in the December 2014 TP SNOPR. DOE then conducted physical teardowns on each test unit to develop a manufacturing cost model and to evaluate key design features. DOE supplemented its reverse engineering analyses by conducting manufacturer interviews to obtain feedback on efficiency levels, design options, inputs for the manufacturing cost model, and resulting manufacturing costs. DOE used the results from testing, reverse engineering, and manufacturer interviews to develop the efficiency levels and manufacturing costs discussed in sections IV.C.3 and IV.C.4.

Table IV–7 and Table IV–8 present the testing results for the conventional gas and electric ovens, respectively.

TABLE IV–7—DOE CONVENTIONAL GAS OVEN TEST RESULTS

Test Unit No.	Oven product class	Burner input rate (*Btu/h*)	Cavity volume (*ft*^{3})	Ignition type	Convection (Y/N)	IAEC (*kBtu/yr*)
1	Gas Standard—Freestanding	18,000	4.8	Spark	N	1341.4
2	Gas Standard—Freestanding	18,000	4.8	Glo-bar	N	1503.7
3	Gas Self-Clean—Freestanding	18,000	5.0	Glo-bar	Y	1419.0
4	Gas Standard—Freestanding	16,500	4.4	Glo-bar	N	1516.6
5	Gas Self-Clean—Built-in/Slide-in	13,000	2.8	Glo-bar	N	1171.3
6	Gas Standard—Freestanding	28,000	5.3	Glo-bar	Y	2078.9
7	Gas Standard—Built-in/Slide-in	27,000	4.4	Glo-bar	Y	1938.0
8	Gas Standard—Freestanding	30,000	5.4	Glo-bar	Y	2315.1

TABLE IV–8—DOE CONVENTIONAL ELECTRIC OVEN TEST RESULTS

Test Unit No.	Oven product class	Heating element wattage (*W*)	Cavity volume (*ft*^{3})	Convection (Y/N)	IAEC (*kWh/yr*)
1	Electric Self-Clean—Freestanding	3,000	5.9 *	Y	266.2
2	Electric Standard—Freestanding	2,000	2.4	N	213.7
3	Electric Self-Clean—Built-in/Slide-in	3,400	2.7	N	158.7
4	Electric Standard—Built-in/Slide-in	2,600	4.3	N	287.8
5	Electric Self-Clean—Built-in/Slide-in	2,600	4.3	N	308.8
6	Electric Self-Clean—Built-in/Slide-in	2,600	4.3	Y	341.8
7	Electric Self-Clean—Built-in/Slide-in	2,800	4.3	N	370.0

* Test Unit 1 was equipped with an oven separator that allowed for splitting the single cavity into two separate smaller cavities with volumes of 2.7 ft^3 and 3.0 ft^3.

3. Efficiency Levels

a. Baseline Efficiency Levels

A baseline unit is a product that just meets current Federal energy conservation standards. DOE uses the baseline unit for comparison in several phases of the NOPR analyses, including the engineering analysis, LCC analysis, PBP analysis, and NIA. To determine energy savings that will result from an amended energy conservation standard, DOE compares energy use at each of the higher energy ELs to the energy consumption of the baseline unit. Similarly, to determine the changes in price to the consumer that will result from an amended energy conservation standard, DOE compares the price of a unit at each higher EL to the price of a unit at the baseline.

As part of the February 2014 RFI, DOE initially developed baseline efficiency levels by considering the current standards for conventional gas ovens and the baseline efficiency levels for conventional electric ovens from the previous standards rulemaking analysis. DOE developed tentative baseline efficiency levels for the February 2014 RFI considering the current test procedure in appendix I. The baseline efficiency levels proposed in the February 2014 RFI are presented in Table IV–9. DOE developed baseline efficiency levels for standby mode and off mode based on test data presented in the microwave oven test procedure SNOPR.[25] For fan-only mode, DOE developed baseline efficiency levels considering the additional annual energy consumption in fan-only mode based on test data presented in an SNOPR for the conventional cooking products test procedure. 77 FR 31443, 31449 (May 25, 2012). The efficiency levels presented in the February 2014 RFI are based on an oven with a cavity volume of 3.9 ft^3.

TABLE IV–9—FEBRUARY 2014 RFI CONVENTIONAL OVEN BASELINE EFFICIENCY LEVELS

Product class	2009 Standards rulemaking		Proposed IAEC
	Energy factor (EF)	Annual energy consumption [26]	
Electric Oven—Standard Oven with or without a Catalytic Line.	0.1066	274.9 kWh	370.0 kWh.
Electric Oven—Self-Clean Oven	0.1099	266.6 kWh	360.0 kWh.
Gas Oven—Standard Oven with or without a Catalytic Line	0.0536	1656.7 kBtu	2076.5 kBtu.
Gas Oven—Self-Clean Oven	0.0540	1644.4 kBtu	1965.0 kBtu.

AHAM commented that, while they agreed fan-only mode should be considered, DOE should gather more data before determining appropriate

[25] In the May 2012 microwave oven test procedure SNOPR, DOE considered test procedure amendments for measuring the standby mode and off mode energy consumption of combined cooking products and, as a result, presented standby power data for microwave ovens, conventional cooking tops, and conventional ovens. 77 FR 28805, 28811 (May 16, 2012).

[26] DOE notes that the previous conventional cooking products test procedure in appendix I included the clock energy consumption. As a result, DOE subtracted the clock energy consumption before adding the standby and off mode energy consumption when considering integrated efficiency levels for this standards rulemaking.

baseline levels. AHAM stated that DOE should update the data collected during the test procedure rulemaking and request information from manufacturers on the energy use in fan-only mode. (AHAM, STD No. 9 at p. 6) Whirlpool commented that fan-only mode power varies greatly for ovens and depends on the size of the oven, insulation, dual or single speed fan, single or double oven, etc. Whirlpool stated that it does not currently have fan-only mode data and cannot comment on the appropriateness of DOE's assumptions for fan-only power. (Whirlpool, STD No. 13 at p. 6)

DOE developed baseline efficiency levels for this NOPR considering both data from the previous standards rulemaking and the measured energy use for the test units. As discussed in section IV.C.2, DOE conducted testing for all units in its test sample to measure IAEC, which includes energy use in active mode (including fan-only mode) and standby mode. DOE also requested energy use data as part of the manufacturer interviews. However, because manufacturers are not currently required to conduct testing according to the DOE test procedure, very little energy use information was available.

The baseline efficiency levels for this NOPR differ from those presented in the February 2014 RFI. DOE compared the minimum cooking efficiency measured in its test sample to the minimum cooking efficiency levels assumed for the previous standards rulemaking analysis. Often, the lowest measured efficiency in DOE's test sample for this NOPR was lower than the values for the previous rulemaking.

To update the baseline efficiency levels for conventional ovens, first DOE derived a new relationship between IAEC and cavity volume as discussed in section I.A.1.c. Using the slope from the previous rulemaking, DOE selected new intercepts corresponding to the ovens in its test sample with the lowest efficiency, so that no ovens in the test sample were cut off by the baseline curve. DOE then set baseline standby energy consumption for conventional ovens equal to that of the oven/range with the highest standby energy consumption in DOE's test sample to maintain the full functionality of controls for consumer utility. While only DOE test data was available to validate the baseline equation for gas ovens, DOE compared the new baseline equation for electric ovens with data available in the Natural Resources Canada (NRCan) databases, which showed that DOE's assumptions for slopes and intercepts reasonably represented the market. A detailed discussion of DOE's derivation of the cavity volume relationship is provided Chapter 5 of the NOPR TSD.

In addition to the product classes proposed in the February 2014 RFI, DOE is also proposing separate product classes for freestanding and built-in/slide-in ovens as discussed in section IV.A.2. As a result, DOE developed separate baseline efficiency levels for each proposed product class based on testing conducted for this NOPR. The proposed baseline efficiency levels for this NOPR are presented in Table IV–10. After receiving manufacturer feedback and reviewing products currently on the market, DOE determined that a cavity volume of 3.9 ft^3 no longer represents the market average. Thus, efficiency levels are based on an oven with a cavity volume of 4.3 ft^3. Additional details on the development of the proposed baseline efficiency levels are included in chapter 5 of the NOPR TSD.

TABLE IV–10—CONVENTIONAL OVEN BASELINE EFFICIENCY LEVELS

Product class	Sub type	Proposed IAEC *
Electric Oven—Standard Oven with or without a Catalytic Line	Freestanding	294.5 kWh.
	Built-in/Slide-in	301.5 kWh.
Electric Oven—Self-Clean Oven	Freestanding	355.0 kWh.
	Built-in/Slide-in	361.1 kWh.
Gas Oven—Standard Oven with or without a Catalytic Line	Freestanding	2118.2 kBtu.
	Built-in/Slide-in	2128.1 kBtu.
Gas Oven—Self-Clean Oven	Freestanding	1883.8 kBtu.
	Built-in/Slide-in	1893.7 kBtu.

* Proposed IAEC baseline efficiency levels are normalized based on a 4.3 ft^3 volume oven.

b. Incremental Efficiency Levels

For each product class, DOE analyzes several efficiency levels and determines the incremental cost at each of these levels. For the February 2014 RFI, DOE tentatively proposed the incremental efficiency levels presented in Table IV–11 through Table IV–14. DOE developed these levels based primarily on the efficiency levels presented in the 2009 TSD, adjusted to account for the proposed and amended test procedures. DOE also considered efficiency levels for standby mode and off mode associated with changing conventional linear power supplies to switch-mode power supplies and the Commission of the European Communities Regulation 1275/2008 (hereinafter ''Ecodesign regulation''), which requires products to have a maximum standby power of 1 W. 79 FR 8337, 8345–8346 (Feb. 12, 2014).The efficiency levels presented in the February 2014 RFI are based on an oven with a cavity volume of 3.9 ft^3.

TABLE IV–11—FEBRUARY 2014 RFI GAS STANDARD OVEN EFFICIENCY LEVELS

Level	Efficiency level source	Proposed IAEC (kBtu)
Baseline	2009 TSD (Electric Glo-bar Ignition)	2076.5
1	2009 TSD (Electric Glo-bar Ignition) + SMPS	1932.0
2	2009 TSD (Improved Insulation) + SMPS	1844.2
3	2009 TSD (2 + Electronic Spark Ignition) + SMPS	1717.7
4	2009 TSD (3 + Improved Door Seals) + SMPS	1702.6
5	2009 TSD (4 + Reduced Vent Rate) + SMPS	1695.4
6	2009 TSD (5 + Reduced Conduction Losses) + SMPS	1685.9
7	2009 TSD (6 + Forced Convection) + SMPS	1636.0

TABLE IV–11—FEBRUARY 2014 RFI GAS STANDARD OVEN EFFICIENCY LEVELS—Continued

Level	Efficiency level source	Proposed IAEC (kBtu)
8	2009 TSD (7) + 1W Standby	1499.1

TABLE IV–12—FEBRUARY 2014 RFI GAS SELF-CLEAN OVEN EFFICIENCY LEVELS

Level	Efficiency level source	Proposed IAEC (kBtu)
Baseline	2009 TSD (Baseline)	1965.0
1	2009 TSD (Baseline) + SMPS	1820.5
2	2009 TSD (Forced Convection) + SMPS	1596.9
3	2009 TSD (2) + Electronic Spark Ignition + SMPS	1482.3
4	2009 TSD (3 + Improved Door Seals) + SMPS	1472.0
5	2009 TSD (4 + Reduced Conduction Losses) + SMPS	1467.8
6	2009 TSD (5) + 1 W Standby	1330.9

TABLE IV–13—FEBRUARY 2014 RFI ELECTRIC STANDARD OVEN EFFICIENCY LEVELS

Level	Efficiency level source	Proposed IAEC (kWh)
Baseline	2009 TSD (Baseline)	370.0
1	2009 TSD (Baseline) + SMPS	327.7
2	2009 TSD (Reduced Vent Rate) + SMPS	316.1
3	2009 TSD (2 + Improved Insulation) + SMPS	304.8
4	2009 TSD (3 + Improved Door Seals) + SMPS	300.9
5	2009 TSD (4 + Reduced Conduction Losses) + SMPS	300.3
6	2009 TSD (5 + Forced Convection) + SMPS	295.2
7	2009 TSD (6) + 1 W Standby	255.0

TABLE IV–14—FEBRUARY 2014 RFI ELECTRIC SELF-CLEAN OVEN EFFICIENCY LEVELS

Level	Efficiency level source	Proposed IAEC (kWh)
Baseline	2009 TSD (Baseline)	360.0
1	2009 TSD (Baseline) + SMPS	317.7
2	2009 TSD (Reduced Conduction Losses) + SMPS	317.0
3	2009 TSD (2 + Forced Convection) + SMPS	312.0
4	2009 TSD (3) + 1 W Standby	271.9

In response to the February 2014 RFI, AHAM disagreed with DOE's consideration of the 1–W Ecodesign regulation standby requirements because products sold in the European Union are different from the products sold in the United States. (AHAM, STD No. 9 at p. 6) DOE reevaluated the efficiency levels associated with standby power improvements based on design options identified during product testing and reverse engineering rather than considering an efficiency level specifically associated with the 1–W Ecodesign regulation standby requirement.

Laclede commented that DOE's assumption of 3.5 amp × 110 volt continuous consumption of a typical glo-bar ignition module would mean its consuming 385 W (0.385 kW) per hour. Laclede stated that they believe this may be the worst-case scenario and may make it appear that further efficiency improvements are possible. However, Lacelede stated that further efficiency improvements in glo-bar may lead to higher costs for gas cooking products without sufficient economic benefits. Laclede's testing data indicates glo-bar ignition system consumption of only 0.16 kWh. (Laclede, STD No. 8 at p. 2) Laclede also commented that it appears that DOE considers the electric load from glo-bar ignition systems as of no value to the thermal process of cooking in the oven. Laclede contends this electric resistance load in gas ovens most likely does contribute to the cooking process and DOE will need to provide transparent and robust analyses to explain this relationship. (Laclede, STD No. 8 at pp. 2–3)

Based on DOE's testing of units in its test sample, electric glo-bar ignition systems consumed between 330 W and 450 W and ranged between 0.141 kWh and 0.261 kWh per cycle, with an average of 0.202 kWh per cycle. DOE notes that the glo-bar energy consumption may vary depending on burner and cavity design (*e.g.,* burner input rating, cavity volume). DOE also notes that the glo-bar ignition system was not power on throughout the entire cooking cycle and only consumed power when gas flow to the burner was on, turning off when the burner cycled off. As discussed above, DOE updated its efficiency level analysis based on testing conducted for this NOPR. Any contribution of the glo-bar ignition system to heating the load would be accounted for in testing according to the DOE test procedure in Appendix I.

For the NOPR, DOE developed incremental efficiency levels for each product class by first considering information from the 2009 TSD. In cases where DOE identified design options during testing and reverse engineering teardowns, DOE updated the efficiency

levels based on the tested data. In addition to the efficiency levels associated with design options identified in the February 2014 RFI, DOE also included an efficiency level for electric ovens based on a test unit equipped with an oven separator that allowed for reducing the cavity volume that is used for cooking. For conventional gas ovens, DOE's testing showed that energy use was correlated to oven burner and cavity design (*e.g.,* thermal mass of the cavity and racks) and can be significantly reduced when optimized. DOE determined the efficiency level associated with optimized burner and cavity design based on the tested units normalized for cavity volume.

Table IV–15 through Table IV–18 show the incremental efficiency levels for each product class, including whether the efficiency level is from the 2009 TSD or based on testing for the NOPR. The efficiency levels are normalized based on an oven with a cavity volume of 4.3 ft^3. Details of the derivations of each efficiency level are provided in chapter 5 of the NOPR TSD.

TABLE IV–15—ELECTRIC STANDARD OVEN EFFICIENCY LEVELS

Level	Efficiency level source	Design option	Proposed IAEC (kWh)		Relative % decrease in IAEC
			Freestanding	Built-in/Slide-in	
Baseline	NOPR Testing	Baseline	294.5	301.5	
1	NOPR Testing	Baseline + SMPS	284.6	291.4	−3.37%
2	2009 TSD	1 + Reduced Vent Rate	271.7	278.2	−4.51%
3	2009 TSD	2 + Improved Insulation	259.2	265.4	−4.61%
4	2009 TSD	3 + Improved Door Seals	254.9	261.0	−1.64%
5	NOPR Testing	4 + Forced Convection	244.6	250.5	−4.04%
6	NOPR Testing	5 + Oven Separator	207.8	212.8	−15.04%
7	2009 TSD	6 + Reduced Conduction Losses	207.3	212.2	−0.27%

TABLE IV–16—ELECTRIC SELF-CLEAN OVEN EFFICIENCY LEVELS

Level	Efficiency level source	Design option	Proposed IAEC (kWh)		Relative % decrease in IAEC
			Freestanding	Built-in/Slide-in	
Baseline	NOPR Testing	Baseline	355.0	361.1	
1	NOPR Testing	Baseline + SMPS	345.1	351.0	−2.78%
2	NOPR Testing	1 + Forced Convection	327.2	332.7	−5.21%
3	NOPR Testing	2 + Oven Separator	278.9	283.7	−14.74%
4	2009 TSD	3 + Reduced Conduction Losses	278.1	282.9	−0.29%

TABLE IV–17—GAS STANDARD OVEN EFFICIENCY LEVELS

Level	Efficiency level source	Design option	Proposed IAEC (kWh)		Relative % decrease in IAEC
			Freestanding	Built-in/Slide-in	
Baseline	2009 TSD	Baseline	2118.2	2128.1	
1	NOPR Testing	Baseline + Optimized Burner/Cavity	1649.3	1657.0	−22.14%
2	NOPR Testing	1 + SMPS	1614.7	1622.2	−2.10%
3	NOPR Testing	2 + Electronic Spark Ignition	1490.7	1497.7	−7.68%
4	2009 TSD	3 + Improved Insulation	1414.8	1421.5	−5.09%
5	2009 TSD	4 + Improved Door Seals	1400.6	1407.2	−1.01%
6	NOPR Testing	5 + Forced Convection	1355.6	1362.0	−3.21%
7	2009 TSD	6 + Reduced Conduction Losses	1347.0	1353.3	−0.64%

TABLE IV–18—GAS SELF-CLEAN OVEN EFFICIENCY LEVELS

Level	Efficiency level source	Design option	Proposed IAEC (kWh)		Relative % decrease in IAEC
			Freestanding	Built-in/Slide-in	
Baseline	2009 TSD	Baseline	1883.8	1893.7	
1	NOPR Testing	Baseline + SMPS	1848.2	1858.0	−1.89%
2	NOPR Testing	1 + Electronic Spark Ignition	1668.7	1677.5	−9.71%
3	NOPR Testing	2 + Forced Convection	1596.3	1604.7	−4.34%
4	2009 TSD	3 + Reduced Conduction Losses	1591.0	1599.4	−0.33%

c. Relationship Between IAEC and Oven Cavity Volume

The conventional oven efficiency levels detailed above are predicated upon baseline ovens with a cavity volume of 4.3 ft^3. Based on DOE's testing of conventional gas and electric ovens and discussions with manufacturers, IAEC scales with oven cavity volume due to the fact that larger ovens have higher thermal masses and larger volumes of air (including larger vent rates) than smaller ovens. Because the DOE test procedure for measuring IAEC uses a fixed test load size, larger ovens with higher thermal mass will have a higher measured IAEC. As a result, DOE considered available data to characterize the relationship between IAEC and oven cavity volume.

DOE established the slopes by first evaluating the data from the 2009 TSD, which presented the relationship between measured energy factor (EF) and cavity volume, then translated from EF to IAEC considering the range of cavity volume for the majority of products available on the market. DOE believes these slopes continue to be relevant based on DOE's testing. For electric ovens, DOE considered the data for standard and self-clean ovens available in the Natural Resources Canada product databases.[27] DOE notes that this data is based on the same test procedure considered for the previous DOE standards rulemaking, and as a result, DOE believes the slopes based on these larger datasets are relevant for this analysis. The intercepts for each efficiency level were then chosen so that the equations pass through the desired IAEC corresponding to a particular volume. Values for the slopes and intercepts for each conventional oven product class are presented in Table IV–19 and Table IV–20. Additional details regarding the derivation of the slopes and intercepts for the oven IAEC versus cavity volume relationship are presented in chapter 5 of the NOPR TSD.

TABLE IV–19—SLOPES AND INTERCEPTS OF ELECTRIC OVEN IAEC VERSUS CAVITY VOLUME RELATIONSHIP

Level	Standard electric ovens		Self-clean electric ovens	
	Slope = 31.8		Slope = 42.3	
	Freestanding intercepts	Built-in/Slide-in intercepts	Freestanding intercepts	Built-in/slide-in intercepts
Baseline	157.74	164.78	173.12	179.18
1	147.82	154.62	163.24	169.13
2	134.98	141.47	145.28	150.86
3	122.45	128.64	97.05	101.81
4	118.20	124.29	96.24	100.98
5	107.91	113.75		
6	71.10	76.07		
7	70.54	75.49		

TABLE IV–20—SLOPES AND INTERCEPTS OF GAS OVEN IAEC VERSUS CAVITY VOLUME RELATIONSHIP

Level	Standard gas ovens		Self-clean gas ovens	
	Slope = 214.4		Slope = 214.4	
	Freestanding intercepts	Built-in/slide-in intercepts	Freestanding intercepts	Built-in/slide-in intercepts
Baseline	1196.3	1206.2	961.8	971.8
1	727.4	735.1	926.3	936.0
2	692.7	700.3	746.7	755.5
3	568.8	575.8	674.4	682.8
4	492.9	499.5	669.1	677.5
5	478.7	485.2		
6	433.7	440.1		
7	425.1	431.4		

4. Incremental Manufacturing Production Cost Estimates

Based on the analyses discussed above, DOE developed the cost-efficiency results for each product class shown in Table IV–21. Where available, DOE developed incremental manufacturing production costs (MPCs) based on manufacturing cost modeling of test units in its sample featuring the proposed design options. For design options that were not observed in DOE's sample of test units for this NOPR, DOE used the incremental manufacturing costs developed as part of the 2009 TSD, then adjusted the values to reflect changes in the Bureau of Labor Statistics' Producer Price Index (PPI) for household cooking appliance manufacturing.[28] DOE notes that the estimated incremental MPCs would be equivalent for the freestanding and built-in/slide-in oven product classes.

[27] Available at: *http://oee.nrcan.gc.ca/pml-lmp/index.cfm?action=app.search-recherche&appliance=OVENS_E.*

[28] Available at: *http://www.bls.gov/ppi/.*

TABLE IV–21—CONVENTIONAL OVEN INCREMENTAL MANUFACTURING PRODUCT COST

[2014$]

Level	Electric ovens		Gas ovens	
	Standard	Self-clean	Standard	Self-clean
Baseline	.....	.....	.....	.....
1	$0.82	$0.82	$0.00	$0.82
2	2.76	25.00	0.82	7.31
3	7.89	56.74	7.31	27.96
4	10.22	61.93	12.44	33.15
5	34.40	.....	14.77	.....
6	66.14	.....	35.43	.....
7	70.36	.....	39.74	.....

5. Consumer Utility

In determining whether a standard is economically justified, EPCA requires DOE to consider ''any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard.'' (42 U.S.C. 6295(o)(2)(B)(i)(IV))

In a response to the December 2014 TP SNOPR, Sub Zero commented that heavier gauge materials provide customers with extended product life, quality, functionality, and durability. Sub Zero also commented that that full extension oven racks provided in these products provide consumer utility. (Sub Zero, TP No. 20 at p. 3)

In response to the February 2014 RFI, AHAM and Whirlpool commented that new energy conservation standards could likely impact the utility of conventional ovens in the following ways:

- A standard could lower burner input rates, which will impact cooking times. Higher burner input rates allow for quicker cooking time, which is an important consumer utility;
- A standard could result in smaller oven windows. Consumers desire larger windows in order to view the food during cooking without opening the oven door. Smaller windows could result in more door openings, and thus increase energy use;
- A standard could also result in the removal of accent lighting and large displays which are preferred consumer features. There is reduced consumer utility from further reducing standby power from what products use today. According to Whirlpool, the market is still pushing manufacturers to add more advanced electronics that use more standby power. (AHAM, STD No. 9 at p. 7; Whirlpool, STD No. 13 at pp. 5, 8).

Accordingly, AHAM and Whirlpool opposed amendment of the existing standards for cooking products. AHAM and Whirlpool stated that not only would amended standards fail to be technologically feasible or economically justified, but they would also impact the utility of cooking products. (AHAM, STD No. 9 at p. 7; Whirlpool, STD No. 13 at p. 8).

DOE conducted the engineering analysis by considering design options that are consistent with products currently on the market, and as a result, DOE did not consider changes that would result in smaller oven windows or removal of accent lighting and display features. In addition, as discussed in section IV.A.2, DOE noted that gas ovens with higher burner input rates did not have significantly faster cooking times when tested according to the DOE test procedure in Appendix I. This is likely due in large part to the fact that gas-cooking products with higher burner input rates marketed as commercial-style often have significantly larger thermal masses, which absorb a significant amount of additional heat. DOE is also not aware of data justifying how added thermal mass improves durability, extends product life, or provides additional consumer utility as compared to standard residential-style ovens. As a result, DOE does not believe that any of the design options and efficiency levels considered in this NOPR would impact the consumer utility of conventional ovens, as suggested by AHAM and Whirlpool. However DOE welcomes continued feedback on this topic, including how the efficiency levels and technology options presented in Table IV–15 through Table IV–18 may affect consumer utility (see section VII.E).

D. Markups Analysis

The markups analysis develops appropriate markups in the distribution chain to convert the MPC estimates derived in the engineering analysis to consumer prices. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin. For conventional cooking products, the main parties in the distribution chain are manufacturers and retailers.

Thus, DOE analyzed a manufacturer-to-consumer distribution channel consisting of three parties: (1) The manufacturers of the products; (2) the retailers purchasing the products from manufacturers and selling them to consumers; and (3) the consumers who purchase the products.

The manufacturer markup converts MPC to manufacturer selling price (MSP). DOE developed an average manufacturer markup by examining the annual Securities and Exchange Commission (SEC) 10–K reports filed by publicly traded manufacturers primarily engaged in appliance manufacturing and whose combined product range includes conventional cooking products.

For retailers, DOE developed separate markups for baseline products (baseline markups) and for the incremental cost of more efficient products (incremental markups). Incremental markups are coefficients that relate the change in the MSP of higher-efficiency models to the change in the retailer sales price. DOE relied on economic data from the U.S. Census Bureau to estimate average baseline and incremental markups.[29]

In addition to developing manufacturer and retailer markups, DOE included sales taxes in the final appliance retail prices. DOE used an Internet source, the Sales Tax Clearinghouse, to calculate applicable sales taxes.

Chapter 6 of the NOPR TSD provides details on DOE's development of markups for conventional ovens.

E. Energy Use Analysis

The energy use analysis provides estimates of the annual energy consumption of ovens at the considered efficiency levels. DOE uses these values in the LCC and PBP analyses and in the NIA to establish the savings in

[29] U.S. Census, *2007 Annual Retail Trade Survey* (*ARTS*), Electronics and Appliance Stores sectors.

consumer operating costs at various product efficiency levels. DOE developed energy consumption estimates for all product classes analyzed in the engineering analysis.

For the April 2009 Final Rule, DOE utilized a 2004 *California Residential Appliance Saturation Study* (RASS) [30] and a Florida Solar Energy Center (FSEC) study [31] to establish representative annual energy use values for cooking products. For this NOPR, DOE used an update to the California RASS [32] and a recent FSEC study [33] to establish representative annual energy use values for conventional ovens. These studies confirmed that annual cooking energy use has been consistently declining since the late 1970s.

DOE's energy use analysis estimated the range of energy use of cooking products in the field, *i.e.,* as they are actually used by consumers. Because energy use by residential cooking products varies greatly based on consumer usage patterns, DOE established a range of energy use. The Energy Information Administration (EIA)'s 2009 *Residential Energy Consumption Survey* (RECS 2009) is one source for estimating the range of energy use for cooking products.[34] DOE used data from RECS 2009 for this NOPR to establish this range.[35] Although RECS 2009 does not provide the annual energy consumption of the cooking product, it does provide the frequency of cooking use. DOE was unable to use the frequency of use to calculate the annual energy consumption using a bottom-up approach, as data in RECS did not include information about the duration of a cooking event to allow for an annual energy use calculation. DOE therefore relied on California RASS and FSEC studies to establish the annual energy consumption of a cooking product.

From RECS 2009, DOE developed household samples for each product class. For each household using a conventional cooking product, RECS provides data on the frequency of use and number of meals cooked in the following bins: (1) Less than once per week, (2) once per week, (3) a few times per week, (4) once per day, (5) two times per day, and (6) three or more times per day. Thus, DOE utilized the frequency of use to define the variability of the annual energy consumption. Conducting the analysis in this manner captures the observed variability in annual energy consumption while maintaining the average annual energy consumption. To determine the variability of cooking product energy consumption, DOE first equated the weighted-average cooking frequency from RECS with the average energy use values based on CA RASS and FSEC studies. DOE then varied the annual energy consumption for each RECS household based on its reported cooking frequency. Thus, DOE utilized the range in frequency of use to define the variability of the annual energy consumption.

Chapter 7 of the NOPR TSD describes the energy use analysis in detail.

AHAM expressed objections to DOE's reliance on RECS 2009 for analyses, stating that it is difficult, if not impossible, to compare the results to the energy use measured in a controlled test procedure situation. (AHAM, STD No. 9 at p. 7) DOE utilized RECS 2009 only to characterize variability of usage across various consumers. For representative energy use DOE relied on other studies and surveys to establish baseline energy consumption.

Whirlpool noted that cooking product energy use is unique from other major appliances in that there is a wide variation amongst consumers, with consumer behavior as a key determinant. (Whirlpool, STD No. 13 at p. 8) DOE acknowledges that consumer behavior is a key determinant of the eventual energy use by the product. To characterize the variability in usage across consumers, DOE utilized data from RECS 2009, as described above.

F. Life-Cycle Cost and Payback Period Analysis

The purpose of the LCC and PBP analysis is to evaluate the economic impacts of potential energy conservation standards for cooking products on individual consumers. The LCC is the total consumer expense over the life of the product, including purchase and installation expense and operating costs (energy expenditures, repair costs, and maintenance costs). The PBP is the number of years it would take for the consumer to recover the increased costs of purchasing a higher efficiency product through energy savings. To calculate LCC, DOE discounted future operating costs to the time of purchase and summed them over the lifetime of the product.

For any given efficiency level, DOE measures the change in LCC relative to an estimate of the base-case product efficiency distribution. The base-case estimate reflects the market in the absence of new or amended energy conservation standards, including the market for products that exceed the current energy conservation standards. In contrast, the PBP is measured relative to the baseline product.

DOE calculated the LCC and payback periods for conventional ovens for a nationally representative set of housing units selected from RECS 2009. By using a representative sample of households, the analysis captured the variability in energy consumption and energy prices associated with cooking product use.

For each sample household, DOE determined the energy consumption for the cooking product and the appropriate energy price. DOE first calculated the LCC associated with a baseline cooking product for each household. To calculate the LCC savings and PBP associated with products meeting higher efficiency standards, DOE substituted the baseline unit with more efficient designs.

As part of the LCC and PBP analyses, DOE developed data that it used to establish product prices, installation costs, annual household energy consumption, energy prices, maintenance and repair costs, product lifetime, and discount rates. Inputs to the LCC and PBP analysis are categorized as: (1) Inputs for establishing the total installed cost and (2) inputs for calculating the operating costs. DOE models the uncertainty and the variability in the inputs to the LCC and PBP analysis using Monte Carlo simulations and probability distributions.[36]

The following sections contain comments on the inputs and key assumptions of DOE's LCC and PBP analysis and explain how DOE took

[30] California Energy Commission, *California Statewide Residential Appliance Saturation Study* (June 2004).

[31] D.S. Parker. ''Research Highlights from a Large Scale Residential Monitoring Study in a Hot Climate,'' Proceeding of International Symposium on Highly Efficient Use of Energy and Reduction of its Environmental Impact (January 2002).

[32] California Energy Commission, Residential Appliance Saturation Survey (RASS) (2009).

[33] Parker, D., Fairey, P., Hendron, R., ''Updated Miscellaneous Electricity Loads and Appliance Energy Usage Profiles for Use in Home Energy Ratings, the Building America Benchmark Procedures and Related Calculations,'' Florida Solar Energy Center (FSEC) (2010).

[34] U.S. Department of Energy: Energy Information Administration, *Residential Energy Consumption Survey: 2009 RECS Survey Data* (2013) (Available at: *http://www.eia.gov/consumption/residential/data/2009/*).

[35] *RECS 2009* is based on a sample of 12,083 households statistically selected to represent 113.6 million housing units in the United States. *RECS 2009* data are available for 27 geographical areas (including 16 large States) (Available at: *www.eia.gov/consumption/residential/*).

[36] The Monte Carlo process statistically captures input variability and distribution without testing all possible input combinations. Therefore, while some atypical situations may not be captured in the analysis, DOE believes the analysis captures an adequate range of situations in which the conventional cooking products operate.

these comments into consideration. Chapter 8 of the TSD accompanying this notice contains detailed discussion of the methodology and data utilized for the LCC and PBP analysis.

1. Product Costs

To calculate the prices faced by cooking products purchasers, DOE multiplied the manufacturing costs developed from the engineering analysis by the supply chain markups it developed (along with sales taxes).

To project future product prices, DOE examined the electric and gas cooking products Producer Price Index (PPI) for the period 1982–2013. This index, adjusted for inflation, shows a declining trend. The decline for gas cooking products is a little more significant than that for electric cooking products (see appendix 10–D of the NOPR TSD). Based on an exponential fit of the adjusted PPIs, DOE utilized a declining price trend for both electric and gas cooking products as the default case to project future product price.

2. Installation Costs

Installation costs include labor, overhead, and any miscellaneous materials and parts. For this NOPR, DOE used data from the 2013 RS Means Mechanical Cost Data on labor requirements to estimate installation costs for conventional ovens.[37]

In general, DOE estimated that installation costs would be the same for different efficiency levels.

3. Unit Energy Consumption

Section IV.E describes the derivation of annual energy use for conventional ovens.

DOE did not find any evidence of a rebound effect, in which consumers use a more efficient appliance more intensively, for conventional ovens. Cooking practices are affected by people's eating habits, which are unlikely to change due to higher product efficiency. DOE requests comment on its decision to not use a rebound effect for cooking products (see issue 11 in section VII.E).

4. Energy Prices

DOE derived marginal residential electricity and natural gas prices for 27 geographic areas.[38]

DOE estimated residential electricity prices for each of the 27 areas based on 2013 data from EIA Form 861, Annual Electric Power Industry Report.[39] DOE first estimated a marginal residential price for each utility, and then calculated an marginal price for each area by weighting each utility with customers in an area by the number of residential customers served in that area.

DOE estimated marginal residential natural gas prices in each of the 27 geographic areas based on 2013 data from the EIA publication Natural Gas Monthly publication.[40] DOE calculated a marginal natural gas price for each area by first calculating the average prices for each State, and then calculating a regional price by weighting each State in a region by its population.

To estimate future trends in electricity and natural gas prices, DOE used price forecasts in *AEO 2015*. To arrive at prices in future years, DOE multiplied the marginal prices described above by the forecast of annual average changes in national-average residential electricity and natural gas prices. Because *AEO 2015* forecasts prices only to 2040, DOE used the average rate of change during 2025–2040 to estimate the price trends beyond 2040.

Laclede and the American Gas Association (AGA) suggest that DOE use consumer marginal energy rates when evaluating the LCC for each standard efficiency level. They noted that this approach was recommended by DOE's Advisory Committee on Appliance Energy Efficiency Standards in April 1998. AGA notes that a marginal price analysis reflects incremental changes in natural gas costs most closely associated with changes in the amount of gas consumed. (Laclede, STD No. 8 at p. 4 and AGA, STD No. 7 at p. 2) DOE developed estimates of marginal electricity and natural gas prices for the NOPR analysis.

The spreadsheet tool used to conduct the LCC and PBP analysis allows users to select the *AEO 2015* high-growth case or low-growth case price forecasts to estimate the sensitivity of the LCC and PBP to different energy price forecasts.

5. Repair and Maintenance Costs

Repair costs are associated with repairing or replacing components that have failed in the appliance. Maintenance costs are associated with maintaining the operation of the equipment.

Typically, small incremental changes in product efficiency incur no, or only very small, changes in repair and maintenance costs over baseline products. For all electric cooking products, DOE did not include any changes in repair and maintenance costs for products more efficient than baseline products.

For gas ovens, DOE determined the repair and maintenance costs associated with different types of ignition systems. Following the approach adopted in the April 2009 Final Rule for electric glo-bar/hot surface ignition systems, DOE estimated an average repair cost of $170 occurring every fifth year during the product's lifetime. For electronic spark ignition systems, DOE estimated an average repair cost of $206 occurring in the tenth year of the product's life. DOE seeks comments from the industry on repair cost estimation (see section VII.E).

See chapter 8 of the TSD accompanying this notice for further information regarding repair and maintenance costs.

6. Product Lifetime

Equipment lifetime is the age at which the equipment is retired from service. DOE used a variety of sources to establish low, average, and high estimates for product lifetime. Utilizing data from Appliance Magazine Market Insight, DOE established average product lifetimes of 15 years for conventional electric ovens and 17 years for conventional gas ovens.[41] DOE characterized the product lifetimes with Weibull probability distributions. See chapter 8 of the TSD accompanying this notice for further details on the sources used to develop product lifetimes, as well as the use of Weibull distributions.

7. Discount Rates

In the calculation of LCC, DOE applies discount rates appropriate to households to estimate the present value of future operating costs. DOE estimated a distribution of residential discount rates for conventional cooking products based on consumer financing costs and opportunity cost of funds related to appliance energy cost savings and maintenance costs.

To establish residential discount rates for the LCC analysis, DOE's approach involved identifying all relevant household debt or asset classes in order to approximate a consumer's opportunity cost of funds related to appliance energy cost savings and maintenance costs. DOE estimated the average percentage shares of the various

[37] RS Means Company Inc., *RS Means Mechanical Cost Data* (2013) (Available at *http://rsmeans.reedconstructiondata.com/default.aspx*).

[38] DOE characterized the geographic distribution into 27 geographic areas to be consistent with the 27 states and group of states reported in RECS 2009.

[39] Utility EIA form 861 submissions for 20132012 are available at *http://www.eia.gov/electricity/data/eia861/*.

[40] The EIA Natural Gas Monthly publication is available at *http://www.eia.gov/naturalgas/monthly/*.

[41] Appliance Magazine, Market Insight. The U.S. Appliance Industry: Market Value, Life Expectancy & Replacement Picture 2012.

types of debt and equity by household income group using data from the Federal Reserve Board's Survey of Consumer Finances (SCF) for 1995, 1998, 2001, 2004, 2007, and 2010.[42] Using the SCF and other sources, DOE then developed a distribution of rates for each type of debt and asset by income group to represent the rates that may apply in the year in which amended standards would take effect. DOE assigned each sample household a specific discount rate drawn from one of the distributions. The average rate across all types of household debt and equity and income groups, weighted by the shares of each class, is 5.0 percent. See chapter 8 in the NOPR TSD for further details on the development of consumer discount rates.

8. Compliance Date

The compliance date is the date when a covered product is required to meet a new or amended standard. DOE calculated the LCC and PBP for all customers as if each were to purchase new equipment in the year that compliance with amended standards is required. EPCA, as amended, requires that not later than 6 years after issuance of any final rule establishing or amending a standard, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR that includes new proposed energy conservation standards. (42 U.S.C. 6295(m)(1)) DOE's last final rule for conventional cooking products was issued on March 31, 2009. Thus, DOE must act by March 31, 2015. (42 U.S.C. 6295(m)(1)(b). Any amended standards would apply to conventional cooking products manufactured three years after the date on which the final amended standard is published. (42 U.S.C. 6295(m)(4)(A)(i)) Therefore, for purposes of its analysis, DOE assumed that a final rule would be published in 2016, which results in 2019 being the first year of compliance with amended standards.

9. Base Case Efficiency Distribution

To accurately estimate the percentage of consumers that would be affected by a particular standard level, DOE estimates the distribution of equipment efficiencies that consumers are expected to purchase under the base case (*i.e.,* the case without amended energy efficiency standards). DOE refers to this distribution of equipment energy efficiencies as a base-case efficiency distribution. This approach reflects the fact that some consumers may already purchase equipment with efficiencies greater than the baseline equipment levels.

DOE did not have market data reflecting the efficiency distribution of cooking products being sold. DOE's Compliance Certification Database provides information on models of gas cooking products that comply with the requirement of not having a standing pilot. In the absence of data on the efficiency distribution of the products being sold in the market, DOE calculated the market share of available efficiency options based on consumer's sensitivity to first cost. DOE treated renters and owners as two separate entities to establish price sensitivities, and used a logit model to characterize historical shipments as a function of price. DOE used shipments data collected by the Market Research Magazine and the PPI for household cooking appliance manufacturers between the years 2002–2012, along with the manufacturer cost data from the engineering analysis to analyze factors that influence consumer purchasing decisions of cooking products. Because the data are not sufficient to capture any definite trend in efficiency, DOE used the 2013 distribution (described in Chapter 8 of the NOPR TSD) to represent the market in the compliance year (2019).

Table IV–22 and present market shares of the efficiency levels in the base case for conventional ovens.[43] See chapter 8 of the NOPR TSD for further details on the development of base-case market shares.

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[42] Note that two older versions of the SCF are also available (1989 and 1992). These surveys were not used in this analysis because they do not provide all of the necessary types of data (*e.g.,* credit card interest rates). DOE determines that the 15-year span covered by the six surveys included is sufficiently representative of recent debt and equity shares and interest rates.

[43] For the conventional oven product classes, the efficiency levels are based on an oven with a cavity volume of 3.9 ft^3. As discussed in section IV.C.3, DOE developed slopes and intercepts to characterize the relationship between IEAC and cavity volume for each efficiency level.

Table IV-22. Conventional Electric Ovens: Base Case Efficiency Distribution

Standard Ovens				Self-Clean Ovens			
Standard Level	IAEC (kWh)		Market Share	Standard Level	IAEC (kWh)		Market Share
	Freestanding	Built-in			Freestanding	Built-in	
Baseline	294.5	301.5	40.4%	Baseline	355.0	361.1	46.5%
1	284.6	291.4	9.7%	1	345.1	351.0	15.8%
2	271.7	278.2	9.6%	2	327.2	332.7	14.0%
3	259.2	265.4	9.3%	3	278.9	283.7	12.0%
4	254.9	261.0	9.2%	4	278.1	282.9	11.7%
5	244.6	250.5	8.1%				
6	207.8	212.8	6.9%				
7	207.3	212.2	6.8%				

Table IV-23. Conventional Gas Ovens: Base Case Efficiency Distribution

Standard Ovens				Self-Clean Ovens			
Standard Level	IAEC (kBtu)		Market Share	Standard Level	IAEC (kBtu)		Market Share
	Freestanding	Built-in			Freestanding	Built-in	
Baseline	2,118.2	2,128.1	42.5%	Baseline	1,883.8	1,893.7	47.5%
1	1,649.3	1,657.0	8.6%	1	1,848.2	1,858.0	13.6%
2	1,614.7	1,622.2	8.6%	2	1,668.7	1,677.5	13.4%
3	1,490.7	1,497.7	8.4%	3	1,596.3	1,604.7	12.8%
4	1,414.8	1,421.5	8.3%	4	1,591.0	1,599.4	12.6%
5	1,400.6	1,407.2	8.2%				
6	1,355.6	1,362.0	7.8%				
7	1,347.0	1,353.3	7.7%				

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10. Inputs to Payback Period Analysis

The PBP is the amount of time it takes the consumer to recover the additional installed cost of more efficient equipment, compared to baseline equipment, through energy cost savings. PBPs are expressed in years. PBPs that exceed the life of the product mean that the increased total installed cost is not recovered in reduced operating expenses.

The inputs to the PBP calculation are the total installed cost of the product to the customer for each efficiency level and the annual first year operating expenditures for each efficiency level. The PBP calculation uses the same inputs as the LCC analysis, except that energy price trends and discount rates are not needed.

11. Rebuttable-Presumption Payback Period

EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the test procedure

in place for that standard. (42 U.S.C. (o)(2)(B)(iii) For each considered efficiency level, DOE determines the value of the first year's energy savings by calculating the quantity of those savings in accordance with the applicable DOE test procedure, and multiplying that amount by the average energy price forecast for the year in which compliance with the amended standards would be required.

G. Shipments Analysis

DOE uses projections of product shipments to calculate the national impacts of standards on energy use, NPV, and future manufacturer cash flows. DOE develops shipment projections based on historical data and an analysis of key market drivers for each product. Historical shipments data are used to build up an equipment stock and also to calibrate the shipments model. DOE accounted for three market segments: (1) New construction, (2) existing homes (*i.e.,* replacing failed products), and (3) retired but not replaced. DOE used the retired but not replaced market segment to calibrate the shipments model to historical shipments data.

DOE considered the impacts of prospective standards on product shipments. The combined market of conventional electric and gas cooking products is completely saturated. Thus, DOE concluded that any price increase due to a standard would not impact the overall decision to purchase. However, DOE did implement an impact due to a standard on the efficiency of the product that will likely be purchased. This impact is captured through a change in the efficiency distribution of the market.

Table IV–24 summarizes the approach and data DOE used to derive the inputs to the shipments analysis for the NOPR.

TABLE IV–24—APPROACH AND DATA USED TO DERIVE THE INPUTS TO THE SHIPMENTS ANALYSIS

Inputs	Approach
New Construction Shipments	Determined by multiplying housing forecasts by forecasted saturation of cooking products for new housing. Housing forecasts based on *AEO2014* projections. New housing product saturations based on RECS 2009. Forecasted saturations maintained at 2009 levels.
Replacements	Determined by tracking total product stock by vintage and establishing the failure of the stock using retirement functions from the LCC and PBP analysis. Retirement functions were based on Weibull lifetime distributions.
Retired but not replaced	Used to calibrate shipments model to historical shipments data to account for a decline in the replacement shipments.
Historical Shipments	Data sources include *U.S. Statistical Review of Appliance Industry* and *Appliance Magazine.*
Impacts Due to Efficiency Standards.	Not considered due to a fully saturated market.
Fuel Switching	Not considered, as no significant movement was observed from historical data.

To determine new construction shipments, DOE used a forecast of new housing coupled with product market saturation data for new housing. For new housing completions and mobile home placements, DOE adopted the projections from EIA's AEO 2015 through 2040.

DOE estimated replacements using product retirement functions developed from product lifetimes. For this NOPR, DOE used retirement functions based on Weibull distributions.

To reconcile the historical shipments with the model, DOE assumed that every retired unit is not replaced. DOE attributed the reason for this non-replacement to building demolition occurring at the rate of approximately three percent of the retiring units per annum over the period 2013–2048. The assumed not-replaced rate is distributed into 2.8 percent for electric cooking products and 4.1 percent for gas cooking products.

DOE allocated shipments to each of the eight product classes based on the current market share of each class. DOE developed the market shares based on historical data collected from Appliance Magazine Market Research report [44] and U.S. Appliance Industry Statistical Review.[45] The shares are kept constant over time.

AGA voiced concern that the establishment of energy conservation standards for natural gas cooking appliances may result in increased first-cost of these appliances, making them less attractive and leading to potential fuel switching. (AGA, STD No. 7 at p. 2) Because this NOPR considers standards for both electric and natural gas appliances, any increase in the price of the appliance would impact cooking products of both fuel types. As switching typically includes additional installation costs for accessing the new fuel source (*e.g.* installation of a gas line for gas appliances and installation of electrical lines for electrical appliances), which would outweigh the incremental change in equipment price, DOE determined that fuel-switching would not occur.

For further details on the shipments analysis, please refer to chapter 9 of the NOPR TSD.

[44] Appliance Magazine Market Research. The U.S. Appliance Industry: Market Value, Life Expectancy & Replacement Picture 2012.

[45] Appliance 2011. U.S. Appliance Industry Statistical Review: 2000 to YTD 2011.

H. National Impact Analysis

The NIA assesses the national energy savings and the national NPV of total consumer costs and savings that would be expected to result from amended standards at specific efficiency levels.

DOE used an MS Excel spreadsheet model to calculate the national energy savings and the consumer costs and savings from each TSL.[46] The NIA calculations are based on the annual energy consumption and total installed cost data from the energy use analysis and the LCC analysis. DOE projected the lifetime energy savings, energy cost savings, equipment costs, and NPV of customer benefits for each product class over the lifetime of equipment sold from 2019 through 2048.

DOE evaluated the impacts of proposed standards for conventional ovens by comparing base-case projections with standards-case projections. The base-case projections characterize energy use and customer costs for each product class in the

[46] DOE's use of MS Excel as the basis for the spreadsheet models provides interested parties with access to the models within a familiar context. In addition, the TSD and other documentation that DOE provides during the rulemaking help explain the models and how to use them. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet.

absence of proposed energy conservation standards.

Table IV–25 summarizes the key inputs for the NIA. The sections following provide further details, as does chapter 10 of the NOPR TSD.

TABLE IV–25—INPUTS FOR THE NATIONAL IMPACT ANALYSIS

Input	Description
Shipments	Annual shipments from shipments model.
Compliance date	January 1, 2019.
Base case efficiency	Based on the consumer choice model.
Standards case efficiency	Based on a ''roll up'' scenario to establish a 2019 shipment weighted efficiency.
Annual energy consumption per unit.	Calculated for each efficiency level and product class based on inputs from the energy use analysis.
Total installed cost per unit	Calculated by efficiency level using manufacturer selling prices and weighted-average overall markup values.
Energy expense per unit	Annual energy use is multiplied by the corresponding average electricity and gas price.
Escalation of electricity and gas prices.	*AEO 2015* forecasts (to 2040) and extrapolation beyond 2040 for electricity and gas prices.
Electricity site-to-primary energy conversion.	A time series conversion factor; includes electric generation, transmission, and distribution losses.
Discount rates	3% and 7%.
Present year	2014.

1. Efficiency Trends

A key component of DOE's estimates of national energy savings and NPV is the energy efficiencies forecasted over time. For the base case, in the absence of any historical efficiency data, and absence of an ENERGY STAR program for conventional cooking products, DOE assumed that efficiency would follow the distribution based on consumer choice model. The model responds to changes in product prices, and therefore, is affected by the learning effect on the prices.

To estimate the impact that standards would have in the year compliance becomes required, DOE used a ''roll-up'' scenario, which assumes that equipment efficiencies in the base case that do not meet the standard level under consideration would ''roll up'' to meet the new standard level and equipment shipments at efficiencies above the standard level under consideration are not affected. In each standards case, the efficiency distributions remain constant at the 2019 levels for the remainder of the shipments forecast period.

2. National Energy Savings

For each year in the forecast period, DOE calculates the national energy savings for each standard level by multiplying the shipments of ovens by the per-unit annual energy savings. Cumulative energy savings are the sum of the annual energy savings over the lifetime of all equipment shipped during 2019–2048.

The annual energy consumption per unit depends directly on equipment efficiency. DOE used the shipment-weighted energy efficiencies associated with the base case and each standards case, in combination with the annual energy use data, to estimate the shipment-weighted average annual per-unit energy consumption under the base case and standards cases. The national energy consumption is the product of the annual energy consumption per unit and the number of units of each vintage, which depends on shipments. DOE calculates the total annual site energy savings for a given standards case by subtracting total energy use in the standards case from total energy use in the base case. Note that total shipments are the same in the standards cases as in the base case.

DOE converted the site electricity consumption and savings to primary energy (power sector energy consumption) using annual conversion factors derived from the *AEO 2014* version of the National Energy Modeling System (NEMS).

The American Public Gas Association (APGA), National Propane Gas Association (NGPA), AGA, and Laclede recommend that DOE incorporate full fuel cycle analysis in the conservation standard. (APGA, STD No. 6 at p. 2, NPGA, STD No. 5 at pp. 1–3, AGA, STD No. 7 at p. 2, and Laclede, STD No. 8 at p. 3) 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 FFC measures of energy use, GHG emissions and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (August 18, 2011). After evaluating the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in the **Federal Register** in which DOE explained its determination that NEMS is the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (August 17, 2012). The FFC factors incorporate losses in production and delivery in the case of natural gas (including fugitive emissions), and energy used to produce and deliver the fuels used by power plants. The approach used for this NOPR, and the FFC multipliers that were applied, are described in appendix 10A of the NOPR TSD. DOE continues to work with the Federal Trade Commission (FTC) to make available to the consumer information regarding FFC energy use through the Energy Guide label. Table IV–26 through Table IV–29 below present the FFC equivalent of IAEC for the considered efficiency levels.

TABLE IV–26—CONVENTIONAL ELECTRIC STANDARD OVENS: FFC EQUIVALENT OF IAEC

Standard level	IAEC—site (kWh)		IAEC—FFC (kWh)	
	Freestanding	Built-in	Freestanding	Built-in
Baseline	294	302	962	985

TABLE IV–26—CONVENTIONAL ELECTRIC STANDARD OVENS: FFC EQUIVALENT OF IAEC—Continued

Standard level	IAEC—site (kWh)		IAEC—FFC (kWh)	
	Freestanding	Built-in	Freestanding	Built-in
1	285	291	930	952
2	272	278	888	909
3	259	265	847	867
4	255	261	833	853
5	245	250	799	819
6	208	213	679	695
7	207	212	677	694

TABLE IV–27—CONVENTIONAL ELECTRIC SELF-CLEAN OVENS: FFC EQUIVALENT OF IAEC

Standard level	IAEC—site (kWh)		IAEC—FFC (kWh)	
	Freestanding	Built-in	Freestanding	Built-in
Baseline	355	361	1,160	1,180
1	345	351	1,128	1,147
2	327	333	1,069	1,087
3	279	284	912	927
4	278	283	909	924

TABLE IV–28—CONVENTIONAL GAS STANDARD OVENS: FFC EQUIVALENT OF IAEC

Standard level	IAEC—site (kWh)		IAEC—FFC (kWh)	
	Freestanding	Built-in	Freestanding	Built-in
Baseline	2,118	2,128	2,347	2,358
1	1,649	1,657	1,828	1,836
2	1,615	1,622	1,789	1,798
3	1,491	1,498	1,652	1,660
4	1,415	1,421	1,568	1,575
5	1,401	1,407	1,552	1,559
6	1,356	1,362	1,502	1,509
7	1,347	1,353	1,493	1,500

TABLE IV–29—CONVENTIONAL GAS SELF-CLEAN OVENS: FFC EQUIVALENT OF IAEC

Standard level	IAEC—site (kWh)		IAEC—FFC (kWh)	
	Freestanding	Built-in	Freestanding	Built-in
Baseline	1,884	1,894	2,087	2,098
1	1,848	1,858	2,048	2,059
2	1,669	1,677	1,849	1,859
3	1,596	1,605	1,769	1,778
4	1,591	1,599	1,763	1,772

3. Net Present Value of Customer Benefit

The inputs for determining the NPV of the total costs and benefits experienced by consumers are: (1) Total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor to calculate the present value of costs and savings. DOE calculates the lifetime net savings for equipment shipped each year as the difference between the base case and each standards case in total savings in lifetime operating costs and total increases in installed costs. DOE calculates lifetime operating cost savings over the life of each considered oven unit in conventional cooking products shipped during the forecast period.

a. Total Annual Installed Cost

The total installed cost includes both the equipment price and the installation cost. For each product class, DOE calculated equipment prices by efficiency level using manufacturer selling prices and weighted-average overall markup values. Because DOE calculated the total installed cost as a function of equipment efficiency, it was able to determine annual total installed costs based on the annual shipment-weighted efficiency levels determined in the shipments model. DOE accounted for the repair and maintenance costs associated with the ignition systems in gas cooking products.

As noted in section IV.F.1, DOE assumed a declining trend in the conventional cooking products prices

over the analysis period. In addition, DOE conducted sensitivity analyses using alternative price trends: One in which the rate of decline in prices is greater after 2014, and one in which the rate of decline is lower. These price trends, and the NPV results from the associated sensitivity cases, are described in appendix 10B of the NOPR TSD.

b. Total Annual Operating Cost Savings

The per-unit energy savings were derived as described in section IV.H.2. To calculate future electricity and natural gas prices, DOE applied the projected trend in national-average commercial electricity and natural gas price from the *AEO 2015* Reference case, which extends to 2040, to the prices derived in the LCC and PBP analysis. DOE used the trend from 2025 to 2040 to extrapolate beyond 2040. DOE requests comment on its approach (see issue 9 in section VII.E).

In addition, DOE analyzed scenarios that used the energy price projections in the *AEO 2015* Low Economic Growth and High Economic Growth cases. These cases have higher and lower energy price trends compared to the Reference case. These price trends, and the NPV results from the associated cases, are described in appendix 10C of the NOPR TSD.

In calculating the NPV, DOE multiplies the net dollar savings in future years by a discount factor to determine their present value. DOE estimates the NPV using both a 3-percent and a 7-percent real discount rate in accordance with guidance provided by the OMB to Federal agencies on the development of regulatory analysis.[47] The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''social rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.

I. Consumer Subgroup Analysis

In analyzing the potential impact of new or amended standards on individual consumers, DOE evaluates the impact on identifiable subgroups of consumers that may be disproportionately affected by a national standard level. For this NOPR, DOE used RECS 2009 data to analyze the potential effect of standards for residential cooking products on two consumer subgroups: (1) Households with low income levels, and (2) households comprised of seniors.

More details on the consumer subgroup analysis can be found in chapter 11 of the TSD accompanying this notice.

J. Manufacturer Impact Analysis

1. Overview

DOE conducted an MIA for residential conventional ovens to estimate the financial impact of new and amended energy conservation standards on manufacturers of these products. The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA relies on the GRIM, an industry cash-flow model customized for residential conventional ovens covered in this rulemaking. The key GRIM inputs are data on the industry cost structure, equipment costs, shipments, and assumptions about manufacturer markups and conversion costs. The key MIA output is INPV. DOE used the GRIM to calculate cash flows using standard accounting principles and to compare changes in INPV between a base case and various TSLs in the standards case. The difference in INPV between the base and standards cases represents the financial impact of new and amended energy conservation standards on residential conventional oven manufacturers. Different sets of assumptions (scenarios) produce different INPV results. The qualitative part of the MIA addresses factors such as manufacturing capacity; characteristics of, and impacts on, any particular subgroup of manufacturers; and impacts on competition.

DOE conducted the MIA for this rulemaking in three phases. In the first phase DOE prepared an industry characterization based on the market and technology assessment and publicly available information. In the second phase, DOE developed an interview guide based on the industry financial parameters derived in the first phase. In the third phase, DOE conducted interviews with a variety of residential conventional cooking product manufacturers that account for more than 85 percent of domestic residential conventional oven sales covered by this rulemaking. During these interviews, DOE discussed engineering, manufacturing, procurement, and financial topics specific to each company and obtained each manufacturer's view of the residential conventional oven industry as a whole. The interviews provided information that DOE used to evaluate the impacts of new and amended standards on manufacturers' cash flows, manufacturing capacities, and direct domestic manufacturing employment levels. Section V.B.2 of this NOPR contains a discussion on the estimated changes in the number of domestic employees involved in manufacturing residential conventional ovens covered by the proposed standards. Section IV.J.4 of this NOPR contains a description of the key issues manufacturers raised during the interviews.

During the third phase, DOE also used the results of the industry characterization analysis in the first phase and feedback from manufacturer interviews to group together manufacturers that exhibit similar production and cost structure characteristics. DOE identified one manufacturer subgroup for a separate impact analysis—small business manufacturers—using the small business employee threshold of 750 total employees published by the Small Business Administration (SBA). This threshold includes all employees in a business' parent company and any other subsidiaries. Based on this classification, DOE identified seven residential conventional oven manufacturers that qualify as small businesses. The manufacturer subgroup analysis is discussed in greater detail in chapter 12 of the NOPR TSD and in section VI.B of this notice.

2. GRIM Analysis and Key Inputs

DOE uses the GRIM to quantify the changes in cash flows over time due to new and amended energy conservation standards. These changes in cash flows result in either a higher or lower INPV for the standards case compared to the base case (the case where a standard is not set). The GRIM analysis uses a standard annual cash flow analysis that incorporates manufacturer costs, markups, shipments, and industry financial information as inputs. It then models changes in costs, investments, and manufacturer margins that result from new and amended standards. The GRIM uses these inputs to calculate a series of annual cash flows beginning with the base year of the analysis, 2015, and continuing to 2048. DOE computes INPV by summing the stream of annual discounted cash flows during the analysis period. DOE used a real discount rate of 9.1 percent for residential conventional cooking product manufacturers. The discount rate estimates were derived from

[47] U.S. Office of Management and Budget, ''Circular A–4: Regulatory Analysis,'' Section E, (Sept. 17, 2003) (Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4/*).

industry corporate annual reports to the Securities and Exchange Commission (SEC 10-Ks). During manufacturer interviews residential conventional oven manufacturers were asked to provide feedback on this discount rate. Most manufacturers agreed that a discount rate of 9.1 was appropriate to use for residential conventional oven manufacturers. Many inputs into the GRIM came from the engineering analysis, the NIA, manufacturer interviews, and other research conducted during the MIA. The major GRIM inputs are described in detail in the following sections.

a. Capital and Product Conversion Costs

DOE expects new and amended energy conservation standards for residential conventional ovens to cause manufacturers to incur conversion costs to bring their production facilities and product designs into compliance with the new and amended standards. For the MIA, DOE classified these conversion costs into two major groups: (1) Capital conversion costs, and (2) product conversion costs. Capital conversion costs are investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new product designs can be fabricated and assembled. Product conversion costs are investments in research, development, testing, marketing, certification, and other non-capitalized costs necessary to make product designs comply with new and amended standards.

Using feedback from manufacturer interviews, DOE conducted a top-down analysis to calculate the capital and product conversion costs for residential conventional oven manufacturers. DOE asked manufacturers during interviews to estimate the total capital and product conversion costs they would need to incur to be able to produce each residential conventional oven at specific ELs. DOE then summed these values provided by manufacturers to arrive at total top-down industry conversion cost for residential conventional ovens.

See chapter 12 of this NOPR TSD for a complete description of DOE's assumptions for the capital and product conversion costs.

b. Manufacturer Production Costs

Manufacturing more efficient residential conventional ovens is typically more expensive than manufacturing baseline products due to the need for more costly materials and components. The higher MPCs for these more efficient products can affect the revenue, gross margin, and the cash flows of residential conventional oven manufacturers. DOE developed MPCs for each representative unit at each EL analyzed. DOE purchased a number of units for each product class, then tested and tore down those units to create a unique bill of materials for the purchased unit. Using the bill of materials for each residential conventional oven, DOE was able to create an aggregated MPC based on the material costs from the bill of materials, the labor costs based on an average labor rate and the labor hours necessary to manufacture the residential conventional oven, and the overhead costs, including depreciation, based on a markup applied to the material and labor costs based on the materials used. For more information about MPCs, see section IV.C of this NOPR.

c. Shipment Scenarios

INPV, the key GRIM output, depends on industry revenue, which depends on the quantity and prices of residential conventional ovens shipped in each year of the analysis period. Industry revenue calculations require forecasts of: (1) The total annual shipment volume of residential conventional ovens; (2) the distribution of shipments across product classes (because prices vary by product class); and (3) the distribution of shipments across efficiency levels (because prices vary with efficiency level).

In the base case shipment analysis, DOE develops shipment projections based on historical data and an analysis of key market drivers for each product. In the standards case, DOE modeled a roll-up scenario. The roll-up scenario represents the case in which all shipments in the base case do not meet the new and amended standards shift to now meet the new and amended standard level but do not exceed the new and amended standard. Also, no shipments that meet or exceed the new and amended standards have an increase in efficiency due to the new and amended standards.

For a complete description of the shipments used in the base and standards case see the shipments analysis discussion in section IV.G of this NOPR.

d. Markup Scenarios

As discussed in the previous manufacturer production costs section, the MPCs for each of the product classes of residential conventional ovens are the manufacturers' factory costs for those units. These costs include materials, direct labor, depreciation, and overhead, which are collectively referred to as the cost of goods sold (COGS). The MSP is the price received by residential conventional oven manufacturers from their customers, typically retail outlets, regardless of the downstream distribution channel through which the residential conventional ovens are ultimately sold. The MSP is not the cost the end-user pays for residential conventional ovens because there are typically multiple sales along the distribution chain and various markups applied to each sale. The MSP equals the MPC multiplied by the manufacturer markup. The manufacturer markup covers all the residential conventional oven manufacturer's non-production costs (*i.e.,* selling, general and administrative expenses (SG&A), research and development (R&D), and interest, etc.) as well as profit. Total industry revenue for residential conventional oven manufacturers equals the MSPs at each EL for each product class multiplied by the number of shipments at each EL for each product class.

Modifying these manufacturer markups in the standards case yields a different set of impacts on residential conventional oven manufacturers than in the base case. For the MIA, DOE modeled two standards case markup scenarios for residential conventional ovens to represent the uncertainty regarding the potential impacts on prices and profitability for residential conventional oven manufacturers following the implementation of new energy conservation standards. The two scenarios are: (1) A preservation of gross margin markup scenario, and (2) a preservation of operating profit markup scenario. Each scenario leads to different manufacturer markup values, which, when applied to the inputted MPCs, result in varying revenue and cash flow impacts on residential conventional oven manufacturers.

The preservation of gross margin markup scenario assumes that the COGS for each residential conventional oven is marked up by a flat percentage to cover SG&A expenses, R&D expenses, interest expenses, and profit. This allows manufacturers to preserve the same gross margin percentage in the standards case as in the base case throughout the entire analysis period. This markup scenario represents the upper bound of the residential conventional oven industry profitability in the standards case because residential conventional oven manufacturers are able to fully pass through additional costs due to standards to their consumers.

To derive the preservation of gross margin markup percentages for residential conventional ovens, DOE examined the SEC 10–Ks of all publicly

traded residential conventional oven manufacturers to estimate the industry average gross margin percentage. DOE estimated that the manufacturer markup for residential conventional ovens is 1.20 for all residential conventional ovens. Manufacturers were then asked about this industry gross margin percentage derived from SEC 10–Ks during interviews. Residential conventional oven manufacturers agreed that the 1.20 average industry gross margin calculated from SEC 10–Ks was an appropriate estimate to use in the MIA. DOE seeks comment on the use of 1.20 for all residential conventional ovens.

DOE included an alternative markup scenario, the preservation of operating profit markup scenario, because manufacturers stated they do not expect to be able to markup the full cost of production in the standards case, given the highly competitive residential conventional oven market. The preservation of operating profit markup scenario assumes that manufacturers are able to maintain only the base case total operating profit in absolute dollars in the standards case, despite higher production costs and investment. The base case total operating profit is derived from marking up the COGS for each product by the preservation of gross margin markup previously described. In the standards case for the preservation of operating profit markup scenario, DOE adjusted the residential conventional oven manufacturer markups in the GRIM at each TSL to yield approximately the same earnings before interest and taxes in the standards case in the year after the compliance date of the new and amended standards as in the base case. Under this scenario, while manufacturers are not able to earn additional operating profit on higher per unit production costs and the increase in capital and product investments that are required to comply with new and amended energy conservation standards, they are able to maintain the same operating profit in absolute dollars in the standards case that was earned in the base case.

The preservation of operating profit markup scenario represents the lower bound of industry profitability in the standards case. This is because manufacturers are not able to fully pass through the additional costs necessitated by new and amended energy conservation standards, as they are able to do in the preservation of gross margin markup scenario. Therefore, manufacturers earn less revenue in the preservation of operating profit markup scenario than they do in the preservation of gross margin markup scenario.

3. Discussion of Comments

The February 2014 RFI did not focus on the MIA or specifically address any issues relating to the MIA. Therefore, DOE did not receive any MIA specific comments from the February 2014 RFI.

4. Manufacturer Interviews

DOE conducted manufacturer interviews following publication of the February 2014 RFI in preparation for the NOPR analysis. In these interviews, DOE asked manufacturers to describe their major concerns with this residential conventional ovens rulemaking. The following section describes the key issues identified by residential conventional oven manufacturers during these interviews.

a. Premium Products Tend To Be Less Efficient

Manufacturers stated that their premium products are usually less efficient than their baseline products. For example, premium ovens typically have bigger cavities with hidden heat sources under the floor of the cavity. This makes the heat source less direct, therefore decreasing the efficiency. On the other hand, baseline ovens tend to use direct heating sources which are more efficient. Manufacturers warned DOE that focusing only on the efficiency of residential conventional ovens could cause some manufacturers to redesign their products in a way that reduces consumer satisfaction as consumers tend to value premium features.

b. Product Utility

Manufacturers stated that energy efficiency is not one of the most important aspects that consumers value when purchasing residential conventional ovens. Manufacturers state that there are several other factors, such as performance and durability, which consumers value more when purchasing residential conventional ovens. Forcing manufacturers to improve the efficiency of their products could lead to some manufacturers removing premium features that consumers desire from their products, reducing overall consumer utility.

c. Testing and Certification Burdens

Several manufacturers expressed concern about the testing and recertification costs associated with new and amended energy conservation standards for residential conventional ovens. Because testing and certification costs are incurred on a per model basis, if a large number of models are required to be redesigned to meet new and amended standards, manufacturers would be forced to spend a significant amount of money testing and certifying products that were redesigned due to new and amended standards. Manufacturers stated that these testing and certification costs associated with residential conventional ovens could significantly strain their limited resources if these costs were all incurred in the three year time frame from the publication of a final rule to the implementation of the standards.

K. Emissions Analysis

In the emissions analysis, DOE estimated the reduction in power sector emissions of carbon dioxide (CO_2), nitrogen oxides (NO_X), sulfur dioxide (SO_2), and mercury (Hg) from potential energy conservation standards for conventional ovens. In addition, DOE estimated emissions impacts in production activities (extracting, processing, and transporting fuels) that provide the energy inputs to power plants. These are referred to as ''upstream'' emissions. Together, these emissions account for the FFC. In accordance with DOE's FFC Statement of Policy,[48] the FFC analysis includes impacts on emissions of methane (CH_4) and nitrous oxide (N_2O), both of which are recognized as GHGs.

The analysis of power sector emissions uses marginal emissions factors calculated using a methodology based on results published for the *AEO 2014* reference case and a set of side cases that implement a variety of efficiency-related policies.[49] The methodology is described in chapter 15 of the NOPR TSD.

Combustion emissions of CH_4 and N_2O were estimated using emissions intensity factors published by the U.S. Environmental Protection Agency (EPA), GHG Emissions Factors Hub.[50] Site emissions of CO_2 and NO_X (from gas combustion) were estimated using emissions intensity factors from an EPA publication.[51] DOE developed separate emissions factors for power sector emissions and upstream emissions. The method that DOE used to derive

[48] 76 FR 51281 (Aug. 18, 2011). DOE's FFC was amended in 2012 for reasons unrelated to the inclusion of CH_4 and N_2O. 77 FR 49701 (Aug. 17, 2012).

[49] DOE did not use *AEO 2015* for the emissions analysis because it does not provide the side cases that DOE uses to derive marginal emissions factors.

[50] See *http://www.epa.gov/climateleadership/inventory/ghg-emissions.html.*

[51] U.S. Environmental Protection Agency, Compilation of Air Pollutant Emission Factors, AP–42, Fifth Edition, Volume I: Stationary Point and Area Sources (1998) (Available at: *http://www.epa.gov/ttn/chief/ap42/index.html).*

emissions factors is described in chapter 13 of the NOPR TSD.

For CH_4 and N_2O, DOE calculated emissions reduction in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying the physical units by the gas' global warming potential (GWP) over a 100-year time horizon. Based on the Fifth Assessment Report of the Intergovernmental Panel on Climate Change,[52] DOE used GWP values of 28 for CH_4 and 265 for N_2O.

Because the on-site operation of gas cooking products requires use of fossil fuels and results in emissions of CO_2 and NO_X at the sites where these appliances are used, DOE also accounted for the reduction in these site emissions and the associated upstream emissions due to potential standards. Site emissions were estimated using emissions intensity factors from an EPA publication.[53]

EIA prepares the *Annual Energy Outlook* using NEMS. Each annual version of NEMS incorporates the projected impacts of existing air quality regulations on emissions. *AEO 2014* 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), which created an allowance-based trading program that operates along with the Title IV program. 70 FR 25162 (May 12, 2005). CAIR was remanded to the EPA by the U.S. Court of Appeals for the District of Columbia Circuit but it remained in effect.[54] In 2011, EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (Aug. 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR.[55] The court ordered EPA to continue administering CAIR. 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.[56] On October 23, 2014, the D.C. Circuit lifted the stay of CSAPR.[57] Pursuant to this action, CSAPR went into effect (and CAIR ceased to be in effect) as of January 1, 2015.

Because *AEO 2014* was prepared prior to the Supreme Court's opinion, it assumed that CAIR remains a binding regulation through 2040. Thus, DOE's analysis used emissions factors that assume that CAIR, not CSAPR, is the regulation in force. However, the difference between CAIR and CSAPR is not relevant for the purpose of DOE's analysis of emissions impacts from energy conservation standards.

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Beginning in 2016, however, SO_2 emissions will decline significantly 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. *AEO 2014* 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, which are used to reduce acid gas emissions, 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 energy 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.[58] 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 proposed rule for these states.

The MATS limit mercury emissions from power plants, but they do not include emissions caps. DOE estimated mercury emissions reduction using emissions factors based on *AEO 2014,* which incorporates the MATS.

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this 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.

DOE is relying on a set of values for the SCC that was developed by an interagency process. A summary of the basis for these values is provided below, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the NOPR TSD.

1. Social Cost of Carbon

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended

[52] IPCC, 2013: *Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* [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.

[53] U.S. Environmental Protection Agency, Compilation of Air Pollutant Emission Factors, AP–42, Fifth Edition, Volume I: Stationary Point and Area Sources (1998) (Available at: *http://www.epa.gov/ttn/chief/ap42/index.html*).

[54] 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).

[55] See *EME Homer City Generation, LP* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012), *cert. granted,* 81 U.S.L.W. 3567, 81 U.S.L.W. 3696, 81 U.S.L.W. 3702 (U.S. June 24, 2013) (No. 12–1182).

[56] *See EPA* v. *EME Homer City Generation,* 134 S.Ct. 1584, 1610 (U.S. 2014). 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.

[57] *See Georgia* v. *EPA,* Order *(D.C. Cir. filed October 23, 2014)* (*No. 11–1302*).

[58] 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 is slight.

to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of carbon dioxide. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in carbon dioxide emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b)(6) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), agencies must, to the extent permitted by law, assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions. The estimates are presented with an acknowledgement of the many uncertainties involved and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed the SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of carbon dioxide emissions, the analyst faces a number of challenges. A report from the National Research Council points out that any assessment will suffer from uncertainty, speculation, and lack of information about: (1) Future emissions of greenhouse gases; (2) the effects of past and future emissions on the climate system; (3) the impact of changes in climate on the physical and biological environment; and (4) the translation of these environmental impacts into economic damages.[59] 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 carbon dioxide emissions. The agency can estimate the benefits from reduced (or costs from increased) emissions in any future year by multiplying the change in emissions in that year by the SCC values appropriate for that year. The NPV of the benefits can then be calculated by multiplying each of these future benefits by an appropriate discount factor and summing across all affected years.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

b. Development of Social Cost of Carbon Values

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing carbon dioxide emissions. To ensure consistency in how benefits are evaluated across Federal agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced CO_2 emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim values: global SCC estimates for 2007 (in 2006$) of $55, $33, $19, $10, and $5 per metric ton of CO_2. These interim values represented the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules.

[59] National Research Council. *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use.* National Academies Press: Washington, DC (2009).

c. Current Approach and Key Assumptions

After the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specifically, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: the FUND, DICE, and PAGE models. These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change (IPCC). Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

In 2010, the interagency group selected four sets of SCC values for use in regulatory analyses.[60] Three sets of values are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent, 3 percent, and 5 percent. The fourth set, which represents the 95th-percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from climate change further out in the tails of the SCC distribution. The values grow in real terms over time. Additionally, the interagency group determined that a range of values from 7 percent to 23 percent should be used to adjust the global SCC to calculate

[60] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government (February 2010) (Available at: *http://www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf).*

domestic effects,[61] although preference is given to consideration of the global benefits of reducing CO_2 emissions.

Table IV–30 presents the values in the 2010 interagency group report, which is reproduced in appendix 14–A of the NOPR TSD.

TABLE IV–30—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
2010	4.7	21.4	35.1	64.9
2015	5.7	23.8	38.4	72.8
2020	6.8	26.3	41.7	80.7
2025	8.2	29.6	45.9	90.4
2030	9.7	32.8	50.0	100.0
2035	11.2	36.0	54.2	109.7
2040	12.7	39.2	58.4	119.3
2045	14.2	42.1	61.7	127.8
2050	15.7	44.9	65.0	136.2

The SCC values used were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[62] Table IV–31 shows the updated sets of SCC estimates from the 2013 interagency update in five-year increments from 2010 to 2050. Appendix 14–B of the NOPR TSD provides the full set of values. The central value that emerges is the average SCC across models at 3-percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE IV–31—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
2010	11	32	51	89
2015	11	37	57	109
2020	12	43	64	128
2025	14	47	69	143
2030	16	52	75	159
2035	19	56	80	175
2040	21	61	86	191
2045	24	66	92	206
2050	26	71	97	220

AHAM suggested that DOE rely on the 2010 estimates for SCC until it has resolved all comments on the derivation of the SCC estimates from the 2013 report. (AHAM, STD No. 9, at p. 8) The 2013 report provides an update of the SCC estimates based solely on the latest peer-reviewed version of the models, replacing model versions that were developed up to ten years ago in a rapidly evolving field. It does not revisit other assumptions with regard to the discount rate, reference case socio-economic and emission scenarios, or equilibrium climate sensitivity. Improvements in the way damages are modeled are confined to those that have been incorporated into the latest versions of the models by the developers themselves in the peer-reviewed literature. Given the above, using the 2010 estimates would be inconsistent with DOE's objective of using the best available information in its analyses.

It is important to recognize that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable since they will evolve with improved scientific and economic understanding. The interagency group also recognizes that the existing models are imperfect and incomplete. The National Research Council report mentioned above points out that there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of analytical challenges that are being addressed by the research community, including research programs housed in many of the Federal agencies participating in the

[61] It is recognized that this calculation for domestic values is approximate, provisional, and highly speculative. There is no *a priori* reason why domestic benefits should be a constant fraction of net global damages over time.

[62] *Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government (May 2013; revised November 2013) (Available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf*).

interagency process to estimate the SCC. The interagency group intends to periodically review and revise 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 2014$ using the Gross Domestic Product price deflator. For each of the four SCC cases specified, the values used for emissions in 2015 were $12.2, $41.2, $63.4, and $121 per metric ton avoided (values expressed in 2014$). DOE derived values after 2050 using the relevant growth rates for the 2040–2050 period in the interagency update.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SCC value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

DOE acknowledges the limitations of the SCC estimates, which are discussed in detail in the 2010 interagency group report. Specifically, uncertainties in the assumptions regarding climate sensitivity, as well as other model inputs such as economic growth and emissions trajectories, are discussed and the reasons for the specific input assumptions chosen are explained. However, the three integrated assessment models used to estimate the SCC are frequently cited in the peer-reviewed literature and were used in the last assessment of the IPCC. In addition, new versions of the models that were used in 2013 to estimate revised SCC values were published in the peer-reviewed literature (see appendix 14B of the NOPR TSD for discussion). Although uncertainties remain, the revised estimates that were issued in November, 2013 are based on the best available scientific information on the impacts of climate change. The current estimates of the SCC have been developed over many years, using the best science available, and with input from the public. In November 2013, OMB announced a new opportunity for public comment on the interagency technical support document underlying the revised SCC estimates. 78 FR 70586 (Nov. 26, 2013). OMB is reviewing comments and considering whether further revisions to the 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.

In addition, it is important to note that the monetized benefits of carbon emission reductions are one factor that DOE considers in its evaluation of the economic justification of proposed standards. As shown in Table I.4, the benefits of these standards in terms of consumer operating cost savings exceed the incremental costs of the standards-compliant products. The benefits of CO_2 emission reductions were considered by DOE, but were not determinative in DOE's decision to adopt these standards.

2. Social Cost of Other Air Pollutants

As noted above, DOE has taken into account how amended energy conservation standards would reduce site NO_X emissions nationwide and increase power sector NO_X emissions in those 22 States not affected by the CAIR. DOE estimated the monetized value of net NO_X emissions reductions resulting from each of the TSLs considered for this NOPR based on estimates developed by EPA for 2016, 2020, 2025, and 2030.[63] The values reflect estimated mortality and morbidity per ton of directly emitted NO_X reduced by electricity generating units. EPA developed estimates using a 3-percent and a 7-percent discount rate to discount future emissions-related costs. The values in 2016 are $5,562/ton using a 3-percent discount rate and $4,920/ton using a 7-percent discount rate (2014$). DOE extrapolated values after 2030 using the average annual rate of growth in 2016–2030. DOE multiplied the emissions reduction (tons) in each year by the associated $/ton values, and then discounted each series using discount rates of 3 percent and 7 percent as appropriate.

DOE is evaluating appropriate monetization of avoided SO_2 and Hg emissions in energy conservation standards rulemakings. It has not included monetization of these emissions in the current analysis. DOE requests comment on its approach to monetizing emissions reductions for cooking products (see issue 12 in section VII.E).

M. Utility Impact Analysis

The utility impact analysis estimates several effects on the power generation industry that would result from the adoption of new or amended energy conservation standards. In the utility impact analysis, DOE analyzes the changes in installed electricity capacity and generation that would result for each TSL. The utility impact analysis is based on published output from the NEMS associated with *AEO 2014.* NEMS produces the AEO reference case as well as a number of side cases that estimate the economy-wide impacts of changes to energy supply and demand. DOE uses those published side cases that incorporate efficiency-related policies to estimate the marginal impacts of reduced energy demand on the utility sector.[64] The output of this analysis is a set of time-dependent coefficients that capture the change in electricity generation, primary fuel consumption, installed capacity and power sector emissions due to a unit reduction in demand for a given end use. These coefficients are multiplied by the stream of energy savings calculated in the NIA to provide estimates of selected utility impacts of new or amended energy conservation standards. Chapter 15 of the NOPR TSD describes the utility impact analysis in further detail.

N. Employment Impact Analysis

Employment impacts from new or amended energy conservation standards include direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the equipment subject to standards; the MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more efficient equipment. Indirect employment impacts from standards consist of the jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, due to: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased consumer spending on the purchase of new equipment; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS

[63] *http://www2.epa.gov/benmap/sector-based-pm25-benefit-ton-estimates.*

[64] DOE did not use *AEO 2015* for the analysis because it does not provide the side cases that DOE uses to derive marginal impact factors.

indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy. There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital-intensive and less labor-intensive than other sectors. Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment may increase because of shifts in economic activity resulting from amended standards.

DOE estimated indirect national employment impacts for the standard levels considered in this NOPR using an input/output model of the U.S. economy called Impact of Sector Energy Technologies, Version 3.1.1 (ImSET).[65] 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 most relevant to industrial, commercial, and residential building energy use.

DOE notes that ImSET is not a general equilibrium forecasting model, and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may over-estimate actual job impacts over the long run. Therefore, DOE generated results for near-term timeframes, where these uncertainties are reduced. For more details on the employment impact analysis, see chapter 16 of the NOPR TSD.

V. Analytical Results

The following section addresses the results from DOE's analyses with respect to potential energy conservation standards for conventional ovens. It addresses the TSLs examined by DOE and the projected impacts of each of these levels if adopted as energy conservation standards for conventional ovens. Additional details regarding DOE's analyses are contained in the NOPR TSD supporting this notice.

A. Trial Standard Levels

DOE analyzed the benefits and burdens of three TSLs for conventional ovens. These TSLs were developed using combinations of efficiency levels for the product classes analyzed by DOE. DOE presents the results for those TSLs in this proposed rule. The results for all efficiency levels that DOE analyzed are in the NOPR TSD.

Table V–1. and Table V–2. presents the TSLs and the corresponding efficiency levels for conventional ovens.[66] TSL 3 represents the maximum technologically feasible (''max-tech'') improvements in energy efficiency for all product classes. TSL 2 comprises efficiency levels for all product classes providing the maximum NES with maximum NPV. TSL 1 was configured with standby levels with maximum NES.

TABLE V–1—SUMMARY OF TRIAL STANDARD LEVELS FOR OVENS, ELECTRIC

TSL	Electric standard ovens, free-standing		Electric standard ovens, built-in/slide-in		Electric self-clean ovens, free-standing		Electric self-clean ovens, built-in/slide-in	
	Efficiency level	IAEC (*kWh/yr*)	Efficiency level	IAEC (*kWh/yr*)	Efficiency level	IAEC (*kWh/yr*)	Efficiency level	IAEC (*kWh/yr*)
1	1	284.6	1	291.4	1	345.1	1	351.0
2	3	259.2	3	265.4	1	345.1	1	351.0
3	7	207.3	7	212.2	4	278.1	4	282.9

TABLE V–2—SUMMARY OF TRIAL STANDARD LEVELS FOR OVENS, GAS

TSL	Gas standard ovens, free-standing		Gas standard ovens, built-in/slide-in		Gas self-clean ovens, free-standing		Gas self-clean ovens, built-in/slide-in	
	Efficiency level	IAEC (*kBtu/yr*)	Efficiency level	IAEC (*kBtu/yr*)	Efficiency level	IAEC (*kBtu/yr*)	Efficiency level	IAEC (*kBtu/yr*)
1	Baseline	2,118.2	Baseline	2,128.1	1	1,848.2	1	1,858.0
2	4	1,414.8	4	1,421.5	2	1,668.7	2	1,677.5
3	7	1,347.0	7	1,353.3	4	1,591.0	4	1,599.4

Additionally, Table V–3 to Table V–6 illustrate the design and performance related changes that are assumed for each TSL for each product class.

[65] M.J. Scott, O.V. Livingston, P.J. Balducci, J.M. Roop, and R.W. Schultz, *ImSET 3.1: Impact of Sector Energy Technologies,* PNNL–18412, Pacific Northwest National Laboratory (2009) (Available at: *www.pnl.gov/main/publications/external/technical_reports/PNNL-18412.pdf*).

[66] For the conventional oven product classes, the efficiency levels are based on an oven with a cavity volume of 3.9 ft. As discussed in section I.A.1.c, DOE developed slopes and intercepts to characterize the relationship between IEAC and cavity volume for each efficiency level.

TABLE V–3—SUMMARY OF TRIAL STANDARD LEVELS AND DESIGN OPTIONS FOR OVENS, ELECTRIC STANDARD

TSL	Electric standard ovens, free-standing		Electric standard ovens, built-in/slide-in	
	Efficiency level	Design option	Efficiency level	Design option
1	1	1. SMPS.	1	1. SMPS.
2	3	1. SMPS. 2. Reduced Vent Rate. 3. Improved Insulation.	3	1. SMPS. 2. Reduced Vent Rate. 3. Improved Insulation.
3	7	1. SMPS. 2. Reduced Vent Rate. 3. Improved Insulation. 4. Improved Door Seals. 5. Forced Convection. 6. Oven Separator. 7. Reduced Conduction Losses.	7	1. SMPS. 2. Reduced Vent Rate. 3. Improved Insulation. 4. Improved Door Seals. 5. Forced Convection. 6. Oven Separator. 7. Reduced Conduction Losses.

TABLE V–4—SUMMARY OF TRIAL STANDARD LEVELS AND DESIGN OPTIONS FOR OVENS, ELECTRIC SELF-CLEAN

TSL	Electric self-clean ovens, free-standing		Electric self-clean ovens, built-in/slide-in	
	Efficiency level	Design option	Efficiency level	Design option
1	1	1. SMPS.	1	1. SMPS.
2	1	1. SMPS.	1	1. SMPS.
3	4	1. SMPS. 2. Forced Convection. 3. Oven Separator. 4. Reduced Conduction Losses.	4	1. SMPS. 2. Forced Convection. 3. Oven Separator. 4. Reduced Conduction Losses.

TABLE V–5—SUMMARY OF TRIAL STANDARD LEVELS AND DESIGN OPTIONS FOR OVENS, GAS STANDARD

TSL	Gas standard ovens, free-standing		Gas standard ovens, built-in/slide-in	
	Efficiency level	Design option	Efficiency level	Design option
1	Baseline		Baseline	
2	4	1. Optimized Burner/Cavity. 2. SMPS. 3. Electric Spark Ignition. 4. Improved Insulation.	4	1. Optimized Burner/Cavity. 2. SMPS. 3. Electric Spark Ignition. 4. Improved Insulation.
3	7	1. SMPS. 2. Optimized Burner/Cavity. 3. Electric Spark Ignition. 4. Improved Insulation. 5. Improved Door Seals. 6. Forced Convection. 7. Reduced Conduction Losses.	7	1. SMPS. 2. Optimized Burner/Cavity. 3. Electric Spark Ignition. 4. Improved Insulation. 5. Improved Door Seals. 6. Forced Convection. 7. Reduced Conduction Losses.

TABLE V–6—SUMMARY OF TRIAL STANDARD LEVELS AND DESIGN OPTIONS FOR OVENS, GAS SELF-CLEAN

TSL	Gas self-clean ovens, free-standing		Gas self-clean ovens, built-in/slide-in	
	Efficiency level	Design option	Efficiency level	Design option
1	1	1. SMPS.	1	1. SMPS.
2	2	1. SMPS. 2. Electronic Spark Ignition.	2	1. SMPS. 2. Electronic Spark Ignition.
3	4	1. SMPS. 2. Electronic Spark Ignition. 3. Forced Convection. 4. Reduced Conduction Losses.	4	1. SMPS. 2. Electronic Spark Ignition. 3. Forced Convection. 4. Reduced Conduction Losses.

B. Economic Justification and Energy Savings

1. Economic Impacts on Individual Consumers

DOE analyzed the economic impacts on conventional oven consumers by looking at the effects potential amended standards would have on the LCC and PBP. DOE also examined the impacts of potential standards on consumer subgroups. These analyses are discussed below.

a. Life-Cycle Cost and Payback Period

In general, higher-efficiency products affect consumers in two ways: (1) Purchase price increases, and (2) operating costs decrease. Inputs used for calculating the LCC and PBP include total installed costs (*i.e.,* product price plus installation costs), and operating costs (*i.e.,* annual energy savings, energy prices, energy price trends, repair costs, and maintenance costs). The LCC calculation also uses product lifetime and a discount rate. Chapter 8 of the NOPR TSD provides detailed information on the LCC and PBP analyses.

Table V–7 through Table V–22 show the LCC and PBP results for all efficiency levels considered for each conventional oven product class. In the first of each pair of tables, the simple payback is measured relative to the baseline product. In the second table, the LCC savings are measured relative to the base-case efficiency distribution in the compliance year (see section IV.F.8 of this notice).

TABLE V–7—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR PC1 ELECTRIC STANDARD OVENS, FREE-STANDING

TSL	Efficiency level	Average costs 2014$				Simple payback years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC	
1	1	$558	$16	$191	$748	0.9
2	3	568	15	174	742	4.0
3	7	653	12	142	795	7.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

TABLE V–8—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PC1 ELECTRIC STANDARD OVENS, FREE-STANDING

TSL	Efficiency level	Life-cycle cost savings	
		Percentage of consumers that experience	Average savings *
		Net cost	2014$
1	1	0	$13.96
2	3	12	15.18
3	7	82	(37.60)

* The calculation does not include households with zero LCC savings (no impact).

TABLE V–9—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR PC2 ELECTRIC STANDARD OVENS, BUILT-IN/SLIDE-IN

TSL	Efficiency level	Average Costs 2014$				Simple payback years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC	
1	1	$584	$16	$190	$775	0.9
2	3	594	15	174	768	4.0
3	7	680	12	142	821	17.5

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

TABLE V–10—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PC2 ELECTRIC STANDARD OVENS, BUILT-IN/SLIDE-IN

TSL	Efficiency level	Life-cycle cost savings	
		Percentage of consumers that experience	Average savings *
		Net cost	2014$
1	1	0	$14.11
2	3	12	15.25
3	7	82	(37.64)

* The calculation does not include households with zero LCC savings (no impact).

TABLE V–11—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR PC3 ELECTRIC SELF-CLEAN OVENS, FREE-STANDING

TSL	Efficiency level	Average costs 2014$				Simple payback years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC	
1,2	1	$602	$22	$251	$853	0.9
3	4	686	18	211	897	18.1

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

TABLE V–12—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PC3 ELECTRIC SELF-CLEAN OVENS, FREE-STANDING

TSL	Efficiency level	Life-cycle cost savings	
		Percentage of consumers that experience	Average savings *
		Net cost	2014$
1,2	1	0	$14.10
3	4	76	(27.79)

* The calculation does not include households with zero LCC savings (no impact).

TABLE V–13—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR PC4 ELECTRIC SELF-CLEAN OVENS, BUILT-IN/SLIDE-IN

TSL	Efficiency level	Average costs 2014$				Simple payback years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC	
1,2	1	$628	$22	$252	$880	0.9
3	4	712	18	212	924	18.1

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

TABLE V–14 AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PC4 ELECTRIC SELF-CLEAN OVENS, BUILT-IN/SLIDE-IN

TSL	Efficiency level	Life-cycle cost savings	
		Percentage of consumers that experience	Average savings *
		Net cost	2014$
1,2	1	0	$14.20
3	4	76	(27.80)

* The calculation does not include households with zero LCC savings (no impact).

TABLE V–15—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR PC5 GAS STANDARD OVENS, FREE-STANDING

TSL	Efficiency level	Average costs 2014$				Simple payback years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC	
1	Baseline	$602	$20	$600	$1,202	.....
2	4	619	9	277	896	1.7
3	7	656	9	277	933	5.3

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

TABLE V–16—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PC5 GAS STANDARD OVENS, FREE-STANDING

TSL	Efficiency level	Life-cycle cost savings	
		Percentage of consumers that experience	Average savings *
		Net cost	2014$
1	Baseline	0%	.....
2	4	0	$289.73
3	7	24	178.91

* The calculation does not include households with zero LCC savings (no impact).

TABLE V–17—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR PC6 GAS STANDARD OVENS, BUILT-IN/SLIDE-IN

TSL	Efficiency level	Average costs 2014$				Simple payback years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC	
1	Baseline	$628	$20	$600	$1,228	.....
2	4	645	9	277	922	1.7
3	7	682	9	277	959	5.3

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

TABLE V–18—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PC6 GAS STANDARD OVENS, BUILT-IN/SLIDE-IN

TSL	Efficiency level	Life-cycle cost savings	
		Percentage of consumers that experience	Average savings *
		Net cost	2014$
1	Baseline	0	.....
2	4	0	$289.77
3	7	24	178.92

* The calculation does not include households with zero LCC savings (no impact).

TABLE V–19—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR PC7 GAS SELF-CLEAN OVENS, FREE-STANDING

TSL	Efficiency level	Average costs 2014$				Simple payback years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC	
1	1	$718	$20	$612	$1,329	0.8
2	2	726	13	334	1,060	1.2
3	4	762	13	333	1,094	5.4

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

TABLE V–20—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PC7 GAS SELF-CLEAN OVENS, FREE-STANDING

TSL	Efficiency level	Life-cycle cost savings	
		Percentage of consumers that experience	Average savings *
		Net cost	2014$
1	1	0	$18.02
2	2	0	282.80
3	4	27	165.73

* The calculation does not include households with zero LCC savings (no impact).

TABLE V–21—AVERAGE LCC AND PBP RESULTS BY EFFICIENCY LEVEL FOR PC8 GAS SELF-CLEAN OVENS, BUILT-IN/SLIDE-IN

TSL	Efficiency level	Average costs 2014$				Simple payback years
		Installed cost	First year's operating cost	Lifetime operating cost	LCC	
1	1	$744	$20	$612	$1,355	0.8
2	2	752	13	334	1,086	1.2
3	4	788	13	333	1,120	5.4

Note: The results for each TSL are calculated assuming that all consumers use products at that efficiency level. The PBP is measured relative to the baseline product.

TABLE V–22—AVERAGE LCC SAVINGS RELATIVE TO THE BASE-CASE EFFICIENCY DISTRIBUTION FOR PC8 GAS SELF-CLEAN OVENS, BUILT-IN/SLIDE-IN

TSL	Efficiency level	Life-cycle cost savings	
		Percent of consumers that experience	Average savings *
		Net cost	2014$
1	1	0	$18.03
2	2	0	282.85
3	4	27	165.75

* The calculation does not include households with zero LCC savings (no impact).

b. Consumer Subgroup Analysis

As described in section IV.I of this notice, DOE determined the impact of the considered TSLs on low-income households and senior-only households. Table V–23 through Table V–30 compare the average LCC savings and PBP at each efficiency level for the two consumer subgroups, along with the average LCC savings for the entire sample. In most cases, the average LCC savings and PBP for low-income households and senior-only households at the considered efficiency levels are not substantially different from the average for all households. Chapter 11 of the NOPR TSD presents the complete LCC and PBP results for the subgroups.

TABLE V–23—COMPARISON OF AVERAGE LCC SAVINGS FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PC1 ELECTRIC STANDARD OVENS, FREE-STANDING

TSL	Average life-cycle cost savings (2014$)			Simple payback period (years)		
	Low-income households	Senior-only households	All households	Low-income households	Senior-only households	All households
1	$13.88	$14.00	$13.96	0.9	0.9	0.9
2	18.70	12.28	15.18	3.6	4.4	4.0
3	(28.75)	(45.09)	(37.60)	14.9	20.6	17.5

TABLE V–24—COMPARISON OF AVERAGE LCC SAVINGS FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PC2 ELECTRIC STANDARD OVENS, BUILT-IN/SLIDE-IN

TSL	Average life-cycle cost savings (2014$)			Simple payback period (years)		
	Low-income households	Senior-only households	All households	Low-income households	Senior-only households	All households
1	$14.06	$14.11	$14.11	0.9	0.9	0.9
2	18.79	12.34	15.25	3.6	4.4	4.0
3	(28.80)	(45.13)	(37.64)	14.9	20.6	17.5

TABLE V–25—COMPARISON OF AVERAGE LCC SAVINGS FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS PC3 ELECTRIC SELF-CLEAN OVENS, FREE-STANDING

TSL	Average life-cycle cost savings (2014$)			Simple payback period (years)		
	Low-income households	Senior-only households	All households	Low-income households	Senior-only households	All households
1, 2	$13.98	$14.19	$14.10	0.9	0.9	0.9
3	(18.98)	(32.84)	(27.79)	15.2	20.3	18.1

TABLE V–26—COMPARISON OF AVERAGE LCC SAVINGS FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS PC4 ELECTRIC SELF-CLEAN OVENS, BUILT-IN/SLIDE-IN

TSL	Average life-cycle cost savings (2014$)			Simple payback period (years)		
	Low-income households	Senior-only households	All households	Low-income households	Senior-only households	All households
1, 2	$14.11	$14.27	$14.20	0.9	0.9	0.9
3	(18.99)	(32.84)	(27.80)	15.2	20.3	18.1

TABLE V–27—COMPARISON OF AVERAGE LCC SAVINGS FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS PC5 GAS STANDARD OVENS, FREE-STANDING

TSL	Average life-cycle cost savings (2014$)			Simple payback period (years)		
	Low-income households	Senior-only households	All households	Low-income households	Senior-only households	All households
1	$0.00	$0.00	$0.00	.....	.....	.....
2	314.79	282.03	289.73	1.4	1.8	1.7
3	197.33	173.10	178.91	4.4	5.7	5.3

TABLE V–28—COMPARISON OF AVERAGE LCC SAVINGS FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PC6 GAS STANDARD OVEN, BUILT-IN/SLIDE-IN

TSL	Average life-cycle cost savings (2014$)			Simple payback period (years)		
	Low-income households	Senior-only households	All households	Low-income households	Senior-only households	All households
1	$0.00	$0.00	$0.00	.....	.....	.....
2	314.84	282.07	289.77	1.4	1.8	1.7
3	197.34	173.11	178.92	4.4	5.7	5.3

TABLE V–29—COMPARISON OF AVERAGE LCC SAVINGS FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PC7 GAS SELF-CLEAN OVENS, FREE-STANDING

TSL	Average life-cycle cost savings (2014$)			Simple payback period (years)		
	Low-income households	Senior-only households	All households	Low-income households	Senior-only households	All households
1	$17.28	$18.39	$18.02	0.8	0.7	0.8
2	298.61	278.34	282.80	1.0	1.3	1.2
3	176.87	162.47	165.73	4.7	5.7	5.4

TABLE V–30—COMPARISON OF AVERAGE LCC SAVINGS FOR CONSUMER SUBGROUPS AND ALL HOUSEHOLDS FOR PC8 GAS SELF-CLEAN OVEN, BUILT-IN/SLIDE-IN

TSL	Average life-cycle cost savings (2014$)			Simple payback period (years)		
	Low-income households	Senior-only households	All households	Low-income households	Senior-only households	All households
1	$17.30	$18.40	$18.03	0.8	0.7	0.8
2	298.68	278.39	282.85	1.0	1.3	1.2
3	176.89	162.48	165.75	4.7	5.7	5.4

c. Rebuttable Presumption Payback

As discussed above, EPCA provides a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for a product that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. In calculating a rebuttable presumption payback period for the considered standard levels, DOE used discrete values rather than distributions for input values, and, as required by EPCA, based the energy use calculation on the DOE test procedures for conventional cooking products. As a result, DOE calculated a single rebuttable presumption payback value,

and not a distribution of payback periods, for each efficiency level.

Table V–31 presents the rebuttable-presumption payback periods for the considered TSLs. While DOE examined the rebuttable-presumption criterion, it considered whether the standard levels considered for this rulemaking are economically justified through a more detailed analysis of the economic impacts of those levels pursuant to 42 U.S.C. 6295(o)(2)(B)(i). The results of that analysis serve as the basis for DOE to evaluate the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification).

TABLE V–31—CONVENTIONAL OVENS: REBUTTABLE PBPS

(Years)

Product class	Trial standard level		
	1	2	3
PC1: Electric Standard Ovens, Free-Standing	0.9	2.3	8.5
PC2: Electric Standard Ovens, Built-In/Slide-In	0.8	2.3	8.3
PC3: Electric Self-Clean Ovens, Free-Standing	0.9	0.9	8.4
PC4: Electric Self-Clean Ovens, Built-In/Slide-In	0.9	0.9	8.3
PC5: Gas Standard Ovens, Free-Standing	.....	2.4	7.0
PC6: Gas Standard Ovens, Built-In/Slide-In	.....	2.4	6.9
PC7: Gas Self-Clean Ovens, Free-Standing	3.1	4.6	15.3
PC8: Gas Self-Clean Ovens, Built-In/Slide-In	3.1	4.6	15.2

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of new and amended energy conservation standards on manufacturers of residential conventional ovens. The following sections describe the expected impacts on residential conventional oven manufacturers at each TSL. Chapter 12 of this NOPR TSD explains the MIA in further detail.

a. Industry Cash-Flow Analysis Results

Table V–32 through Table V–33 depict the financial impacts (represented by changes in INPV) of new and amended energy conservation standards on residential conventional oven manufacturers as well as the conversion costs that DOE estimates manufacturers would incur at each TSL. To evaluate the range of cash flow impacts on the residential conventional oven industry, DOE modeled two markup scenarios that correspond to the range of anticipated market responses to new and amended standards. Each markup 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 difference in industry value between the base case and the standards case that result from the sum of discounted cash flows from the base year (2015) through the end of the analysis period. The results also discuss the difference in cash flows between the base case and the standards case in the year before the compliance date for new and amended energy conservation standards. This figure represents the size of the required conversion costs relative to the cash flow generated by the residential conventional oven industry in the absence of new and amended energy conservation standards. In the engineering analysis, DOE enumerates common technology options that achieve the efficiencies for each of the product classes. For descriptions of these technology options and the required efficiencies at each TSL, see section IV.C and section V.A respectively of this NOPR.

To assess the upper (less severe) end of the range of potential impacts on residential conventional oven manufacturers, DOE modeled a preservation of gross margin markup scenario. This scenario assumes that in the standards case, manufacturers would be able to pass along all the higher production costs required for more efficient products to their consumers. Specifically, the industry would be able to maintain its average base case gross margin (as a percentage of revenue) despite the higher product costs in the standards case. In general, the larger the product price increases, the less likely manufacturers are to achieve the cash flow from operations calculated in this scenario because it is less likely that manufacturers would be able to fully mark up these larger cost increases.

To assess the lower (more severe) end of the range of potential impacts on the residential conventional oven manufacturers, DOE modeled the preservation of operating profit markup scenario. This scenario represents the lower end of the range of potential impacts on manufacturers because no additional operating profit is earned on the higher product costs, eroding profit margins as a percentage of total revenue.

Table V–32 and Table V–33 present the projected results for residential conventional ovens under the preservation of gross margin and preservation of operating profit markup scenarios. DOE examined results for all product classes together since most manufacturers produce both gas and electric ovens.

TABLE V–32—MANUFACTURER IMPACT ANALYSIS FOR RESIDENTIAL CONVENTIONAL OVENS—PRESERVATION OF GROSS MARGIN MARKUP SCENARIO

	Units	Base case	Trial standard level		
			1	2	3
INPV	(2014$ millions)	783.5	762.8	702.6	140.6
Change in INPV	(2014$ millions)	.....	(20.7)	(80.9)	(642.9)
	(%)	.....	(2.6)	(10.3)	(82.0)
Product Conversion Costs	(2014$ millions)	.....	4.3	67.9	401.5
Capital Conversion Costs	(2014$ millions)	.....	9.0	42.0	528.0

TABLE V–32—MANUFACTURER IMPACT ANALYSIS FOR RESIDENTIAL CONVENTIONAL OVENS—PRESERVATION OF GROSS MARGIN MARKUP SCENARIO—Continued

	Units	Base case	Trial standard level		
			1	2	3
Total Conversion Costs	(2014$ millions)		13.3	109.9	929.5

* DOE presents a range of potential employment impacts. Numbers in parentheses indicate negative numbers.

TABLE V–33—MANUFACTURER IMPACT ANALYSIS FOR RESIDENTIAL CONVENTIONAL OVENS—PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO

	Units	Base case	Trial standard level		
			1	2	3
INPV	(2014$ millions)	783.5	762.1	697.1	56.0
Change in INPV	(2014$ millions)		(21.4)	(86.4)	(727.5)
	(%)		(2.7)	(11.0)	(92.9)
Product Conversion Costs	(2014$ millions)		4.3	67.9	401.5
Capital Conversion Costs	(2014$ millions)		9.0	42.0	528.0
Total Conversion Costs	(2014$ millions)		13.3	109.9	929.5

TSL 1 sets the efficiency level at baseline for two product classes (gas standard ovens, free-standing; and gas standard ovens, built-in/slide-in), and EL 1 for six product classes (electric standard ovens, free-standing; electric standard ovens, built-in/slide-in; electric self-clean ovens, free-standing; electric self-clean ovens, built-in/slide-in; gas self-clean ovens, free-standing; and gas self-clean ovens, built-in/slide-in). At TSL 1, DOE estimates impacts on INPV range from −$21.4 million to −$20.7 million, or a change in INPV of −2.7 percent to −2.6 percent. At TSL 1, industry free cash flow (operating cash flow minus capital expenditures) is estimated to decrease to $52.1 million, or a drop of 14.3 percent, compared to the base-case value of $60.8 million in 2018, the year leading up to new and amended energy conservation standards.

Percentage impacts on INPV are slightly negative at TSL 1. DOE does not anticipate that manufacturers would lose a significant portion of their INPV at this TSL. DOE projects that in the expected year of compliance (2019), 100 percent of gas standard oven, free-standing shipments; and gas standard oven, built-in/slide-in shipments would meet or exceed the efficiency levels required at TSL 1. Meanwhile in 2019, 60 percent of electric standard oven, free-standing shipments; 60 percent of electric standard oven, built-in/slide-in shipments; 53 percent of electric self-clean oven, free-standing shipments; 53 electric self-clean oven, built-in/slide-in shipments; 52 percent of gas self-clean oven, free-standing shipments; and 52 percent of gas self-clean oven, built-in/slide-in shipments would meet the efficiency levels at TSL 1.

DOE expects conversion costs to be small at TSL 1 because the design changes prescribed at this TSL only affect standby mode power consumption and do not apply to active mode power consumption. DOE expects residential conventional oven manufacturers to incur $4.3 million in product conversion costs for product redesigns that will convert residential conventional ovens from using linear power supply to switch mode power supply to reduce standby power consumption. DOE expects $9.0 million in capital conversion costs for manufacturers to upgrade production lines and retool equipment associated with achieving this reduction in standby power.

At TSL 1, under the preservation of gross margin markup scenario, the shipment-weighted average MPC increases very slightly by approximately 0.1 percent relative to the base-case MPC. This extremely slight price increase is outweighed by the $13.3 million in conversion costs estimated at TSL 1, resulting in slightly negative INPV impacts at TSL 1 under the preservation of gross margin markup scenario.

Under the preservation of operating profit markup scenario, manufacturers earn the same nominal operating profit as would be earned in the base case, but manufacturers do not earn additional profit from their investments. The very slight increase in the shipment weighted-average MPC is again outweighed by a slightly lower average manufacturer markup (slightly smaller than the 1.20 manufacturer markup used in the base case) and $13.3 million in conversion costs, resulting in slightly negative impacts at TSL 1.

TSL 2 sets the efficiency level at EL 1 for two product classes (electric self-clean ovens, free-standing; and electric self-clean ovens, built-in/slide-in), EL 2 for two product classes (gas self-clean ovens, free-standing; and gas self-clean ovens, built-in/slide-in), EL 3 for two product classes (electric standard ovens, free-standing and electric standard ovens, built-in/slide-in); and EL 4 for two product classes (gas standard ovens, free-standing and gas standard ovens, built-in/slide-in). At TSL 2, DOE estimates impacts on INPV to range from −$86.4 million to −$80.9 million, or a change in INPV of −11.0 percent to −10.3 percent. At this standard level, industry free cash flow is estimated to decrease to $17.6, or a drop of 71.0 percent, compared to the base-case value of $60.8 million in 2018.

Percentage impacts on INPV are moderately negative at TSL 2. While the $109.9 million in industry conversion costs represent a significant investment for manufacturers, DOE does not anticipate that manufacturers would lose a significant portion of their INPV at this TSL since the base case INPV for manufacturers is slightly less than $800 million. DOE projects that in 2019, 40 percent of electric standard oven, free-standing shipments; 40 percent of electric standard oven, built-in/slide-in shipments; 53 percent of electric self-clean oven, free-standing shipments; 53 percent of electric self-clean oven, built-in/slide-in shipments; 32 percent of gas standard oven, free-standing shipments; 32 percent of gas standard oven, built-in/slide-in shipments; 39 percent of gas

self-clean oven, free-standing shipments; and 39 percent of gas self-clean oven, built-in/slide-in shipments would meet or exceed the efficiency levels at TSL 2.

While DOE expects conversion costs to be a large investment at TSL 2, the much larger base case INPV reduces the overall INPV impact on a percentage basis at TSL 2. DOE expects that product conversion costs will significantly rise from $4.3 million at TSL 1 to $67.9 million at TSL 2 for extensive product redesigns and testing. Capital conversion costs will also significantly increase from $9.0 million at TSL 1 to $42.0 million at TSL 2 to upgrade production equipment to accommodate for added or redesigned features in each product class. The large conversion costs at TSL 2 are driven by reduce vent rate and improve insulation in the electric oven product classes, and conversion from glo-bar to electronic spark ignition systems in the gas oven product classes.

At TSL 2, under the preservation of gross margin markup scenario, the shipment weighted-average MPC only slightly increases by 0.9 percent, relative to the base-case MPC. In this scenario, INPV impacts are moderately negative because manufacturers incur sizable conversion costs ($109.9 million) and are not able to recover much of those conversion costs through the slight increase in the shipment weighted-average MPC at TSL 2.

Under the preservation of operating profit markup scenario, the 0.9 percent shipment weighted-average MPC increase is outweighed by a slightly lower average manufacturer markup (slightly smaller than the 1.20 manufacturer markup used in the base case) and $109.9 million in conversion costs, resulting in moderately negative INPV impacts at TSL 2.

TSL 3 sets the efficiency level at max tech for all product classes. At TSL 3, DOE estimates impacts on INPV to range from −$727.5 million to −$642.9 million, or a change in INPV of −92.9 percent to −82.0 percent. At this standard level, industry free cash flow is estimated to decrease by approximately 635.3 percent to −$325.5 million, compared to the base-case value of $60.8 million in 2018.

At TSL 3 conversion costs significantly increase causing free cash flow to become significantly negative in the year leading up to energy conservation standards and cause manufacturers to loss a substantial amount of INPV. Also, the percent change in INPV at TSL 3 is significantly negative due to the extremely large conversion costs. Manufacturers at this TSL would have a very difficult time in the short term to make the necessary investments to comply with new and amended energy conservation standards prior to when standards went into effect. Also, the long-term profitability of residential conventional oven manufacturers could be seriously jeopardized as some manufacturers would struggle to comply with standards at this TSL.

A high percentage of total shipments will need to be redesigned to meet efficiency levels prescribed at TSL 3. DOE projects that in 2019, only 7 percent of electric standard oven, free-standing shipments; 7 percent of electric standard oven, built-in/slide-in shipments; 12 percent of electric self-clean oven, free-standing shipments; 12 percent of electric self-clean oven, built-in/slide-in shipments; 8 percent of gas standard oven, free-standing shipments; 8 percent of gas standard oven, built-in/slide-in shipments; 13 percent of gas self-clean oven, free-standing shipments; and 13 percent of gas self-clean oven, built-in/slide-in shipments would meet the efficiency levels prescribed at TSL 3.

DOE expects significant conversion costs at TSL 3, which represents max tech. DOE expects product conversion costs to significantly increase from $67.9 million at TSL 2 to $401.5 million at TSL 3. Large increases in product conversion are due to the vast majority of shipments needing extensive redesign as well as a significant increase in testing and recertification for redesigned products. DOE estimates that capital conversion costs will also significantly increase from $42.0 million at TSL 2 to $528.0 million at TSL 3. Capital conversion costs are driven by investments in production equipment to accommodate for forced convection and reduced conduction losses in the electric and gas oven product classes.

At TSL 3, under the preservation of gross margin markup scenario, the shipment weighted-average MPC increases by 12.7 percent relative to the base-case MPC. In this scenario, INPV impacts are significantly negative because the $929.5 million in conversion costs significantly outweighs the modest increase in shipment weighted-average MPC.

Under the preservation of operating profit markup scenario, the 12.7 percent MPC increase is again significantly outweighed by a lower average manufacturer markup of 1.19 (compared to 1.20 used in the base case) and $929.5 million in conversion costs, resulting in significantly negative impacts at TSL 3.

b. Impacts on Employment

DOE quantitatively assessed the impacts of new and amended energy conservation standards 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 2019 to 2048. DOE used statistical data from the U.S. Census Bureau's 2011 Annual Survey of Manufacturers (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 involved with the manufacturing of the products are a function of the labor intensity of the products, the sales volume, and an assumption that wages remain fixed in real terms over time.

In the GRIM, DOE used the labor content of the MPCs to estimate the annual labor expenditures in the industry. DOE used census data and interviews with manufacturers to estimate the portion of the total labor expenditures that is attributable to domestic labor.

The production worker estimates in this section cover only workers up to the line-supervisor level directly involved in fabricating and assembling a product within a manufacturing facility. Workers performing services that are closely associated with production operations, such as material handing with a forklift, are also included as production labor. DOE's estimates account for production workers who manufacture only the specific products covered in this rulemaking.

The employment impacts shown in Table V–34 represent the potential production employment that could result following new and amended energy conservation standards. The upper bound of the results estimates the maximum change in the number of production workers that could occur after compliance with new and amended energy conservation standards when assuming that manufacturers continue to produce the same scope of covered products in the same production facilities. It also assumes that domestic production does not shift to lower labor-cost countries. Because there is a real risk of manufacturers evaluating sourcing decisions in response to new and amended energy conservation standards, the lower bound of the employment results includes the estimated total number of U.S. production workers in the industry who could lose their jobs if some or all

existing production were moved outside of the United States. While the results present a range of employment impacts following 2019, the following sections also include qualitative discussions 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, documented in chapter 17 of the NOPR TSD.

Using 2011 ASM data and interviews with manufacturers, DOE estimates that approximately 60 percent of the residential conventional ovens sold in the United States are manufactured domestically. With this assumption, DOE estimates that in the absence of new and amended energy conservation standards, there would be approximately 6,564 domestic production workers involved in manufacturing residential conventional ovens in 2019. Table V–34 shows the range of the impacts of new and amended energy conservation standards on U.S. production workers in the residential conventional oven industry.

TABLE V–34—POTENTIAL CHANGES IN THE TOTAL NUMBER OF DOMESTIC RESIDENTIAL CONVENTIONAL OVENS PRODUCTION WORKERS IN 2019

	Base case	Trial standard level		
		1	2	3
Total Number of Domestic Production Workers in 2019 (without changes in production locations)	6,564	6,571	6,622	7,397
Potential Changes in Domestic Production Workers in 2019*		0–7	(1,641)–58	(3,282)–833

* DOE presents a range of potential employment impacts. Numbers in parentheses indicate negative numbers.

At the upper end of the range, all examined TSLs show a slight increase in the number of domestic employment for residential conventional ovens. DOE believes that manufacturers would increase production hiring due to the increase in the labor associated with adding the required components to make residential conventional ovens more efficient. However, as previously stated, this assumes that in addition to hiring more production employees, all existing domestic production would remain in the United States and not shift to lower labor-cost countries.

DOE does not expect any significant changes in domestic employment at TSL 1 because standards would only affect standby mode power consumption at this TSL. Most manufacturers stated that this TSL would not require significant design changes and therefore would not have a significant impact on domestic employment decisions.

At TSLs 2 and 3, all product classes would require higher efficiency standards and therefore most manufacturers would be required to make modifications to their existing production lines. However, manufacturers stated that due to the larger size of most residential conventional ovens very few units are shipped from far distances such as Asia or Europe. The vast majority of residential conventional ovens are currently made in North America. Some manufacturers stated that even significant changes to production line would not cause them to shift their production to lower labor-cost countries, as several manufacturers either only produce residential conventional ovens domestically or have recently made significant investments to continue to produce a portion of their residential conventional ovens domestically. DOE estimates that at most 25 percent of the domestic labor for residential conventional ovens could move to other countries in response to the standards proposed at TSL 2. However, DOE believes this to be a high upper bound estimate as most manufacturers would not significantly alter their production locations at the efficiency levels prescribed at TSL 2.

At TSL 3, manufacturers could alter production locations in response to standards since all product classes would be required to meet max tech. DOE estimated that at most 50 percent of the domestic labor for residential conventional ovens could move to other countries in response to the standards prescribed at TSL 3.

DOE seeks comment on the potential domestic employment impacts to residential conventional oven manufacturers at the proposed efficiency levels.

c. Impacts on Manufacturer Capacity

Residential conventional oven manufacturers stated that they did not anticipate any capacity constraints for the efficiency levels analyzed for either electric or gas residential conventional ovens.

DOE requests comment on any potential manufacturer capacity constraints caused by the proposed standards in this NOPR, TSL 2.

d. Impacts on Sub-Groups of Manufacturers

Using average cost assumptions to develop an industry cash-flow estimate may not be adequate for assessing differential impacts among manufacturer subgroups. Small manufacturers, niche product manufacturers, and manufacturers exhibiting cost structures substantially different from the industry average could be affected disproportionately. DOE analyzed the impacts to small businesses in section VI.B and did not identify any other adversely impacted subgroups for residential conventional ovens for this rulemaking based on the results of the industry characterization.

DOE requests comment on manufacturer subgroups that DOE should analyze and/or types of residential conventional oven manufacturers for the subgroup analysis.

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 a cumulative regulatory burden analysis as part of its rulemakings pertaining to appliance efficiency.

DOE acknowledges that most residential conventional oven manufacturers also make appliances that are or could be subject to future

energy conservation standards implemented by DOE. DOE is aware of several other energy conservations that could also affect residential conventional oven manufacturers. These energy conservation standards include residential refrigerators and freezers that have a compliance date in 2014,[67] residential clothes dryers that have a compliance date in 2015,[68] residential clothes washers that have a compliance date in 2015 and in 2018,[69] and microwave ovens that have a compliance date in 2016.[70]

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 RESIDENTIAL CONVENTIONAL OVEN MANUFACTURERS

Federal energy conservation standards	Compliance date	Estimated total industry conversion expense
Residential Refrigerators and Freezers—76 FR 57516 (September 15, 2011)	2014	$1,243M (2009$)
Residential Clothes Dryers—76 FR 52854 (April 21, 2011)	2015	95M (2009$)
Residential Clothes Washers—77 FR 59719 (May 31, 2012)	2015—First Round 2018—Second Round	418.5M (2010$)
Microwave Ovens—78 FR 36316 (June 17, 2013)	2016	43.1M (2011$)
Residential Cooking Tops	2020 *	N/A **

* The date listed is an approximation. The exact date is pending final DOE action.
** For energy conservation standards awaiting DOE final action. DOE does not have finalized estimated total industry conversion expenses.

DOE discusses these and other requirements and includes the full details of the cumulative regulatory burden analysis in chapter 12 of the NOPR TSD. DOE seeks comment on the compliance costs of any other regulations residential conventional oven manufacturers must make, especially if compliance with those regulations is required three years before or after the estimated compliance date of this proposed standard (2019).

3. National Impact Analysis

a. Significance of Energy Savings

To estimate the energy savings attributable to potential standards for conventional ovens, DOE compared the energy consumption of those products under the base case to their anticipated energy consumption under each TSL. Table V–36 and Table V–37 present DOE's projections of the national energy savings for each TSL considered for conventional ovens. The savings were calculated using the approach described in section IV.H.1 of this notice.

TABLE V–36—CONVENTIONAL OVENS: CUMULATIVE PRIMARY NATIONAL ENERGY SAVINGS FOR PRODUCTS SHIPPED IN 2019–2048 (QUADS)

Product class	Trial standard level		
	1	2	3
PC1: Electric Standard Ovens, Free-Standing	0.023	0.057	0.161
PC2: Electric Standard Ovens, Built-In/Slide-In	0.000	0.001	0.003
PC3: Electric Self-Clean Ovens, Free-Standing	0.071	0.071	0.372
PC4: Electric Self-Clean Ovens, Built-In/Slide-In	0.021	0.021	0.108
PC5: Gas Standard Ovens, Free-Standing	0.000	0.204	0.209
PC6: Gas Standard Ovens, Built-In/Slide-In	0.000	0.038	0.039
PC7: Gas Self-Clean Ovens, Free-Standing	0.038	0.268	0.282
PC8: Gas Self-Clean Ovens, Built-In/Slide-In	0.002	0.014	0.014
Total (All Products)	0.156	0.673	1.188

TABLE V–37—CONVENTIONAL OVENS: CUMULATIVE FFC NATIONAL ENERGY SAVINGS FOR PRODUCTS SHIPPED IN 2019–2048

Product class	Trial standard level		
	1	2	3
PC1: Electric Standard Ovens, Free-Standing	0.024	0.060	0.168
PC2: Electric Standard Ovens, Built-In/Slide-In	0.000	0.001	0.003
PC3: Electric Self-Clean Ovens, Free-Standing	0.074	0.074	0.389
PC4: Electric Self-Clean Ovens, Built-In/Slide-In	0.022	0.022	0.113
PC5: Gas Standard Ovens, Free-Standing	0.000	0.216	0.223
PC6: Gas Standard Ovens, Built-In/Slide-In	0.000	0.041	0.042
PC7: Gas Self-Clean Ovens, Free-Standing	0.040	0.281	0.297

[67] Energy conservation standards for residential refrigerators, refrigerators-freezers, and freezers became effective on September 14, 2014. 76 FR 57516 [Docket Number EE–2008–BT–STD–0012]

[68] Energy conservation standards for residential clothes dryers became effective on January 1, 2015. 76 FR 52854 [Docket Number EERE–2007–BT–STD–0010]

[69] The first round of prescribed energy conservation standards for residential clothes washers became effective on March 7, 2015. The second round of standards will go into effect on January 1, 2018. 77 FR 59719 [Docket Number EERE–2008–BT–STD–0019]

[70] Energy conservation standards for microwave oven operating in standby mode and off mode will go into effect on June 17, 2016. 78 FR 36316 [Docket Number EERE–2011–BT–STD–0048]

TABLE V–37—CONVENTIONAL OVENS: CUMULATIVE FFC NATIONAL ENERGY SAVINGS FOR PRODUCTS SHIPPED IN 2019–2048—Continued

Product class	Trial standard level		
	1	2	3
PC8: Gas Self-Clean Ovens, Built-In/Slide-In	0.002	0.014	0.015
Total (All Products)	0.163	0.709	1.251

OMB Circular A–4 [71] requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using nine, rather than 30, years of product shipments. The choice of a nine-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[72] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to conventional ovens. Thus, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology. The NES sensitivity analysis results based on a nine-year analytical period are presented in Table V–38. The impacts are counted over the lifetime of conventional ovens purchased in 2019–2027.

TABLE V–38—CONVENTIONAL OVENS: CUMULATIVE FFC NATIONAL ENERGY SAVINGS FOR PRODUCTS SHIPPED IN 2019–2027

Product class	Trial standard level		
	1	2	3
PC1: Electric Standard Ovens, Free-Standing	0.007	0.016	0.046
PC2: Electric Standard Ovens, Built-In/Slide-In	0.000	0.001	0.002
PC3: Electric Self-Clean Ovens, Free-Standing	0.018	0.018	0.102
PC4: Electric Self-Clean Ovens, Built-In/Slide-In	0.006	0.006	0.033
PC5: Gas Standard Ovens, Free-Standing	0.000	0.070	0.072
PC6: Gas Standard Ovens, Built-In/Slide-In	0.000	0.013	0.013
PC7: Gas Self-Clean Ovens, Free-Standing	0.012	0.081	0.085
PC8: Gas Self-Clean Ovens, Built-In/Slide-In	0.001	0.004	0.004
Total (All Products)	0.044	0.210	0.358

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV to the nation of the total costs and savings for consumers that would result from particular standard levels for conventional ovens. In accordance with the OMB's guidelines on regulatory analysis (OMB Circular A–4, section E, September 17, 2003),[73] DOE calculated NPV using both a 7-percent and a 3-percent real discount rate.

Table V–39. shows the consumer NPV results for each TSL DOE considered for conventional ovens. The impacts are counted over the lifetime of products purchased in 2019–2048.

TABLE V–39—CONVENTIONAL OVENS: CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR PRODUCTS SHIPPED IN 2019–2048

Equipment type	Discount rate %	Trial standard level		
		1	2	3 *
PC1: Electric Standard Ovens, Free-Standing	3%	0.17	0.31	(0.57)
	7%	0.07	0.11	(0.49)
PC2: Electric Standard Ovens, Built-In/Slide-In	3%	0.00	0.01	(0.02)
	7%	0.00	0.00	(0.01)
PC3: Electric Self-Clean Ovens, Free-Standing	3%	0.52	0.52	(1.02)
	7%	0.21	0.21	(0.96)

[71] U.S. Office of Management and Budget, ''Circular A–4: Regulatory Analysis'' (Sept. 17, 2003) (Available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4/*).

[72] Section 325(m) of EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6 year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some consumer products, the compliance period is 5 years rather than 3 years.

[73] Available at: *www.whitehouse.gov/omb/circulars_a004_a-4*. Available at: *www.whitehouse.gov/omb/circulars_a004_a-4*.

TABLE V–39—CONVENTIONAL OVENS: CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR PRODUCTS SHIPPED IN 2019–2048—Continued

Equipment type	Discount rate %	Trial standard level		
		1	2	3*
PC4: Electric Self-Clean Ovens, Built-In/Slide-In	3%	0.16	0.16	(0.32)
	7%	0.07	0.07	(0.30)
PC5: Gas Standard Ovens, Free-Standing	3%	0.00	3.59	3.06
	7%	0.00	1.55	1.24
PC6: Gas Standard Ovens, Built-In/Slide-In	3%	0.00	0.67	0.57
	7%	0.00	0.29	0.23
PC7: Gas Self-Clean Ovens, Free-Standing	3%	0.28	5.48	4.72
	7%	0.12	2.31	1.87
PC8: Gas Self-Clean Ovens, Built-In/Slide-In	3%	0.01	0.28	0.24
	7%	0.01	0.12	0.10
Total (All Products)	3%	1.15	11.02	6.67
	7%	0.48	4.66	1.67

*Parentheses indicate negative (−) values.

The NPV results based on the aforementioned 9-year analytical period are presented in Table V–40. The impacts are counted over the lifetime of products purchased in 2019–2027. As mentioned previously, such results are presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE V–40—CONVENTIONAL OVENS: CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR PRODUCTS SHIPPED IN 2019–2027

Equipment type	Discount rate	(Billion 2014$)		
		Trial standard level		
		1	2	3*
PC1: Electric Standard Ovens, Free-Standing	3%	0.06	0.10	(0.28)
	7%	0.03	0.05	(0.28)
PC2: Electric Standard Ovens, Built-In/Slide-In	3%	0.00	0.00	(0.01)
	7%	0.00	0.00	(0.01)
PC3: Electric Self-Clean Ovens, Free-Standing	3%	0.16	0.16	(0.53)
	7%	0.09	0.09	(0.55)
PC4: Electric Self-Clean Ovens, Built-In/Slide-In	3%	0.05	0.05	(0.17)
	7%	0.03	0.03	(0.18)
PC5: Gas Standard Ovens, Free-Standing	3%	0.00	1.47	1.22
	7%	0.00	0.83	0.65
PC6: Gas Standard Ovens, Built-In/Slide-In	3%	0.00	0.27	0.22
	7%	0.00	0.15	0.12
PC7: Gas Self-Clean Ovens, Free-Standing	3%	0.10	2.02	1.71
	7%	0.06	1.16	0.92
PC8: Gas Self-Clean Ovens, Built-In/Slide-In	3%	0.01	0.11	0.09
	7%	0.00	0.06	0.05
Total (All Products)	3%	0.38	4.18	2.26
	7%	0.22	2.38	0.72

*Parentheses indicate negative (−) values.

The above results reflect the use of a default trend to estimate the change in price for conventional ovens over the analysis period (see section IV.F.1 of this notice). DOE also conducted a sensitivity analysis that considered one scenario with a lower rate of price decline than the reference case and one scenario with a higher rate of price decline than the reference case. The results of these alternative cases are presented in appendix 10C of the NOPR TSD. In the high price decline case, the NPV is higher than in the default case. In the low price decline case, the NPV is lower than in the default case.

c. Impacts on Employment

DOE expects energy conservation standards for conventional ovens to reduce energy bills for consumers of those products, and the resulting net savings to be redirected to other forms of economic activity. These expected shifts in spending and economic activity could affect the demand for labor. As described in section IV.N of this notice, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered in this rulemaking. DOE understands that there are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term timeframes, where these uncertainties are reduced.

The results suggest that the proposed standards are likely to have negligible

impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 16 of the NOPR TSD presents detailed results.

4. Impact on Utility or Performance of Products

Based on testing conducted in support of this proposed rule, discussed in section IV.C.2 of this notice, DOE concluded that the standards proposed in this NOPR would not reduce the utility or performance of the conventional ovens under consideration in this rulemaking. Manufacturers of these products currently offer units that meet or exceed the proposed standards.

5. Impact of Any Lessening of Competition

DOE has also considered any lessening of competition that is likely to result from the proposed standards. The Attorney General determines the impact, if any, of any lessening of competition likely to result from a proposed standard, and transmits such determination to DOE, 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 will transmit a copy of this NOPR and the accompanying TSD to the Attorney General, requesting that the DOJ provide its determination on this issue. DOE will consider DOJ's comments on the proposed rule in determining whether to proceed with the proposed energy conservation standards. DOE will also publish and respond to DOJ's comments in the **Federal Register.**

6. Need of the Nation To Conserve Energy

Enhanced energy efficiency, where economically justified, improves the nation's energy security, strengthens the economy, and reduces the environmental impacts of energy production. Reduced electricity demand due to energy conservation standards is also likely to reduce the cost of maintaining the reliability of the electricity system, particularly during peak-load periods. As a measure of this reduced demand, chapter 15 in the NOPR TSD presents the estimated reduction in generating capacity for the TSLs that DOE considered in this rulemaking.

Energy savings from proposed standards for conventional ovens are expected to yield environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases. Table V–41. provides DOE's estimate of cumulative emissions reductions to result from the TSLs considered in this rulemaking. DOE reports annual emissions reductions for each TSL in chapter 13 of the NOPR TSD.

TABLE V–41—CONVENTIONAL OVENS: CUMULATIVE EMISSIONS REDUCTION FOR PRODUCTS SHIPPED IN 2019–2048

	Trial standard level		
	1	2	3
Power Sector Emissions			
CO_2 (*million metric tons*)	9.0	38.6	68.2
SO_2 (*thousand tons*)	7.4	29.1	51.8
NO_X (*thousand tons*)	6.9	32.2	56.7
Hg (*tons*)	0.02	0.09	0.16
CH_4 (*thousand tons*)	0.88	3.51	6.22
N_2O (thousand tons)	0.13	0.50	0.89
Upstream Emissions			
CO_2 (*million metric tons*)	0.52	2.52	4.42
SO_2 (*thousand tons*)	0.09	0.36	0.63
NO_X (*thousand tons*)	7.5	36.6	64.2
Hg (*tons*)	0.00	0.00	0.00
CH_4 (*thousand tons*)	43.6	218	381
N_2O (thousand tons)	0.00	0.02	0.03
Total FFC Emissions			
CO_2 (*million metric tons*)	9.5	41.1	72.6
SO_2 (*thousand tons*)	7.5	29.5	52.4
NO_X (*thousand tons*)	14.4	68.8	120.9
Hg (*tons*)	0.02	0.09	0.16
CH_4 (*thousand tons*)	44.4	221.2	387.5
CH_4 (thousand *tons* CO_2*eq*)*	1,244	6,195	10,849
N_2O (thousand tons)	0.13	0.52	0.92
N_2O (*thousand tons* CO_2*eq*)*	34.6	137.0	243.2

* CO_2eq is the quantity of CO_2 that would have the same GWP.

As part of the analysis for this proposed rule, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that DOE estimated for each of the considered TSLs. As discussed in section IV.L of this notice, for CO_2, DOE used the most recent values for the SCC developed by an interagency process. The four sets of SCC values for CO_2 emissions reductions in 2015 resulting from that process (expressed in 2014$) are represented by $12.2/metric ton (the average value from a distribution that uses a 5-percent discount rate), $41.2/metric ton (the average value from a distribution that uses a 3-percent discount rate), $63.4/metric ton (the

average value from a distribution that uses a 2.5-percent discount rate), and $121/metric ton (the 95th-percentile value from a distribution that uses a 3-percent discount rate). The values for later years are higher due to increasing damages (emissions-related costs) as the projected magnitude of climate change increases.

Table V–42. presents the global value of CO_2 emissions reductions at each TSL. For each of the four cases, DOE calculated a present value of the stream of annual values using the same discount rate as was used in the studies upon which the dollar-per-ton values are based. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values; these results are presented in chapter 14 of the NOPR TSD.

TABLE V–42—CONVENTIONAL OVENS: ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION FOR PRODUCTS SHIPPED IN 2019–2048

TSL	(Million 2014$)			
	SCC case *			
	5% discount rate, average	3% discount rate, average	2.5% discount rate, average	3% discount rate, 95th percentile
Power Sector Emissions				
1	62.0	288.2	458.0	892.8
2	266.7	1,238.9	1,968.8	3,836.7
3	473.1	2,194.1	3,485.5	6,794.3
Upstream Emissions				
1	3.5	16.6	26.5	51.5
2	17.1	80.0	127.4	248.0
3	30.0	140.6	223.8	435.8
Total FFC Emissions				
1	65.5	304.8	484.5	944.3
2	283.8	1,319.0	2,096.1	4,084.7
3	503.1	2,334.7	3,709.3	7,230.1

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 on reducing CO_2 emissions in this rulemaking is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this and other rulemakings, as well as other methodological assumptions and issues. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE has included in this proposed rule the most recent values and analyses resulting from the interagency process.

DOE also estimated the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from the considered TSLs for conventional ovens. The dollar-per-ton value that DOE used is discussed in section IV.L of this notice. Table V–43. presents the cumulative present values for each TSL calculated using 7-percent and 3-percent discount rates.

TABLE V–43—CONVENTIONAL OVENS: ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION FOR PRODUCTS SHIPPED IN 2019–2048

TSL	(Million 2014$)	
	3% discount rate	7% discount rate
Power Sector Emissions		
1	24.6	9.7
2	113.8	45.2
3	200.9	80.1
Upstream Emissions		
1	25.9	9.7
2	127.1	48.4
3	223.2	85.1
Total FFC Emissions		
1	50.4	19.4
2	240.9	93.5
3	424.1	165.2

7. Summary of National Economic Impacts

The NPV of the monetized benefits associated with emissions reductions can be viewed as a complement to the NPV of the consumer savings calculated for each TSL considered in this rulemaking.

Table V–44. 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 3-percent discount rate. The CO_2 values used in the columns of each table correspond to the four sets of SCC values discussed above.

TABLE V–44—CONVENTIONAL OVENS: NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

(Billion 2014$)

TSL	Consumer NPV at 3% discount rate added with:			
	SCC case $12.2/t and medium NO_X value	SCC case $41.2/t and medium NO_X value	SCC case $63.4/t and medium NO_X value	SCC case $121/t and medium NO_X value
1	1.3	1.5	1.7	2.1
2	11.5	12.6	13.4	15.3
3	7.6	9.4	10.8	14.3

TSL	Consumer NPV at 7% discount rate added with:			
	SCC case $12.2/t and medium NO_X value	SCC case $41.2/t and medium NO_X value	SCC case $63.4/t and medium NO_X value	SCC case $121/t and medium NO_X value
1	0.6	0.8	1.0	1.4
2	5.0	6.1	6.9	8.8
3	2.3	4.2	5.5	9.1

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. monetary savings that occur as a result of market transactions, while the value of CO_2 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of equipment shipped in 2019 to 2048. Because CO_2 emissions have a very long residence time in the atmosphere,[74] the SCC values in future years reflect future climate-related impacts resulting from the emission of CO_2 that continue well beyond 2100.

8. Other Factors

The Secretary of Energy, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) DOE did not consider any other factors for this NOPR.

C. Conclusion

When considering proposed standards, the new or amended energy conservation standard that DOE adopts 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)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens, considering to the greatest extent practicable the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

The Department considered the impacts of standards at each TSL, beginning with a maximum technologically feasible level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

To aid the reader as DOE discusses the benefits and/or burdens of each trial standard level, tables present a summary of the results of DOE's quantitative analysis for each TSL. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. Those include the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard. Section V.B.1 of this notice presents the estimated impacts of each TSL for these subgroups.

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. 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). There is evidence that consumers undervalue future energy savings as a result of (1) a lack of information; (2) a lack of sufficient salience of the long-term or aggregate benefits; (3) a lack of sufficient savings to warrant delaying or altering purchases; (4) excessive focus on the short term, in the form of inconsistent weighting of future energy cost savings relative to available returns on other investments; (5) computational or other difficulties associated with the evaluation of relevant tradeoffs; and (6) a divergence in incentives (between renters and owners, or builders and purchasers). Having 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.

In DOE's current regulatory analysis, potential changes in the benefits and costs of a regulation due to changes in consumer purchase decisions are included in two ways: First, if consumers forego a purchase of a product in the standards case, this

[74] The atmospheric lifetime of CO_2 is estimated of the order of 30–95 years. Jacobson, MZ (2005). ''Correction to ''Control of fossil-fuel particulate black carbon and organic matter, possibly the most effective method of slowing global warming.'' '' *J. Geophys. Res.* 110. pp. D14105.

decreases sales for product manufacturers, and the impact on manufacturers attributed to lost revenue is included in the MIA. Second, DOE accounts for energy savings attributable only to products actually used by consumers in the standards case; if a regulatory option decreases the number of products used by consumers, this decreases the potential energy savings from an energy conservation standard. DOE provides estimates of shipments and changes in the volume of product purchases in chapter 9 of the NOPR TSD. However, DOE's current analysis does not explicitly control for heterogeneity in consumer preferences, preferences across subcategories of products or specific features, or consumer price sensitivity variation according to household income.[75]

While DOE is not prepared at present to provide a fuller quantifiable framework for estimating the benefits and costs of changes in consumer purchase decisions due to an energy conservation standard, DOE is committed to developing a framework that can support empirical quantitative tools for improved assessment of the consumer welfare impacts of appliance standards. DOE has posted a paper that discusses the issue of consumer welfare impacts of appliance energy efficiency standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[76] DOE welcomes comments on how to more fully assess the potential impact of energy conservation standards on consumer choice and how to quantify this impact in its regulatory analysis in future rulemakings.

1. Benefits and Burdens of TSLs Considered for Conventional Ovens

Table V–45. and Table V–46. summarize the quantitative impacts estimated for each TSL for conventional ovens. The efficiency levels contained in each TSL are described in section V.A of this notice.

TABLE V–45—CONVENTIONAL OVENS: SUMMARY OF NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3
Cumulative FFC Energy Savings (quads)			
	0.163	0.709	1.251.
NPV of Consumer Costs and Benefits 2014$ billion			
3% discount rate	1.2	11.0	6.7.
7% discount rate	0.5	4.7	1.7.
Cumulative FFC Emissions Reduction			
CO_2 *million metric tons*	9.5	41.1	72.6.
SO_2 *thousand tons*	7.5	29.5	52.4.
NO_X *thousand tons*	14.4	68.8	120.9.
Hg *tons*	0.02	0.09	0.16.
CH_4 *thousand tons*	44.4	221.2	387.5.
CH_4 *thousand tons* CO_2 *eq* *	1,244	6,195	10,849.
N_2O *thousand tons*	0.13	0.52	0.92.
N_2O *thousand tons* CO_2 *eq* *	34.6	137.0	243.2.
Value of Emissions Reduction			
CO_2 *2014$ million* **	66 to 944	284 to 4,085	503 to 7,230.
NO_X—3% discount rate *2014$ million*	50.4	240.9	424.1.
NO_X—7% discount rate *2014$ million*	19.4	93.5	165.2.

Parentheses indicate negative (−) values.
* CO_2eq is the quantity of CO_2 that would have the same GWP.
** Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

TABLE V–46—CONVENTIONAL OVENS: SUMMARY OF MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3*
Manufacturer Impacts			
Industry NPV (2014$ million) (*Base Case INPV = $783.5*)	762.1–762.8	697.1–702.6	56.0–140.6
Industry NPV (*% change*)	(2.7)–(2.6)	(11.0)–(10.3)	(92.9)–(82.0)
Consumer Average LCC Savings (2014$)			
PC1: Electric Standard Ovens, Free-Standing	$13.96	$15.18	($37.60)
PC2: Electric Standard Ovens, Built-in/Slide-in	14.11	15.25	(37.64)
PC3: Electric Self-Clean Ovens, Free-Standing	14.10	14.10	(27.79)
PC4: Electric Self-Clean Ovens, Built-in/Slide-in	14.20	14.20	(27.80)
PC5: Gas Standard Ovens, Free-Standing	0.00	289.73	178.91
PC6: Gas Standard Ovens, Built-In/Slide-In	0.00	289.77	178.92
PC7: Gas Self-Clean Ovens, Free-Standing	18.02	282.80	165.73

[75] P.C. Reiss and M.W. White. Household Electricity Demand, Revisited. *Review of Economic Studies* (2005) 72, 853–883.

[76] Alan Sanstad, Notes on the Economics of Household Energy Consumption and Technology Choice. Lawrence Berkeley National Laboratory. 2010. Available online at: *www1.eere.energy.gov/buildings/appliance_standards/pdfs/consumer_ee_theory.pdf.*

TABLE V–46—CONVENTIONAL OVENS: SUMMARY OF MANUFACTURER AND CONSUMER IMPACTS—Continued

Category	TSL 1	TSL 2	TSL 3*
PC8: Gas Self-Clean Ovens, Built-In/Slide-In	18.03	282.85	165.75
Consumer Simple PBP (years)			
PC1: Electric Standard Ovens, Free-Standing	0.9	4.0	17.5
PC2: Electric Standard Ovens, Built-in/Slide-in	0.9	4.0	17.5
PC3: Electric Self-Clean Ovens, Free-Standing	0.9	0.9	18.1
PC4: Electric Self-Clean Ovens, Built-in/Slide-in	0.9	0.9	18.1
PC5: Gas Standard Ovens, Free-Standing	.....	1.7	5.3
PC6: Gas Standard Ovens, Built-In/Slide-In	.....	1.7	5.3
PC7: Gas Self-Clean Ovens, Free-Standing	0.8	1.2	5.4
PC8: Gas Self-Clean Ovens, Built-In/Slide-In	0.8	1.2	5.4
% of Consumers That Experience Net Cost			
PC1: Electric Standard Ovens, Free-Standing	0	12	82
PC2: Electric Standard Ovens, Built-in/Slide-in	0	12	82
PC3: Electric Self-Clean Ovens, Free-Standing	0	0	76
PC4: Electric Self-Clean Ovens, Built-in/Slide-in	0	0	76
PC5: Gas Standard Ovens, Free-Standing	0	0	24
PC6: Gas Standard Ovens, Built-In/Slide-In	0	0	24
PC7: Gas Self-Clean Ovens, Free-Standing	0	0	27
PC8: Gas Self-Clean Ovens, Built-In/Slide-In	0	0	27

* Parentheses indicate negative (−) values.

DOE first considered TSL 3, which represents the max-tech efficiency levels. TSL 3 would save 1.25 quads of energy, an amount DOE considers significant. TSL 3 has an estimated NPV of consumer benefit of 1.7 billion using a discount rate of 7 percent, and 6.7 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 3 are 72.6 Mt of CO_2, 120.9 thousand tons of NO_X, 52.4 thousand tons of SO_2, 0.2 ton of Hg, 387.5 thousand tons of CH_4, and 0.92 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reduction at TSL 3 ranges from $503 million to $7,230 million.

At TSL 3, the average LCC impact is a savings ranging from −$37.64 for PC2 (Electric Standard Ovens, Built-In/Slide-In) to $178.92 for product class 6 (Gas Standard Ovens, Built-in/Slide-in). The simple payback period ranges from 5 years for PC5, PC6, PC7, and PC8 (Gas Standard Ovens, Free-Standing and Built-In/Slide-In, and Gas Self-Clean Ovens, Free-Standing and Built-In/Slide-In) to 18 years for PC1, PC2, PC3, and PC4 (Electric Standard Ovens, Built-In/Slide-In and Free-Standing and Electric Self-Clean Ovens, Built-In/Slide-In and Free-Standing). The fraction of consumers experiencing an LCC net cost ranges from 24 percent for PC5 and PC6 (Gas Standard Ovens, Free-Standing and Built-In/Slide-In) to 82 percent for PC1 and PC2 (Electric Standard Oven, Free-Standing and Built-In/Slide-In).

At TSL 3, the projected change in INPV ranges from a decrease of $727.5 million to a decrease of $642.9 million, equivalent to a loss of 92.9 percent and a loss of 82.0 percent, respectively.

Products that meet the efficiency standards specified by this TSL are forecast to represent 11 percent of shipments in the year leading up to new and amended standards. As such, manufacturers would have to redesign the vast majority of their products by the 2019 compliance date to meet demand. Redesigning all these units to meet the current max-tech efficiency levels would require considerable capital and equipment conversion expenditures. At TSL 3, the capital conversion costs total $528.0 million, 4.3 times the industry annual capital expenditure in the year leading up to new and amended standards. DOE estimates that complete platform redesigns would cost the industry $401.5 million in product conversion costs. These conversion costs largely relate to the research programs required to develop new products that meet the efficiency standards set forth by TSL 3. These costs are equivalent to 4.5 times the industry annual budget for research and development. Total capital and product conversion costs associated with the changes in products and manufacturing facilities required at TSL 3 would require significant use of manufacturers' financial reserves, impacting other areas of business that compete for these resources, and significantly reducing INPV. In addition, manufacturers could face a substantial impact on profitability at TSL 3. Because manufacturers are more likely to reduce their margins to maintain a price-competitive product at higher TSLs, DOE expects that TSL 3 would yield impacts closer to the high end of the range of INPV impacts. If the high end of the range of impacts is reached, as DOE expects, TSL 3 could result in a net loss of 92.9 percent in INPV to residential conventional oven manufacturers. As a result, at TSL 3, DOE expects that some companies could be forced to exit the residential conventional oven market or shift production abroad, both of which would negatively impact domestic manufacturing capacity and employment.

In view of the foregoing, DOE concludes that, at TSL 3 for conventional ovens, the benefits of energy savings, positive NPV of total customer benefits, customer LCC savings for four of the eight product classes, emission reductions and the estimated monetary value of the emissions reductions would be outweighed by the negative customer impacts for product classes 1, 2, 3, and 4 (Electric Standard Ovens, Free-Standing and Built-In/Slide-In and Electric Self-Clean Ovens, Free-Standing and Built-In/Slide-In), the significant reduction in industry value at TSL 3, as well as the potential for loss of domestic manufacturing. Consequently, DOE has concluded that TSL 3 is not economically justified.

DOE then considered TSL 2. TSL 2 would save 0.71 quads of energy, an

amount DOE considers significant. Under TSL 2, the estimated NPV of consumer benefit is $4.7 billion using a discount rate of 7 percent, and $11.0 billion using a discount rate of 3 percent.

The cumulative emissions reductions at TSL 2 are 41.1 Mt of CO_2, 68.8 thousand tons of NO_X, 29.5 thousand tons of SO_2, 0.09 tons of Hg, 221.2 thousand tons of CH_4, and 0.52 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reduction at TSL 2 ranges from $284 million to $4,085 million.

At TSL 2, the average LCC impact is a savings ranging from $14.10 for PC3 (Electric Self-Clean Ovens, Free-Standing) to $289.77 for PC6 (Gas Standard Ovens, Built-In/Slide-in). The simple payback period ranges from 1 year for PC3, PC4, PC7, and PC8 (Electric Self-Clean Ovens, Free-Standing and Built-In/Slide-In and Gas Self-Clean Ovens, Free-Standing and Built-In/Slide-In) to 4 years for PC1 and PC2 (Electric Standard Ovens Free-Standing and Built-In/Slide-In). The fraction of consumers experiencing an LCC net cost ranges from zero percent for PC3 through PC8 (Electric Self-Clean Ovens, Free-Standing and Built-In/Slide-In, Gas Standard Ovens, Free-Standing and Built-In/Slide-In, and Gas Self-Clean Ovens, Free-Standing and Built-In/Slide-In) to 12 percent for PC1 and PC2 (Electric Standard Ovens, Free-Standing and Built-In/Slide-In).

At TSL 2, the projected change in INPV ranges from a decrease of $86.4 million to a decrease of $80.9 million, equivalent to a loss of 11.0 percent and a loss of 10.3 percent, respectively. Products that meet the efficiency standards specified by this TSL are forecast to represent 46 percent of shipments in the year leading up to new and amended standards. DOE estimates that compliance with TSL 2 would require manufacturers to make an estimated $42.0 million in capital conversion costs. This represents a 0.3 times increase in the annual capital expenditure budget in the year leading up to new and amended standards. TSL 2 will also require manufacturers to make an estimated $67.9 million in product conversion costs primarily relating to the research and development programs needed to improve upon existing platforms to meet the specified efficiency levels. This represents 0.8 times the industry budget for research and development in the year leading up to new and amended standards. The substantial reduction in conversion costs corresponding to compliance with TSL 2 greatly mitigates the operational risk and impact on INPV.

The Secretary tentatively concludes that at TSL 2 for residential conventional ovens, the benefits of energy savings, positive NPV of consumer benefits, emission reductions, and the estimated monetary value of the CO_2 emissions reductions, and positive average LCC savings would outweigh the negative impacts on some consumers and on manufacturers, including the conversion costs that would result in a reduction in INPV for manufacturers.

After considering the analysis and the benefits and burdens of TSL 2, DOE has tentatively concluded that this TSL will offer the maximum improvement in efficiency that is technologically feasible and economically justified, and will result in significant conservation of energy. Therefore, DOE proposes TSL 2 for conventional ovens. The proposed energy conservation standards for conventional ovens are shown in Table V–47.

TABLE V–47—PROPOSED AMENDED ENERGY CONSERVATION STANDARDS FOR CONVENTIONAL OVENS

Compliance Date: January 1, 2019		
Product class	Integrated annual energy consumption (IAEC)	
	Electricity consumption (kWh/year)	Gas consumption (kBtu/year)
Electric Standard Ovens, Free-Standing	122.5 + (31.8 × Rated Cavity Volume)	
Electric Standard Ovens, Built-in/Slide-in	128.6 + (31.8 × Rated Cavity Volume)	
Electric Self-Clean Ovens, Free-Standing	163.2 + (42.3 × Rated Cavity Volume)	
Electric Self-Clean Ovens, Built-in/Slide-in	169.1 + (42.3 × Rated Cavity Volume)	
Gas Standard Ovens, Free-Standing		492.9 + (214.4 × Rated Cavity Volume).
Gas Standard Ovens, Built-in/Slide-in		499.5 + (214.4 × Rated Cavity Volume).
Gas Self-Clean Ovens, Free-Standing		746.7 + (214.4 × Rated Cavity Volume).
Gas Self-Clean Ovens, Built-In/Slide-in		755.5 + (214.4 × Rated Cavity Volume).

Note: The Rated Cavity Volume is the volume of the oven cavity in cubic feet as measured using the final DOE test procedure at 10 CFR part 430, subpart B, appendix I.

2. Annualized Benefits and Costs of the Proposed Standards

The benefits and costs of the proposed standards can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from operating products that meet the proposed standards (consisting of operating cost savings from using less energy, minus increases in product purchase costs, which is another way of representing consumer NPV), and (2) the monetary value of the benefits of CO_2 and NO_X emission reductions.[77]

[77] To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2014, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (2020, 2030, *etc.*), and then discounted the present value from each year to 2014. The calculation uses discount rates of 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions, for which DOE used case-specific discount rates. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year that yields the same present value.

Table V–48 shows the annualized values for conventional ovens under TSL 2, expressed in 2014$. The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reductions, for which DOE used a 3-percent discount rate along with the SCC series corresponding to a value of $41.2/ton in 2015 (in 2014$), the cost of the standards for conventional ovens in today's rule is $33.5 million per year in increased equipment costs, while the annualized benefits are $494 million per year in reduced equipment operating costs, $74 million in CO_2 reductions,

and $9 million in reduced NO_X emissions. In this case, the net benefit amounts to $543 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series corresponding to a value of $41.2/ton in 2015 (in 2014$), the cost of the standards for conventional ovens in today's rule is $33.1 million per year in increased equipment costs, while the benefits are $648 million per year in reduced operating costs, $74 million in CO_2 reductions, and $13 million in reduced NO_X emissions. In this case, the net benefit amounts to $701 million per year.

TABLE V–48—ANNUALIZED BENEFITS AND COSTS OF PROPOSED AMENDED STANDARDS (TSL 2) FOR CONVENTIONAL OVENS SOLD IN 2019–2048

(Million 2014$/year)

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Benefits				
Consumer Operating Cost Savings	7%	494	457	542.
	3%	648	593	719.
CO_2 Reduction at $12.2/t **	5%	21	20	24.
CO_2 Reduction at $41.2/t **	3%	74	68	81.
CO_2 Reduction at $63.4/t **	2.5%	108	100	119.
CO_2 Reduction at $121/t **	3%	228	211	252.
NO_X Reduction †	7%	9.24	8.66	10.11.
	3%	13.43	12.46	14.80.
Total ††	7% plus CO_2 range	524 to 731	485 to 677	576 to 804.
	7%	577	534	634.
	3% plus CO_2 range	682 to 889	625 to 817	758 to 986.
	3%	734	674	815.
Costs				
Consumer Incremental Product Costs	7%	34	34	33.
	3%	33	34	33.
Total ††	7% plus CO_2 range	491 to 697	451 to 642	543 to 771.
	7%	543	499	601.
	3% plus CO_2 range	649 to 856	592 to 783	725 to 953.
	3%	701	640	783.

* The results include benefits to consumers which accrue after 2048 from products purchased from 2019 through 2048. Costs incurred by manufacturers, some of which may be incurred prior to 2019 in preparation for the rule, are not directly included, but are indirectly included as part of incremental equipment costs. The Primary, Low Benefits, and High Benefits Estimates utilize forecasts of energy prices and housing starts from the *AEO 2015* Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental product costs reflect a medium decline rate for projected product price trends in the Primary Estimate, a low decline rate in the Low Benefits Estimate, and a high decline rate in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.1 of this notice.

** The CO_2 values represent global values (in 2014$) of the social cost of CO_2 emissions in 2015 under several scenarios. The values of $12.2, $41.2, and $63.4 per ton are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $121 per ton represents the 95th percentile of the SCC distribution calculated using a 3% discount rate.

† The $/ton values used for NO_X are described in section IV.L.2.

†† Total Benefits for both the 3% and 7% cases are derived using the SCC value calculated at a 3% discount rate, which is $41.2/ton in 2015 (2014$). In the rows labeled as "7% plus CO_2 range" and "3% plus CO_2 range," the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that the proposed standards address are as follows:

(1) Insufficient information and the high costs of gathering and analyzing relevant information leads some consumers to miss opportunities to make cost-effective investments in energy efficiency.

(2) In some cases the benefits of more efficient products are not realized due to misaligned incentives between purchasers and users. An example of such a case is when the products 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 appliances 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 this regulatory action is an "economically 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. 76 FR 3281 (Jan. 21, 2011). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that the NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://energy.gov/gc/office-general-counsel*). DOE has prepared the following IRFA for the products that are the subject of this rulemaking.

1. Description and Estimated Number of Small Entities Regulated

a. Methodology for Estimating the Number of Small Entities

For manufacturers of residential conventional ovens, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (September 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. Residential conventional oven manufacturing is classified under NAICS 335221, ''Household Cooking Appliance Manufacturing.'' The SBA sets a threshold of 750 employees or fewer for an entity to be considered a small business for this category.

DOE reviewed the potential standard levels considered in this NOPR under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. To better assess the potential impacts of this rulemaking on small entities, DOE conducted a more focused inquiry of the companies that could be small business manufacturers of products covered by this rulemaking. During its market survey, DOE used available public information to identify potential small manufacturers. DOE's research involved industry trade association membership directories (*e.g.,* AHAM), information from previous rulemakings, individual company Web sites, and market research tools (*e.g.,* Hoover's reports) to create a list of companies that manufacture or sell residential conventional ovens covered by this rulemaking.

TABLE VI–1—SOURCES USED TO IDENTIFY RESIDENTIAL CONVENTIONAL OVEN MANUFACTURERS

Source	Number of large manufacturers identified	Number of small manufacturers identified
AHAM Trade Association Directory	10	1
Previous Rulemaking	2	3
Market Research	0	3
Total	12	7

DOE also asked stakeholders and industry representatives if they were aware of any additional small manufacturers during manufacturer interviews and at DOE public meetings. DOE reviewed publicly available data and contacted various companies on its complete list of manufacturers, as necessary, to determine whether they met the SBA's definition of a small business manufacturer. DOE screened out companies that do not offer products impacted by this rulemaking, do not meet the definition of a ''small business,'' or are foreign owned and operated.

DOE identified 19 companies that either manufacture or sell residential conventional ovens that would be affected by this proposal. Of these 19 companies, DOE identified seven that met the SBA's definition of a small business.

b. Manufacturer Participation

DOE contacted identified businesses to invite them to take part in a

manufacturer impact analysis interview. Of the businesses contacted, DOE was able to reach and discuss potential standards with one small business. DOE also obtained information about small businesses and potential impacts on small businesses while interviewing large manufacturers.

c. Residential Conventional Oven Industry Structure and Nature of Competition

Three major manufacturers supply approximately 85 percent of the market for residential conventional ovens. DOE estimates that the remaining 15 percent of the market is served by a combination of small businesses and large businesses. None of the three major manufacturers of residential conventional ovens affected by this rulemaking is a small business.

d. Comparison Between Large and Small Manufacturers

In general, small manufacturers differ from large manufacturers in several ways that affect the extent to which a manufacturer may be impacted by proposed standards. Characteristics of small manufacturers typically include: Lower production volumes, fewer engineering resources, and less access to capital. Lower production volumes in particular may place small manufacturers at a competitive disadvantage relative to large manufacturers as they convert products and facilities to comply with new and amended standards. When producing at lower volumes, a small manufacturer's conversion costs must be spread over fewer units than a larger competitor's. Therefore, unless a small manufacturer can differentiate its products in order to earn a price premium, the small manufacturer may experience a disproportionate cost penalty as it spreads one-time conversion costs over fewer unit sales. Additionally, when producing at lower volumes, small manufacturers may lack the purchasing power of their larger competitors and may therefore face higher costs when sourcing components for more efficient products. Disadvantages tied to lower production volumes may be further exacerbated by the fact that small manufacturers often have more limited engineering resources than their larger competitors, thereby complicating the redesign effort required to comply with new and amended standards. Finally, small manufacturers often have less access to capital, which may be needed to cover the conversion costs associated with new and amended standards. Combined, these factors may entail a disproportionate burden on small manufacturers.

2. Description and Estimate of Compliance Requirements

At TSL 1 DOE estimates capital conversion costs of $0.3 million and product conversion costs of $0.1 million for an average small manufacturer. For an average large manufacturer, DOE estimates capital conversion costs of $0.6 million and product conversion costs of $0.3 million.

At TSL 2, the level proposed here, DOE estimates capital conversion costs of $1.3 million and product conversion costs of $4.1 million for an average small manufacturer. For an average large manufacturer, DOE estimates capital conversion costs of $2.7 million and product conversion costs of $3.3 million. Table VI–2 presents the estimated conversion costs as a percentage of annual revenue for an average small manufacturer relative to an average large manufacturer.

TABLE VI–2—CONVERSION COSTS FACING AN AVERAGE SMALL MANUFACTURER VERSUS AN AVERAGE LARGE MANUFACTURER OF RESIDENTIAL CONVENTIONAL OVENS

	Capital conversion costs as a percentage of annual revenue	Product conversion costs as a percentage of annual revenue	Total conversion costs as a percentage of annual revenue
Average Small Manufacturer	2	6	8
Average Large Manufacturer	1	1	1

At TSL 3, DOE estimates capital conversion costs of $16.5 million and product conversion costs of $19.2 million for an average small manufacturer. For an average large manufacturer, DOE estimates capital conversion costs of $34.4 million and product conversion costs of $22.2 million.

As the results for TSL 2 indicate, new and amended energy conservation standards could potentially impact small businesses disproportionately. Although estimated conversion costs at TSL 2 are higher for an average large manufacturer than an average small manufacturer, the relative impacts of conversion costs on large manufacturers will likely be offset by higher annual revenues. This is consistent with the dynamic previously described, whereby large manufacturers tend to have larger production and sales volumes over which to spread costs and may also enjoy a competitive advantage due to their size and ability to access capital that may not be available to small manufacturers. Since the proposed standards could cause competitive concerns for small manufacturers, DOE cannot certify that the proposed standards would not have a significant impact on a substantial number of small businesses.

DOE requests comments on the number of small businesses identified and on the impacts of new and amended energy conservation standards on small businesses.

3. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the rule being proposed.

4. Significant Alternatives to the Rule

The discussion in the previous section analyzes impacts on small businesses that would result from DOE's new and amended standards. In reviewing alternatives to the proposed rule, DOE examined energy conservation standards set at higher and lower efficiency levels, TSL 3 and TSL1, respectively. As discussed in section VI.B.2, compared to TSL 3, DOE estimates that the capital conversion costs and product conversion costs for an average small manufacturer at TSL 2 would be 92 and 79 percent lower, respectively. The substantial reduction in small manufacturer capital and product conversion costs corresponding to TSL 2 compared to TSL 3 greatly mitigates the operational risk and the impact of the standard on INPV.

While TSL 1 would reduce the impacts on small business manufacturers, it would come at the expense of a significant reduction in energy savings and NPV benefits to consumers, achieving 75 percent lower energy savings and 84 percent less NPV benefits to consumers compared to the

energy savings and NPV benefits at TSL 2.

DOE believes that establishing standards at TSL 2 balances the benefits of the energy savings and the NPV benefits to consumers created at TSL 2 with the potential burdens placed on residential conventional oven manufacturers, including small business manufacturers. Accordingly, DOE is declining to adopt one of the other TSLs considered above, or the other policy alternatives detailed as part of the regulatory impacts analysis included in Chapter 17 of this NOPR TSD.

Additional compliance flexibilities may be available through other means. For example, individual manufacturers may petition for a waiver of the applicable test procedure. (See 10 CFR 431.401.) 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. (42 U.S.C. 6295 (t)). DOE estimates that two of the seven small manufacturers could potentially petition for a waiver based on their annual gross revenue not exceeding $8 million. 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.

DOE continues to seek input from businesses that would be affected by this rulemaking and will consider comments received in the development of any final rule (See section VII.E. that solicits specific data as well as input on the results of the analyses contained in this section VI.B.4).

C. Review Under the Paperwork Reduction Act

Manufacturers of covered products 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 applicable DOE test procedure, including any amendments adopted for that test procedure. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including conventional cooking products. 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 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the proposed rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The proposed rule fits within the category of actions because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this proposed rule. DOE's CX determination for this proposed rule is available at *http://cxnepa.energy.gov/.*

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism.'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a

proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel.*

Although the proposed rule does not contain a Federal intergovernmental mandate, it may require expenditures of $100 million or more on the private sector. Specifically, the proposed rule will likely result in a final rule that could require expenditures of $100 million or more. Such expenditures may include: (1) Investment in research and development and in capital expenditures by conventional cooking product 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 conventional cooking products, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the proposed rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the NOPR and the ''Regulatory Impact Analysis'' section of the TSD for this proposed rule respond to those requirements.

Under section 205 of UMRA, the Department is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. 2 U.S.C. 1535(a). DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the proposed rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. This proposed rule would establish energy conservation standards for conventional cooking products that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the TSD for the proposed rule.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (Mar. 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed the NOPR under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that this regulatory action, which sets forth energy conservation standards for conventional cooking products, is not a significant energy action because the proposed standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the proposed rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions. 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.*

VII. Public Participation

A. Attendance at the Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this notice. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *Brenda.Edwards@ee.doe.gov*. Please note that foreign nationals participating in the public meeting are subject to advance security screening procedures which require advance notice prior to attendance at the public meeting. If a foreign national wishes to participate in the public meeting, please inform DOE of this fact as soon as possible by contacting Ms. Regina Washington at (202) 586–1214 or by email: *Regina.Washington@ee.doe.gov* so that the necessary procedures can be completed.

Please also note that those wishing to bring laptops into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing laptops, or allow an extra 45 minutes.

Due to the REAL ID Act implemented by the Department of Homeland Security (DHS), there have been recent changes regarding ID requirements for individuals wishing to enter Federal buildings from specific states and U.S. territories. Driver's licenses from the following states or territory will not be accepted for building entry and one of the alternate forms of ID listed below will be required. DHS has determined that regular driver's licenses (and ID cards) from the following jurisdictions are not acceptable for entry into DOE facilities: Alaska, American Samoa, Arizona, Louisiana, Maine, Massachusetts, Minnesota, New York, Oklahoma, and Washington. Acceptable alternate forms of Photo-ID include: U.S. Passport or Passport Card; an Enhanced Driver's License or Enhanced ID-Card issued by the states of Minnesota, New York or Washington (Enhanced licenses issued by these states are clearly marked Enhanced or Enhanced Driver's License); a military ID or other Federal government issued Photo-ID card.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=85.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via regulations.gov. The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE seeks comment on its proposal to develop two distinct component standards under separate timetables, and whether issues of product design and development, consumer utility and more broadly, cumulative regulatory burden concerns would arise as a result of its proposal (see section III.A of this notice).

2. DOE requests comment on its decision to defer the consideration of adopting energy conservation standards for conventional cooking tops until a representative, repeatable and reproducible test method for cooking tops is finalized. DOE invites data and information that will allow it to further conduct the analysis of cooking tops, particularly when using a water-heating method to evaluate energy consumption. (see section III.B of this notice).

3. DOE requests comment on the proposed product classes for residential conventional cooking products. DOE requests comment on establishing separate product classes for freestanding and built-in/slide-in ovens. DOE also welcomes comment and data on the determination that conventional gas cooking products with higher input rates do not warrant establishing a separate product class. (see section IV.A.2 of this notice).

4. DOE seeks data that characterize the energy consumption of residential steam ovens currently available on the market and requests comment regarding whether a test procedure that accurately measures the energy of a steam cooking mode exists. DOE also seeks comment on the use of optimized burner and cavity design (and other options listed in Table IV–5) to meet the proposed efficiency levels discussed in section I.A.1.b (see section IV.A.3 of this notice).

5. DOE requests comment and data regarding additional design options or variants of the considered design options that can increase the range of considered efficiency improvements for conventional cooking products, including design options that may not yet be found in the market (see section IV.B.2 of this notice).

6. DOE requests comment on the proposed baseline and incremental efficiency levels. DOE specifically requests inputs and test data on the efficiency improvements associated with the design options identified at each incremental efficiency level that were determined based on either the analysis from the 2009 TSD or updated based on testing and reverse engineering analyses for this NOPR. DOE also seeks comment and data on the proposed slopes and intercepts used to characterize the relationship between IAEC and oven cavity volume for each

conventional oven product class (see section IV.C.3 of this notice).

7. DOE requests input and data on the proposed incremental manufacturing production costs for each efficiency level analyzed that were determined based on either the analysis from the 2009 TSD adjusted to reflect changes in the PPI or costs determined based on testing and reverse engineering analyses conducted for this NOPR (see section IV.C.4 of this notice).

8. DOE seeks comment on the tentative determination that the proposed efficiency levels and design options would not impact the consumer utility of conventional ovens (see section IV.C.5 of this notice).

9. DOE requests comments on repair costs and frequency of repair incurred by gas standard and self-clean ovens with Glo-bar ignition and electronic spark ignition technologies. In this NOPR, DOE used data from 2008 provided by the industry (see section IV.E.5 of this notice for details).

10. DOE requests data that would allow for use of different price trend projections for electric and gas cooking products. (see section IV.H.3.b of this notice)

11. To estimate the impact on shipments of the price increase for the considered efficiency levels, DOE determined that the overall market will be inelastic to price changes and will not impact shipments. DOE welcomes stakeholder input on the effect of amended standards on impacts across products within the same fuel class and equipment. (see section IV.G of this notice).

12. DOE requests comment on the reasonableness of the approach DOE has used to consider the rebound effect with higher-efficiency cooking products. (see section IV.F.3 of this notice)

13. DOE requests comment on DOE's approach for estimating monetary benefits associated with emissions reductions. (see section IV.L of this notice).

14. DOE seeks comment on the proposed manufacturer markup of 1.20 for all residential conventional ovens (see section IV.J.2).

15. DOE seeks comment on the potential domestic employment impacts to residential conventional oven manufacturers at the proposed efficiency levels (see section V.B.2).

16. DOE requests comment on any potential manufacturer capacity constraints caused by the proposed standards in the NOPR, TSL 2 (see section V.B.2).

17. DOE requests comment on manufacturer subgroups that DOE should analyze and/or types of residential conventional oven manufacturers for the subgroup analysis (see section V.B.2).

18. DOE seeks comment on the compliance costs of any other regulations residential conventional oven manufacturers must make, especially if compliance with those regulations is required three years before or after the estimated compliance date of this proposed standard (2019) (see section V.B.2).

19. DOE requests comments on the number of small businesses identified and on the impacts of new and amended energy conservation standards on small businesses (see section VI.B).

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects in 10 CFR Part 430

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

Issued in Washington, DC, on May 29, 2015.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE proposes to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

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

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

■ 2. In § 430.2 revise the definitions of ''conventional cooking top'' and ''conventional oven'' to read as follows:

§ 430.2 Definitions.

* * * * *

Conventional cooking top means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a horizontal surface containing one or more surface units which include either a gas flame or electric resistance heating. This includes the conventional cooking top portion of a conventional range.

Conventional oven means a class of kitchen ranges and ovens which is a household cooking appliance consisting of one or more compartments intended for the cooking or heating of food by means of either a gas flame or electric resistance heating. It does not include portable or countertop ovens which use electric resistance heating for the cooking or heating of food and are designed for an electrical supply of approximately 120 volts. This includes the conventional oven(s) portion of a conventional range.

* * * * *

■ 3. In § 430.32 revise paragraph (j) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(j) *Cooking Products.*

(1) Gas cooking products with an electrical supply cord manufactured on or after January 1, 1990, shall not be equipped with a constant burning pilot light.

(2) Gas cooking products without an electrical supply cord manufactured on or after April 9, 2012, shall not be equipped with a constant burning pilot light.

(3) Conventional ovens manufactured on or after [INSERT DATE 3 YEARS AFTER FINAL RULE **Federal Register** PUBLICATION] shall have an integrated annual energy consumption no greater than:

Product class	Integrated annual energy consumption
Electric Standard Oven, Free-standing	122.5 + (31.8 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Electric Standard Oven, Built-In/Slide-In	128.6 + (31.8 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Electric Self-Clean Oven, Free-Standing	163.2 + (42.3 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Electric Self-Clean Oven, Built-In/Slide-In	169.1 + (42.3 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Gas Standard Oven, Free-Standing	492.9 + (214.4 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Gas Standard Oven, Built-In/Slide-In	499.5 + (214.4 × Rated Cavity Volume in cubic feet) *kWh/yr.*
Gas Self-Clean Oven, Free-Standing	746.7 + (214.4 × Rated Cavity Volume in cubic feet) *kWh/yr.*

Product class	Integrated annual energy consumption
Gas Self-Clean Oven, Built-In/Slide-In	755.5 + (214.4 × Rated Cavity Volume in cubic feet) *kWh/yr*.

Note: The Rated Cavity Volume is the volume of the oven cavity in cubic feet as measured using the final DOE test procedure at 10 CFR part 430, subpart B, appendix I.

(4) Microwave-only ovens and countertop convection microwave ovens manufactured on or after June 17, 2016 shall have an average standby power not more than 1.0 watt. Built-in and over-the-range convection microwave ovens manufactured on or after June 17, 2016 shall have an average standby power not more than 2.2 watts.

* * * * *

[FR Doc. 2015–13764 Filed 6–9–15; 8:45 am]

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Part III

Environmental Protection Agency

Animal and Plant Health Inspection Service

40 CFR Part 80

Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2015–0111; FRL–9927–28–OAR]

RIN 2060–AS22

Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under section 211 of the Clean Air Act, the Environmental Protection Agency (EPA) is required to set renewable fuel percentage standards every year. This action proposes annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel that apply to all motor vehicle gasoline and diesel produced or imported in the years 2014, 2015, and 2016. The EPA is establishing a cellulosic biofuel volume for all three years that is below the applicable volume specified in the Act, and is also proposing to rescind the cellulosic biofuel standard for 2011. Relying on statutory waiver authorities, the EPA is proposing to adjust the applicable volumes of advanced biofuel and total renewable fuel for all three years. The 2015 and 2016 proposed standards are expected to spur further progress in overcoming current constraints in renewable fuel distribution infrastructure, which in turn is expected to lead to substantial growth over time in the production and use of higher-level ethanol blends and other qualifying renewable fuels. In this action, we are also proposing the applicable volume of biomass-based diesel for 2014, 2015, 2016, and 2017. Finally, we are proposing compliance and attest reporting deadlines for the years 2013, 2014, and 2015, as well as proposing regulatory amendments to clarify the scope of the existing algal biofuel pathway.

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

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2015–0111, to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If you need to include CBI as part of your comment, please visit *http://www.epa.gov/dockets/comments.html* for instructions. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make.

For additional submission methods, the full EPA public comment policy, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/comments.html.*

FOR FURTHER INFORMATION CONTACT: Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: 734–214–4131; email address: *macallister.julia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this proposed rule are those involved with the production, distribution, and sale of transportation fuels, including gasoline and diesel fuel or renewable fuels such as ethanol, biodiesel, renewable diesel, and biogas. Potentially regulated categories include:

Category	NAICS [1] Codes	SIC [2] Codes	Examples of potentially regulated entities
Industry	324110	2911	Petroleum Refineries.
Industry	325193	2869	Ethyl alcohol manufacturing.
Industry	325199	2869	Other basic organic chemical manufacturing.
Industry	424690	5169	Chemical and allied products merchant wholesalers.
Industry	424710	5171	Petroleum bulk stations and terminals.
Industry	424720	5172	Petroleum and petroleum products merchant wholesalers.
Industry	221210	4925	Manufactured gas production and distribution.
Industry	454319	5989	Other fuel dealers.

[1] North American Industry Classification System (NAICS)
[2] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your activities would be regulated by this action, you should carefully examine the applicability criteria in 40 CFR part 80. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Outline of This Preamble

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IX. Statutory Authority

I. Executive Summary

The Renewable Fuel Standard (RFS) program began in 2006 pursuant to the requirements in Clean Air Act (CAA) section 211(o) that were added through the Energy Policy Act of 2005 (EPAct). The statutory requirements for the RFS program were subsequently modified through the Energy Independence and Security Act of 2007 (EISA), resulting in the publication of major revisions to the regulatory requirements on March 26, 2010.[1] [2] Since the initial promulgation of the RFS program regulations in 2007, domestic production and use of renewable fuel volumes in the U.S. has increased substantially. According to the Energy Information Administration (EIA), fuel ethanol production in the U.S. doubled in volume from approximately 6.5 billion gallons in 2007 to about 14.3 billion gallons in 2014.[3] Growth in biodiesel and renewable diesel production in the U.S. has increased more than two and a half times, from approximately 0.5 billion gallons in 2007 to 1.46 billion gallons in 2014.[4] Today, nearly all of the approximately 138 billion gallons of gasoline used for transportation purposes contains 10 percent ethanol (E10).

The fundamental objective of the RFS provisions under the Clean Air Act is clear: To increase the use of renewable fuels in the U.S. transportation system every year through at least 2022. These fuels include corn starch ethanol, the predominant biofuel in use to date, but Congress envisioned the majority of growth over time to come from advanced biofuels as the non-advanced (conventional) volumes remain constant starting in 2015 while the advanced volumes continue to grow. Advanced biofuels are required to have lower greenhouse gas (GHG) emissions on a lifecycle basis than conventional biofuels. Increased use of renewable fuels means less use of fossil fuels, which results in lower GHG emissions over time as advanced biofuel production and use becomes more commonplace. By aiming to diversify the country's fuel supply, Congress also intended to increase the nation's energy security. Renewable fuels represent an opportunity for the U.S. to move away from fossil fuels towards a set of lower GHG transportation fuels, and a chance for a still-developing low GHG technology sector to grow.

The law establishes annual volume targets,[5] and requires EPA to translate those volume targets (or alternative volume requirements established by EPA in accordance with statutory waiver authorities) into compliance obligations that refiners and importers must meet every year. Over the past few years, we have seen analysis concluding that the ambitious statutory targets in the Clean Air Act exceed real world conditions.[6] Despite significant efforts by the U.S. Departments of Agriculture (USDA) and Energy (DOE) to promote the use of renewable fuels, real-world limitations, such as the slower than expected development of the cellulosic biofuel industry, less growth in gasoline use than was expected when Congress enacted these provisions in 2007, and constraints in supplying certain biofuels to consumers, have made the timeline laid out by Congress extremely difficult to achieve. These challenges remain, even as we recognize the success of the program over the past decade in boosting renewable fuel use, and the recent significant signs of progress towards development of increasing volumes of advanced, low-emitting GHG fuels, including cellulosic biofuels and ''drop-in'' biofuels (those that are made from renewable sources but are otherwise essentially indistinguishable from the fossil-based fuels they displace).

And so the challenge EPA faces in developing this proposal is increasing renewable fuels over time to address climate change and increase energy security while also accounting for the

[1] 75 FR 14670, March 26, 2010.

[2] A full description of the statutory basis of the RFS program and EPA's actions to develop and implement the regulatory program are provided in a memorandum to the docket. See, ''Statutory basis of the RFS program and development of the regulatory program,'' memorandum from Madison Le to EPA docket EPA–HQ–OAR–2015–0111.

[3] EIA's Monthly Energy Review, April 21015, Table 10.3.

[4] 2007 volume represents biodiesel only, from EIA's Monthly Energy Review, April 2015, Table 10.4. 2014 volume represents biodiesel and renewable diesel production from EMTS.

[5] CAA 211(o)(2)(B).

[6] See, for example, ''Renewable Fuel Standard Potential Economic and Environmental Effects of U.S. Biofuel Policy (2011),'' National Research Council.

real-world limitations that have slowed progress towards such goals, and that have made the volume targets established by Congress for 2014, 2015, and 2016 effectively beyond reach. This proposal attempts to find an approach that achieves these objectives.

We believe that the RFS program can drive renewable fuel use, and that it is appropriate to consider the ability of the market to respond to the standards we set when we assess the amount of renewable fuel consumption that can be achieved. While we are proposing to use the tools Congress provided to make adjustments to the law's volume targets in recognition of the constraints that exist today, we are proposing standards for 2015 and 2016 that will drive growth in renewable fuels, particularly those fuels that are required to achieve the lowest lifecycle GHG emissions. We believe that over time use of both higher ethanol blends and non-ethanol biofuels can and will increase, consistent with Congress' intent in enacting EPAct and EISA. In our view, while Congress recognized that supply challenges may exist as evidenced by the various waiver provisions, it did not intend growth in the renewable fuels market to be ultimately prevented by those challenges, including such constraints as the ''E10 blendwall'' [7] or demand for gasoline or diesel. The fact that Congress chose to mandate increasing and substantial amounts of renewable fuel clearly signals that it intended the RFS program to create incentives to increase renewable fuel supplies and overcome limitations in the market. The standards we are proposing are forward-leaning and reflect those incentives.

The proposed volume requirements would push the fuels sector to produce and blend more renewable fuels in 2015 and 2016 in a manner that is consistent with the goals Congress envisioned. The proposed volumes are less than the statutory targets for 2015 and 2016 but higher than what the market would produce and use in the absence of such market-driving standards. The 2015 and 2016 standards are expected to spur further progress in overcoming current constraints and lead to continued growth in the production and use of higher ethanol blends and other qualifying renewable fuels. In this regard the proposed standards are intended to fulfill the spirit and intent of Congress and provide guidance to market participants. Once finalized, this rule would put renewable fuel production and use on a path of steady, ambitious growth.

This proposal comes during a period of transition for the RFS program. In the program's early years, compliance with the advanced biofuel and total renewable volume requirements could be readily achieved in large part by blending increasing amounts of ethanol into gasoline and biodiesel into diesel fuel. As the program progresses, however, significantly increasing renewable fuel volumes will require pushing beyond current constraints on blending more ethanol into gasoline and will require sustained growth in the development and use of advanced, non-ethanol renewable fuels, including drop-in renewable fuels. This proposed rule acknowledges this transition by proposing volume requirements based not only on the volumes of renewable fuels that have already been achieved in 2014 and the first part of 2015, but also on the additional volumes that can be supplied later in 2015 and in 2016 as the market addresses infrastructure and other constraints. Our proposal includes volumes of renewable fuel that will require either ethanol use at levels significantly beyond the level of the E10 blendwall, or significantly greater use of non-ethanol renewable fuels than has occurred to date, depending on how the market responds to the standards we set. The standards we are proposing for 2015 and 2016 in particular would drive growth in renewable fuels by providing appropriate incentives to overcome current constraints and challenges to further the goals of Congress in establishing the RFS program. The approach we propose taking for 2015 and 2016 is forward-looking and consistent with the purpose of the statute to significantly increase the amount of renewable fuel used as transportation fuel over time, particularly renewable fuels with the lowest lifecycle GHG emissions, in the transportation fuel supply.

Since the amount of renewable fuel that can be produced and imported is larger than the volume that can be consumed due to overall demand for transportation fuel and constraints on supply to vehicles and engines, there is necessarily competition among biofuels for retail consumption in the United States. In this proposed rule we have worked to achieve an appropriate and reasonable balance between setting volume requirements that would provide support for biofuels that are more established, while also providing opportunities under those volume requirements for emerging biofuels. The approach we have used to determine the proposed volumes is consistent with Congressional intent in establishing the RFS program in that it provides an opportunity for a diverse array of renewable fuel types to be used for compliance. Competition is good for obligated parties and consumers, as it permits the market to determine the most efficient, lowest cost, best performing fuels for meeting the increasingly higher volume requirements anticipated year to year under the program. However, it is also important to provide support to existing successful biofuels and to provide incentives for those fuels, especially advanced biofuels that produce the greatest reductions in greenhouse gases. As discussed in Section III, we are proposing that the specific volume requirement for biomass-based diesel (BBD) should be increased over 2013 levels through 2017 to provide additional support for that industry in a way that furthers the statutory goal of increasing the use of renewable fuel and reducing lifecycle GHGs. At the same time, the increase in the required BBD volume that we are proposing still leaves a substantial volume under the advanced biofuel standard open for competition among all qualifying advanced biofuels.

We recognize that our delay in issuing standards for 2014 and 2015 has created additional uncertainty in the marketplace. We are committed to returning our standard-setting process to the statutory schedule, to provide the certainty that will allow the biofuels sector and the RFS program to succeed. The first step in providing this certainty is finalizing the volume requirements for 2014, 2015, and 2016 by November 30, 2015. For 2014, the compliance year is now over, and any standard EPA sets for 2014 can no longer influence renewable fuel production or use in that year. This is a significant change in circumstances from those at the time of the November 2013 proposal for volume requirements that would have applied in 2014. Therefore, we are issuing this new proposal for 2014 that reflects late issuance of the rule and those volumes of renewable fuel that were actually used in 2014. Details regarding how we calculated such ''actual'' volumes used in 2014 for purposes of this proposal are discussed in Section II.C.1 below. For 2015, our proposed approach combines a consideration of those volumes of renewable fuel that were actually used in the past with a forward-leaning approach for the future that is intended to promote renewable fuel use. For 2016, our approach to determining the volumes to propose is, as discussed, forward-leaning and consistent with the

[7] The ''E10 blendwall'' represents the volume of ethanol that can be consumed domestically if all gasoline contains 10% ethanol and there are no higher-level ethanol blends consumed such as E15 or E85.

statute's intent to promote growth in renewable fuel use over time.

This proposal represents EPA's commitment to continued support for steady growth in renewable fuel use. However, we recognize that the RFS standards are only one element among many that factor into the success of renewable fuel development and use over time. The standards that EPA sets each year are an important part of the overall picture, but this program is complemented and supported by programs managed by the U.S. Departments of Agriculture (USDA) and Energy (DOE), as well as myriad efforts and initiatives at the regional and local level and within the private sector. DOE has invested considerable resources to help deploy the advanced technologies needed to achieve the statutory aims of lower carbon fuels, and DOE has leveraged several billion dollars more in private support for development of advanced renewable fuels. USDA's Biorefinery Assistance Program has provided loan guarantees for the development and construction of commercial scale biorefineries with a number of the new projects focused on producing fuels other than ethanol. Greater GHG benefits are expected to be realized as the production and use of advanced biofuels accelerates, and the volume requirements that we are proposing support this goal.

A. Purpose of This Action

The national volume targets of renewable fuel that are intended to be achieved under the RFS program each year (absent an adjustment or waiver by EPA) are specified in CAA section 211(o)(2). The statutory volumes for 2014, 2015, and 2016 are shown in Table I.A–1. The cellulosic biofuel and BBD categories are nested within the advanced biofuel category, which is itself nested within the total renewable fuel category. This means, for example, that each gallon of cellulosic biofuel or BBD that is used to satisfy the individual volume requirements for those fuel types can also be used to satisfy the requirements for advanced biofuel and renewable fuel.

TABLE I.A–1—APPLICABLE VOLUMES SPECIFIED IN THE CLEAN AIR ACT

[Billion ethanol-equivalent gallons] [a]

	2014	2015	2016
Cellulosic biofuel	1.75	3.0	4.25
Biomass-based diesel	≥1.0	≥1.0	≥1.0
Advanced biofuel	3.75	5.5	7.25
Renewable fuel	18.15	20.5	22.25

[a] All values are ethanol-equivalent on an energy content basis, except values for BBD which are given in actual gallons.

Under the RFS program, EPA is required to determine and publish annual percentage standards for each compliance year. The percentage standards are calculated so as to ensure use in transportation fuel of the national ''applicable volumes'' of the four types of biofuel (cellulosic biofuel, BBD, advanced biofuel, and total renewable fuel) that are either set forth in the Clean Air Act or established by EPA in accordance with the Act's requirements. The percentage standards are used by obligated parties (generally, producers and importers of gasoline and diesel fuel) to calculate their individual compliance obligations. Each of the four percentage standards is applied to the volume of non-renewable gasoline and diesel that each obligated party produces or imports during the specified calendar year to determine their individual volume obligations with respect to the four renewable fuel types.

EPA is proposing annual applicable volume requirements for cellulosic biofuel, advanced biofuel, and total renewable fuel for 2014, 2015, and 2016, and for BBD for 2014, 2015, 2016, and 2017. Table I.A–2 lists the statutory provisions and associated criteria relevant to determining the national applicable volumes used to set the percentage standards in this proposed rule.

TABLE I.A–2—STATUTORY PROVISIONS FOR DETERMINATION OF APPLICABLE VOLUMES

Applicable volumes	Clean Air Act reference	Criteria provided in statute for determination of applicable volume
Cellulosic biofuel	211(o)(7)(D)(i)	Required volume must be lesser of volume specified in CAA 211(o)(2)(B)(i)(III) or EPA's projected volume in coordination with other federal agencies.
	211(o)(7)(A)	EPA may waive the statutory volume in whole or in part if implementation would severely harm the economy or environment of a State, region, or the United States, or if there is an inadequate domestic supply.
Biomass-based diesel [8]	211(o)(2)(B)(ii) and (v).	Required volume for years after 2012 must be at least 1.0 billion gallons, and must be based on a review of implementation of the program, coordination with other federal agencies, and an analysis of specified factors.
	211(o)(7)(A)	EPA may waive the statutory volume in whole or in part if implementation would severely harm the economy or environment of a State, region, or the United States, or if there is an inadequate domestic supply.
Advanced biofuel	211(o)(7)(D)(i)	If applicable volume of cellulosic biofuel is reduced below the statutory volume to the projected volume, EPA may reduce the advanced biofuel and total renewable fuel volumes in CAA 211(o)(2)(B)(i)(I) and (II) by the same or lesser volume. No criteria specified.
	211(o)(7)(A)	EPA may waive the statutory volume in whole or in part if implementation would severely harm the economy or environment of a State, region, or the United States, or if there is an inadequate domestic supply.
Total renewable fuel	211(o)(7)(D)(i)	If applicable volume of cellulosic biofuel is reduced below the statutory volume to the projected volume, EPA may reduce the advanced biofuel and total renewable fuel volumes in CAA 211(o)(2)(B)(i)(I) and (II) by the same or lesser volume. No criteria specified.
	211(o)(7)(A)	EPA may waive the statutory volume in whole or in part if implementation would severely harm the economy or environment of a State, region, or the United States, or if there is an inadequate domestic supply.

[8] Section 211(o)(7)(E) also authorizes EPA to issue a temporary waiver of applicable volumes of BBD where EPA determines that there is a significant feedstock disruption or other market circumstance that would make the price of BBD fuel increase significantly.

In November 2013, we proposed standards for cellulosic biofuel, BBD, advanced biofuel, and total renewable fuel for calendar year 2014.[9] We received over 340,000 comments representing widely diverging views on such topics as opportunities and constraints associated with the E10 blendwall, the ability of the market to respond to forward-leaning standards, the permissible interpretation of statutory waiver authorities, and the intent of Congress. In December 2014, we published a **Federal Register** notice in which we noted the substantial number of comments and the concerns of commenters, and stating that EPA had been evaluating the issues raised in light of the purposes of the statute and the Administration's commitment to the goals of the statute to increase the use of renewable fuels.[10] We further indicated in that notice that finalization of the 2014 standards rule had been significantly delayed and that, due to this delay and given ongoing consideration of the issues presented by the commenters, EPA would not be in a position to finalize the 2014 RFS standards before the end of 2014. We concluded that the approach in the November 2013 proposal, projecting volume growth into the-then future, was not an appropriate way to set standards in late 2014, for a year that was largely over. Since the approach we proposed in November 2013 would need to be substantially modified to reflect the delay in issuing the rule and actual renewable fuel use during the earlier part of 2014, the action indicated that we intended to finalize the 2014 standards in 2015.

Not only is 2014 over, but this proposal is being released well into 2015. We believe that the standards we set should take these facts into account as we make an effort to return to the annual standard-setting schedule in the statute. Therefore, we plan on finalizing the applicable standards for 2014, 2015, and 2016 by November of this year. Moreover, the terms of a proposed consent decree to resolve pending litigation concerning EPA's failure to establish standards for 2014 and 2015 by the statutory deadline include a requirement for EPA to promulgate final standards for 2014 and 2015 by November 30, 2015.[11] By re-proposing the 2014 standards along with a proposal for the 2015 and 2016 standards, we are not only able to formulate a proposal for public comment that takes into account the fact that 2014 is over and the specific approach described in the November 2013 Notice of Proposed Rulemaking (NPRM) is no longer applicable, but we can also coordinate the proposed treatment of 2014 with the proposed treatment of 2015 wherein part of the year has likewise already passed. We are therefore withdrawing the November 2013 NPRM; this proposal replaces and supersedes that earlier proposal. While the many comments we received on the November 2013 NPRM informed the development of this proposal, we do not intend to specifically respond to comments on the prior proposal, and we encourage members of the public to submit new comments that are tailored to this new proposal. Given the substantial task before the Agency to issue a final rule applicable to three calendar years by November 30, 2015, we encourage commenters to submit concise comments, and not to re-submit comments submitted on the withdrawn proposal except to the extent that they have determined them to be relevant under this proposal.

As shown in Table I.A–2, the statutory authorities that provide direction to EPA for how to modify or set the applicable standards differ for the four categories of renewable fuel. Under the statute, EPA must annually determine the projected volume of cellulosic biofuel production for the following year. If the projected volume of cellulosic biofuel production is less than the applicable volume specified in section 211(o)(2)(B)(i)(III) of the statute, EPA must lower the applicable volume used to set the annual cellulosic biofuel percentage standard to the projected volume of production during the year. In Section IV of this proposed rule, we present our analysis of cellulosic biofuel production and proposed volumes for 2014, 2015, and 2016. This analysis is based on our evaluation of producers' production plans and progress to date following discussions with cellulosic biofuel producers.

With regard to BBD, CAA section 211(o)(2)(B) specifies the applicable volumes of BBD to be used in the RFS program only through year 2012. For subsequent years the statute sets a minimum volume of 1 billion gallons, and directs EPA to set the required volume after consideration of a number of factors. In Section III of this preamble we discuss our proposed volume requirements for BBD for 2014, 2015, 2016, and 2017.

Regarding advanced biofuel and total renewable fuel, Congress provided several mechanisms through which those volumes could be reduced if necessary. If we lower the applicable volume of cellulosic biofuel below the volume specified in CAA 211(o)(2)(B)(i)(III), we also have the authority to reduce the applicable volumes of advanced biofuel and total renewable fuel by the same or a lesser amount. We may also reduce the applicable volumes of any of the four renewable fuel types under the general waiver authority provided at CAA 211(o)(7)(A) if EPA finds that implementation of the statutory volumes would severely harm the economy or environment of a State, region, or the United States, or if there is inadequate domestic supply. Section II of this proposed rule describes our intended use of both the cellulosic waiver authority and the general waiver authority to reduce volumes of advanced biofuel and total renewable fuel to address three important realities:

- Substantial limitations in the supply of cellulosic biofuel,
- Insufficient supply of other advanced biofuel to offset the shortfall in cellulosic biofuel, and
- Practical and legal constraints on the supply of ethanol blends to the vehicles that can use them (in the form of E10, E15, and higher level ethanol blends), driven in part by lower gasoline consumption than was expected in 2007 when the target statutory volumes were established.

We believe these realities justify the exercise of the authority Congress provided us to waive the statutory volumes. At the same time, we believe our exercise of the waiver authorities should be consistent with the objectives of the statute to grow renewable fuel use over time. We are proposing to use the waiver authorities to derive applicable volumes that reflect the maximum volumes that can reasonably be expected to be produced and consumed. Thus, while the standards that we set must be achievable, we believe that they must also reflect the power of the market to respond to the standards we set to drive positive change in renewable fuel production and use.

We are proposing to exercise our authority to reduce volumes of advanced biofuel and total renewable fuel only to the extent necessary to remove the inadequacy in supply. That is, our objective in exercising the general waiver authority is to set the volume requirements at the boundary between an adequate domestic supply and an inadequate domestic supply.[12] One way of expressing this

[9] 78 FR 71732, November 29, 2013.

[10] 79 FR 73007, December 9, 2014.

[11] See American Fuel and Petrochemical Manuf. et al v. EPA (No. 15–cv–394, D.D.C.).

[12] As discussed in Section II.A, EPA has considerable discretion in exercising the cellulosic waiver authority, and is not constrained to consider any particular factor or list of factors in doing so. Nevertheless, EPA is proposing to base its exercise of the cellulosic waiver authority on the same general considerations justifying its use of the general waiver authority—availability of renewable fuel and the legal and practical constraints on their supply to vehicles and other qualifying uses. We invite comment on this approach.

objective is to say we are seeking to determine the maximum volumes of renewable fuel that can be expected to be achieved in light of supply constraints. This is a very challenging task not only in light of the myriad complexities of the fuels market and how individual aspects of the industry might change in the future, but also because we cannot precisely predict how the market will respond to the volume-driving provisions of the RFS program. Thus the determination of the maximum achievable volumes is one that we believe necessarily involves considerable exercise of judgment. To this end, we are proposing ''maximum achievable'' volumes of advanced biofuel and total renewable fuel in this package that reflect our judgment as to where the boundary between adequate domestic supply and inadequate domestic supply might fall, particularly for 2015 and 2016.

On the basis of the authorities provided in the statute, we have evaluated the supply of qualifying advanced biofuel and total renewable fuels in light of the three limitations described above and other relevant factors. Based on this evaluation, and after consultation with the Departments of Agriculture and Energy, we believe that adjustments to the statutory volumes of advanced biofuel and total renewable fuel are warranted for 2014, 2015, and 2016. The proposed volumes for advanced biofuel and total renewable fuel for 2015 and 2016 would lead to growth in supply beyond 2014 based on the expectation that the market can and will respond to the standards we set. Similarly, we are proposing growth in the required volume of BBD in such a way that both the biodiesel market and other advanced biofuels would grow.[13] The volumes that we are proposing for 2014, 2015, and 2016 are shown below.

TABLE I.A–3—PROPOSED VOLUME REQUIREMENTS [A]

	2014	2015	2016
Cellulosic biofuel (million gallons)	33	106	206
Biomass-based diesel (billion gallons)	1.63	1.70	1.80
Advanced biofuel (billion gallons)	2.68	2.90	3.40
Renewable fuel (billion gallons)	15.93	16.30	17.40

[a] All values are ethanol-equivalent on an energy content basis, except for BBD which is biodiesel-equivalent.

[13] In addition to the volume requirements shown in Table I.A–3 for 2014, 2015, and 2016 for all four categories of renewable fuel, this action also proposes a volume requirement of 1.9 billion gallons for BBD in 2017.

B. Summary of Major Provisions in This Action

This section briefly summarizes the major provisions of this proposal. We are proposing applicable volume requirements for cellulosic biofuel, BBD, advanced biofuel, and total renewable fuel for 2014, 2015, and 2016, as well as the applicable volume requirement for BBD for 2017. The following sub-section summarizes our approach to determining the proposed requirements. This action also includes a proposed response to several requests we received in 2013 for a waiver of the 2014 standards. We are also proposing an amendment to the regulations designed to clarify the scope of the algal biofuel pathway. Finally, we are proposing new deadlines for annual compliance reporting and attest reporting for the 2013, 2014 and 2015 compliance years.

1. Proposed Approach To Setting Standards for 2014, 2015, and 2016

Because 2014 has passed, the final rule cannot alter the volumes of renewable fuel produced and consumed during 2014. We believe it is appropriate, therefore, that the standards we establish for 2014 reflect the actual supply in 2014. Similarly, this rulemaking can only have a partial impact on the volumes of renewable fuel produced and consumed in 2015. Although we believe that the standards we set for advanced biofuel and total renewable fuel must be ambitious to be consistent with the intent of Congress in establishing the RFS program, we also recognize that the standards we set cannot affect the past. Therefore, in this action we are proposing to base the applicable volume requirements for 2014 on actual renewable fuel use, as determined by data on the number of Renewable Identification Numbers (RINs) generated from the EPA-Moderated Transaction System (EMTS), minus the number of RINs retired to account for renewable fuel export as reported by the Energy Information Administration (EIA) or retired for other purposes unrelated to demonstrating compliance with the annual standards as reported through EMTS.[14] While this approach would result in exactly the number of 2014 RINs available for compliance that would be needed for compliance with the 2014 standards, we recognize that it does not guarantee that every individual obligated party will have the exact number of 2014 RINs needed for compliance with its individual RVOs. Thus there may be some costs associated with the reallocation of 2014 RINs to those obligated parties that need them. However, such disproportionate RIN holdings can occur in any year. We do not believe it would be appropriate to exercise our waiver authority to reduce the 2014 standards below the number of 2014 RINs available for compliance. Rather, we believe that we should rely on the market to sort out the distribution of RINs among obligated parties.

Similarly for 2015, we are proposing to account for the fact that the final standards will be limited in their ability to affect supply prior to the final rule. For 2016, our proposed volume requirements are based on the expectation that the entire calendar year will be available for obligated parties and the fuels markets to plan for and come into compliance.

We are proposing the same approach to assessing past supply in the standard-setting process for all four renewable fuel categories. However, we are proposing that projections of supply for months after issuance of the NPRM would be determined differently for the four renewable fuel categories. For advanced biofuel and total renewable fuel, assessment of future supply would simultaneously reflect the statute's purpose to drive growth in renewable fuels, while also accounting for constraints in the market that make the volumes specified in the statute beyond reach, as described more fully in Section II. For the BBD standard, growth would be based on an analysis of a set of factors stipulated in CAA 211(o)(2)(B)(ii), as described in more detail in Section III. Finally, as described in Section IV, the applicable volume of cellulosic biofuel would be based on a projection of production that reflects a neutral aim at accuracy as

[14] A RIN is a unique number generated by the producer and assigned to each gallon of a qualifying renewable fuel under the RFS program, and is used by refiners and importers to demonstrate compliance with the volume requirements under the program. RINs may be retired for a number of reasons, including to account for renewable fuel spills or to correct for RIN generation errors.

required by the United States Court of Appeals for the District of Columbia Circuit in *API v. EPA*, 706 F.3d 474 (January 25, 2013).

2. Advanced Biofuel and Total Renewable Fuel

Since the EISA-amended RFS program began in 2010, we have reduced the applicable volume of cellulosic biofuel each year in the context of our annual RFS standards rulemakings to the projected production levels, and we have considered whether to also reduce the advanced biofuel and total renewable fuel statutory volumes pursuant to the waiver authority in section 211(o)(7)(D)(i). In the past we have focused primarily on the availability of advanced biofuels in determining whether reductions in the required volume of cellulosic biofuel should be accompanied by reductions in the required volumes of advanced biofuel and total renewable fuel. The total volume of renewable fuel in the form of ethanol that could realistically be supplied to vehicles as either E10 or higher ethanol blends given various constraints was not a limiting factor in the standard-setting process in prior years. Furthermore, the availability of non-cellulosic advanced biofuels was determined to be sufficient to overcome the shortfall in cellulosic biofuel. However, for 2014 and later years, neither of these two factors remains true, and as a result we are proposing reductions for these categories of renewable fuel for 2014, 2015, and 2016 using the waiver authorities provided in CAA 211(o)(7).

Our determination in this proposal that the required volumes of advanced biofuel and total renewable fuel should be reduced from the statutory targets is based on a consideration of the ability of the market to supply such fuels through domestic production or import and the ability of available renewable fuels to be used as transportation fuel, heating oil, or jet fuel.[15] For example, the potential use of renewable fuels as transportation fuel, heating oil, or jet fuel depends in part on the infrastructure available for distributing, blending, and dispensing renewable fuels, as well as the vehicles in the fleet capable of consuming various renewable fuels. As described in more detail in Section II.A, we believe that the availability of qualifying renewable fuels and constraints on their supply to vehicles that can use them are valid considerations under both the cellulosic waiver authority under section 211(o)(7)(D)(i) and the general waiver authority under section 211(o)(7)(A). We are proposing to use the waiver authorities in a limited way that reflects our understanding of how to reconcile real marketplace constraints with Congress' intent to promote growth in renewable fuel use over time.

We have projected applicable volumes for advanced biofuel and total renewable fuel for 2015 and 2016 that would result in significant volume growth over the levels supplied in previous years, and which in our judgment are as ambitious as can reasonably be justified. The proposed volume requirements for 2015 and 2016 reflect the growth rates in both categories of renewable fuel that can be attained under a program explicitly designed to be ''market-driving,'' and that would not be expected to occur in the absence of those volume requirements.

3. Biomass-Based Diesel

A key issue before the Agency in considering the appropriate biomass-based diesel (BBD) applicable volume is the extent to which a portion of the advanced biofuel volume requirement should be set aside exclusively for BBD. In EISA, Congress chose to set aside a portion of the advanced biofuel standard for BBD, but only through 2012. Beyond 2012 Congress stipulated that EPA, in coordination with other agencies, was to establish the BBD volume taking into consideration the history of the program and various specified factors, providing that the required volume could not be less than 1.0 billion gallons. For 2013, EPA established an applicable volume of 1.28 billion gallons. The BBD standards in practice only establish the minimum volume required; substantially higher volumes have been used in past years to help satisfy the advanced biofuel standard. If BBD outcompetes other advanced biofuels in the marketplace as occurred in 2013, then the BBD standard serves as a floor and not a ceiling. Indeed, only 1.28 billion gallons of BBD were required in 2013, yet 1.55 billion gallons were supplied by the market.[16] Furthermore, the total renewable standard can provide an incentive for even more BBD and other advanced biofuels to be supplied than is actually required, as also occurred in 2013: While the applicable advanced biofuel volume requirement was 2.75 billion ethanol-equivalent gallons, the market actually supplied 3.02 billion ethanol-equivalent gallons, and most of this was BBD.

To preserve the important role that BBD plays in the RFS program, as well as to ensure that higher volume requirements for advanced biofuel can be reached, we believe that it would be appropriate to increase the BBD volume requirement for each year in the 2015 to 2017 time period. However, we also believe that it is of ongoing importance that opportunities for other types of advanced biofuel be expanded, such as renewable diesel co-processed with petroleum, renewable gasoline blendstocks, and heating oil, as well as others that are under development. Thus, based on a review of the implementation of the program to date and all the factors required under the statute, we are not only proposing to set the 2014 BBD volume requirement at the actual volume of 1.63 billion gallons, but we are also proposing increases in the applicable volume of BBD to 1.7, 1.8, and 1.9 billion gallons for the years 2015, 2016, and 2017, respectively. We believe that these increases would support the overall goals of the program while also maintaining the incentive for development and growth in production of other advanced biofuels. We believe establishing the volumes at these levels will encourage BBD producers to manufacture higher volumes of fuel that will contribute to the advanced biofuel and total renewable fuel requirements, while also leaving considerable opportunity within the advanced biofuel mandate for investment in and production of other types of advanced biofuel with comparable or potentially superior environmental or other benefits.

4. Cellulosic Biofuel

The cellulosic biofuel industry continues to transition from research and development (R&D) and pilot scale operations to commercial scale facilities, leading to significant increases in production capacity. RIN generation from the first commercial scale cellulosic biofuel facility began in March 2013. Cellulosic biofuel production increased substantially in 2014, with over 33 million gallons in that year. Last year also saw the grand openings of multiple new large commercial scale cellulosic ethanol facilities, and a significant number of

[15] While the fuels that are subject to the percentage standards are currently only non-renewable gasoline and diesel, renewable fuels that are valid for compliance with the standards include those used as transportation fuel, heating oil, or jet fuel.

[16] In 2013 1.55 billion gallons of BBD were supplied to the U.S. market. This reflects the sum of domestically produced BBD plus imported BBD minus domestically produced BBD that was exported. This number was developed using the EPA Moderated Transaction System (EMTS) data available at *http://www.epa.gov/otaq/fuels/rfsdata/2013emts.htm* (last accessed May 20, 2015)

cellulosic biofuel RINs generated using cellulosic biogas through a new pathway approved by EPA in 2014. For 2014 we are proposing a cellulosic biofuel standard of 33 million gallons, consistent with the total number for RINs generated in 2014 that may be used toward satisfying an obligated party's cellulosic biofuel obligation (both cellulosic biofuel (D3) and cellulosic diesel (D7) RINs.) We are also proposing a cellulosic biofuel standard of 106 million ethanol-equivalent gallons for 2015 and 206 million ethanol-equivalent gallons in 2016 based on the information we have received regarding individual facilities' capacities, production start dates and biofuel production plans, as well as input from other government agencies, and EPA's own engineering judgment.

As part of estimating the volume of cellulosic biofuel that would be made available in the U.S. in 2015 and 2016, we researched all potential production sources by company and facility. This included sources that were still in the planning stages, facilities that are under construction, facilities that are in the commissioning or start-up phases, and facilities that are already producing some volume of cellulosic biofuel. Facilities primarily focused on research and development were not the focus of our assessment, as production from these facilities represents very small volumes of cellulosic biofuel, and these facilities typically have not generated RINs for the fuel they have produced. From this universe of potential cellulosic biofuel sources, we identified the subset that is expected to produce commercial volumes of qualifying cellulosic biofuel for use as transportation fuel, heating oil, or jet fuel by the end of 2016. To arrive at projected volumes, we collected relevant information on each facility. We then developed projected production ranges based on factors such as the current and expected state of funding, the status of the technology being used, progress towards construction and production goals, facility registration status, production volumes achieved, and other significant factors that could potentially impact fuel production or the ability of the produced fuel to qualify for cellulosic biofuel RINs. We also used this information to group these companies based on production history and to select a value within the aggregated projected production ranges that we believe best represents the most likely production volumes from each group for each year. Further discussion of these factors and the way they were used to determine our proposed cellulosic biofuel projections for 2014, 2015, and 2016 can be found in Section IV.

5. Annual Percentage Standards

The renewable fuel standards are expressed as a volume percentage and are used by each refiner and importer of fossil-based gasoline or diesel to determine their renewable fuel volume obligations. The percentage standards are set so that if each obligated party meets the standards, and if EIA projections of gasoline and diesel use for the coming year prove to be accurate, then the amount of renewable fuel, cellulosic biofuel, BBD, and advanced biofuel actually used will meet the volumes required on a nationwide basis.

Four separate percentage standards are required under the RFS program, corresponding to the four separate renewable fuel categories shown in Table I.A–1. The specific formulas we use in calculating the renewable fuel percentage standards are contained in the regulations at 40 CFR 80.1405 and repeated in Section V.B.1. The percentage standards represent the ratio of renewable fuel volume to projected non-renewable gasoline and diesel volume. The volume of transportation gasoline and diesel used to calculate the proposed percentage standards was derived from EIA projections. The proposed standards for 2014, 2015, and 2016 are shown in Table I.B.5–1. Detailed calculations can be found in Section V, including the projected gasoline and diesel volumes used.

TABLE I.B.5–1—PROPOSED PERCENTAGE STANDARDS

	2014 (%)	2015 (%)	2016 (%)
Cellulosic biofuel	0.019	0.059	0.114
Biomass-based diesel	1.42	1.41	1.49
Advanced biofuel	1.52	1.61	1.88
Renewable fuel	9.02	9.04	9.63

6. Response To Requests for a Waiver of the 2014 Standards

Concurrently with the November 29, 2013 proposal for 2014 RFS standards, we also published a separate **Federal Register** Notice [17] indicating that the American Petroleum Institute (API) and the American Fuel & Petrochemical Manufacturers (AFPM) had submitted a joint petition requesting a partial waiver of the 2014 applicable RFS volumes, and that several individual refining companies had also submitted similar petitions. We noted that any additional similar requests would also be docketed and considered together with requests already received. EPA has subsequently received additional waiver petitions, including those submitted by nine Governors.[18]

The petitions generally asserted that for 2014 there is an inadequate domestic supply of renewable fuel and therefore RINs, due both to E10 blendwall constraints, and limitations on the supply of higher level ethanol blends, and of non-ethanol renewable fuels. Certain of the petitioners argued that this inadequate supply of renewable fuel (and RINs) will lead to an inadequate supply of gasoline and diesel, because refiners and importers, faced with a shortage of RINs, will reduce their production of gasoline and diesel for the domestic market. They argued that this will in turn severely harm the economy.

As calendar year 2014 has passed, we believe it is appropriate to set the applicable volume requirements at the volumes that were actually supplied in 2014. We do not believe that use of 2014 renewable fuel volumes severely harmed the economy, and we believe that it is straightforward to conclude that there was an adequate supply of the volumes of renewable fuel that were actually used in 2014. Therefore, we do not believe that adequate justification exists for setting the 2014 volume requirements at levels below those actually supplied. We propose that our final action in this rulemaking will resolve the extent to which waivers are appropriate for 2014 and, therefore, will identify the scope of relief that should be accorded petitioners.

7. Proposed Changes to Regulations

In addition to proposing the aforementioned volume requirements and associated percentage standards, we are also proposing amendments to the RFS requirements to address two issues. First, we are proposing changes with respect to the existing algal oil pathway to clarify that only biofuels produced from oil from algae grown photosynthetically qualify for the RFS program under this pathway. We are aware of several companies that plan to produce biofuels from algae that use non-photosynthetic types of

[17] 78 FR 71732 (November 29, 2013) and 78 FR 71607 (November 19, 2013), respectively.

[18] EPA has received, to date, waiver petitions from Governors Deal (GA), Fallin (OK), Perry (TX), Otter (ID), LePage (ME), Martinez (NM), McCrory (NC), Herbert (UT), and Haley (SC). In addition to the waiver petition from API/AFPM, EPA has also received waiver petitions from the following companies: Delek, ExxonMobil, Holly Frontier, Lion Oil Petroleum, Marathon Oil, NCRA, PBF Holding Company, Phillips 66, and Tesoro.

metabolism. Companies wishing to produce biofuels from algae grown with a non-photosynthetic stage of growth must apply to EPA for approval of their pathway pursuant to 40 CFR 80.1416. Since EPA assumed that algae would be grown photosynthetically when it evaluated the lifecycle greenhouse gas emissions associated with the existing algal oil pathway, we are clarifying the regulatory description of the pathway to align with EPA's technical assessment and interpretation of the scope of this pathway.

We are also proposing to revise the annual compliance reporting deadlines for obligated parties and renewable fuel exporters, and the attest engagement reporting deadlines for obligated parties, RIN-generating renewable fuel producers and importers, other parties holding RINs, renewable fuel exporters, and independent third-party auditors for the 2013, 2014 and 2015 compliance years. The proposed deadlines would vary for each of these parties depending on the applicable compliance period, and some parties would be required to submit partial annual reports representing a portion of the 2014 compliance year. A detailed description of our proposed changes to reporting deadlines can be found in Section VI.B.

C. Authority for Late Action and Applicability of the Standards

Under CAA 211(o)(3)(B)(i), EPA must determine and publish the annual percentage standards by November 30 of the preceding year, and it must establish applicable volumes for biomass-based diesel 14 months in advance of the compliance year. EPA did not meet the statutory deadline for the 2014 or the 2015 percentage standards, nor the 2014, 2015, and 2016 biomass-based diesel applicable volumes. Nevertheless, we are proposing that the percentage standards established through this rulemaking would apply to all gasoline and diesel produced or imported in calendar years 2014, 2015, or 2016 as applicable.

We acknowledge that this rule is being proposed later than the statutory deadlines noted above. However, this delay does not deprive EPA of authority to issue applicable volumes and standards for these calendar years. The United States Court of Appeals for the District of Columbia Circuit recently upheld the 2013 RFS standards even though they were issued more than eight months after statutory deadline. *Monroe Energy* v. *EPA*, 750 F.3.d 909 (D.C. Cir. 2014). The court noted that it had resolved the question of EPA's authority to issue RFS standards after the statutory deadline for issuing the annual RFS standards in *NPRM* v. *EPA*, 630 F.3d 145 (D.C. Cir. 2010). In that case, the court explained that courts have declined to treat a statutory direction that an agency ''shall'' act within a specified time period as a jurisdictional limit that precludes action later. Id. at 154 (citing *Barnhart* v. *Peabody Coal*, 537 U.S. 149, 158 (2003)). Moreover, the court noted that the statute here requires that EPA regulations ''ensure'' that transportation fuel sold or introduced into commerce ''on an annual average basis, contains at least the volumes of renewable fuel'' that are required pursuant to the statute. Id. at 152–153. This statutory directive requires EPA action, even if late. Therefore EPA believes it has authority to issue RFS standards for calendar years 2014 and 2015, and biomass-based diesel applicable volumes for 2014–2016, notwithstanding EPA's delay.

EPA proposes to exercise its authority to issue standards applicable to past time periods in a reasonable way. Thus, for 2014, EPA is proposing to establish renewable fuel obligations that reflect actual renewable fuel used as transportation fuel, heating oil, or jet fuel during that time period, and the proposed compliance deadline for 2014 allows time for obligated parties to complete necessary transactions. For 2015 we are similarly proposing to take into account actual renewable fuel use during the time that has already passed in 2015. Renewable fuel producers generated RINs throughout 2014, and have also been generating 2015 RINs since the beginning of the calendar year. To varying degrees, obligated parties have been acquiring RINs since the beginning of 2014 in anticipation of the publication of final volume requirements and standards. While we acknowledge the uncertainty that the market has experienced due to the delay, our proposal to determine the applicable requirements to account for past production for both 2014 and 2015 means that there will be an adequate quantity of RINs available to satisfy those portions of the proposed requirements.[19] In addition, there are a number of program flexibilities that will facilitate compliance. There is a considerable bank of carryover RINs that can be used to comply with up to 20% of the 2014 RVOs, and to the extent it is not used, that bank of carryover RINs can be rolled forward to assist in compliance with 2015 and 2016 requirements. We acknowledge that there is a theoretical possibility that parties that accumulate RINs through their own blending activities could decide to bank the maximum quantity of RINs for their own future use or for future sale, and that if this practice were widespread that there could be a shortfall in available RINs for parties who do not engage in renewable fuel blending activities themselves and have not entered into sufficient contracts with blenders or other parties to acquire sufficient RINs. Such practices are possibilities in any competitive marketplace, and we believe that obligated parties have had sufficient experience with the RFS program to have taken precautionary measures to avoid such results and to be prepared to comply with applicable standards potentially as high as the statute requires. Even where they have not done so, and find compliance with a given year's standards infeasible, they may avail themselves of the option of carrying a compliance deficit forward for that compliance year to the next. In sum, we believe that EPA's proposed approach is authorized and reasonable, though late.

D. Outlook for 2017 and Beyond

We recognize that a number of challenges must be overcome in order to fully realize the potential for greater use of renewable fuels in the United States. We also recognize that the RFS program plays a central role in creating the incentives for realizing that potential. The standards being proposed would require that significant progress is made in overcoming those challenges. We expect future standards to both reflect and anticipate progress of the industry and market in providing for continued expansion in the supply of renewable fuels.

We believe that the supply of renewable fuels can continue to increase in the coming years despite the constraints associated with shortfalls in cellulosic biofuel production and other advanced biofuels, and constraints associated with supplying renewable fuels to the vehicles and engines that can use them. As described in Section II.B, we believe that the market is capable of responding to ambitious standards by expanding infrastructure and modifying fuel pricing to provide incentives for the production and use of renewable fuels. While we do not believe that the statutory volumes can be reached within the next several years, the market is capable of attaining

[19] Furthermore, although EPA is late in establishing applicable volumes for biomass-based diesel for 2015 and 2016, we are proposing to set the applicable volumes of BBD for these years at levels below what we anticipate can actually be produced and used for compliance with the advanced biofuel requirements. Therefore, there should be a more than adequate supply of BBD RINs for compliance with the standards proposed.

volumes significantly higher than in the past.

In future years, we would expect to use the most up-to-date information available to project the growth that can realistically be achieved considering the ability of the RFS program to spur growth in the volume of ethanol, biodiesel, and other renewable fuels that can be supplied and consumed by vehicles. In particular we will focus on the emergence of advanced biofuels including cellulosic biofuel. Many companies are continuing to invest in efforts ranging from research and development to the construction of commercial-scale facilities to increase the production potential of next generation biofuels. We will continue to evaluate new pathways especially for advanced biofuels and respond to petitions, expanding the availability of feedstocks, production technologies, and fuel types eligible under the RFS program.

In addition to ongoing efforts to evaluate new pathways for advanced biofuel production, we are aware that other actions can also play a role in improving incentives provided by the RFS program to overcome challenges that limit the potential for increased volumes of renewable fuels. Such actions could potentially include amendments to program regulations that would help enable and potentially accelerate growth in renewable fuel volumes over time. We are currently considering ideas and various options for such actions. The details of such actions are beyond the scope of this current rulemaking, but we will continue to engage interested stakeholders as we move forward.

There are also other approaches to determining volume requirements for future years that have been suggested as potentially helping to ensure growth in supply of renewable fuel. For instance, our proposed approach to determining the volume requirements for advanced biofuel and total renewable fuel in 2015 and 2016 is one of determining the maximum achievable supply by acknowledging constraints on supply to consumers resulting from the E10 blendwall, limitations in production and import capabilities, and the ability of the market to respond to the standards we set. As described in Section II.D.2, there are a variety of ways that the market could respond to our proposed standards.

However, we recognize that since the majority of renewable fuel today is currently consumed as 10 percent ethanol blends, changes in demand for gasoline can have a significant impact on the ability of the marketplace to blend fixed volumes of renewable fuels. As such, an alternative approach to characterizing expected growth in renewable fuels would be to project the share of the fuel pool that can reasonably be expected to be comprised of renewable fuel over time. In this way, increases or decreases in gasoline demand would be reflected in corresponding increases or decreases in mandated renewable fuel volumes. The distinction between volumes and renewable share (share of the market, expressed as a percentage) is not important once the annual standards are established because the volumes are converted to shares (percentage standards) and changes in gasoline and diesel fuel volume then automatically lead to corresponding changes in renewable fuel volumes. However, future gasoline consumption depends on many factors and is highly uncertain; there may be unanticipated changes in fuel consumption compared to current EIA projections, as there have been in the past. For example, if EPA were to adopt an outlook for future years based on a growth rate for the renewable share of the fuel pool, it would be easier to maintain such a growth rate—rather than maintaining an outlook for specific volumes—if gasoline consumption becomes unexpectedly low. We recognize that projections of expected future growth in renewable fuels can be expressed in terms of either absolute volumes or as a share of the transportation fuel pool, that stakeholders may see advantages in the latter, and we expect there may be additional conversation on this issue in the future.

II. Proposed Advanced Biofuel and Total Renewable Fuel Volumes for 2014–2016

The national volume targets of advanced biofuel and total renewable fuel to be used under the RFS program each year are specified in CAA section 211(o)(2). However, two statutory provisions authorize EPA to reduce these volumes under certain circumstances. EPA may reduce these volumes to the extent that we reduce the applicable volume for cellulosic biofuel, or if the criteria are met under the general waiver authority.[20] We have evaluated the capabilities of the market and have determined that the volumes for advanced biofuel and total renewable fuel specified in the statute cannot be achieved in 2014—2016. As a result we are proposing to exercise our discretion under these statutory provisions to reduce the applicable volumes of advanced biofuel and total renewable fuel to address limitations in production or importation of these fuels, and factors that limit supplying them to vehicles that can consume them.

While we are proposing to use our waiver authorities under the law to reduce applicable volumes from the statutory levels, the proposed volume requirements are nevertheless intended to drive significant growth in renewable fuel use beyond what would occur in the absence of such requirements. The proposed volume requirements are intended to be market-driving while staying within the limits of feasibility. The net impact of these proposed volume requirements is that the necessary volumes of both advanced biofuel and conventional (non-advanced) renewable fuel would increase over levels used in the past. The volumes that we are proposing are shown below.

TABLE II–1—PROPOSED VOLUME REQUIREMENTS

[Billion gallons]

	2014	2015	2016
Advanced biofuel	2.68	2.90	3.40
Total renewable fuel	15.93	16.30	17.40

A. Statutory Authorities for Reducing Volumes To Address Renewable Fuel Availability and the E10 Blendwall

Congress specified increasing annual volume objectives in the statute for total renewable fuel, advanced biofuel, and cellulosic biofuel for every year through 2022, and for biomass-based diesel (BBD) through 2012, and authorized EPA to set volume objectives for subsequent years after consideration of several specified factors. However, Congress recognized that circumstances could arise that might require a reduction in the volume objectives specified in the statute as evidenced by the waiver provisions in CAA 211(o)(7). As described below, we believe that limitations in production or importation of qualifying renewable fuels, and factors that limit supplying those fuels to the vehicles that can consume them, both constitute circumstances that warrant a waiver under section 211(o)(7). The decrease in total gasoline consumption in recent years which resulted in a corresponding and proportional decrease in the maximum amount of ethanol that can be consumed if all gasoline was E10, the limited number and geographic distribution of retail stations that offer higher ethanol blends such as E15 and E85, the number of FFVs that have access to E85, as well

[20] See CAA section 211(o)(7)(D) and (A).

as other market factors, combine to place significant restrictions on the volume of ethanol that can be supplied to vehicles at the present time. Based on our assessment of the maximum amount of renewable fuel that can be supplied in 2014, 2015 and 2016 in light of these constraints, we believe that circumstances exist that warrant a reduction in the statutory applicable volumes of advanced biofuel and total renewable fuel for 2014, 2015 and 2016.

EPA is proposing to use two separate and complementary legal authorities to set required volumes of advanced biofuel and total renewable fuel to levels below the volume objectives described in the statute: The cellulosic waiver authority under CAA section 211(o)(7)(D)(i), and the general waiver authority under CAA section 211(o)(7)(A). This section discusses both of these statutory authorities and briefly describes our proposed use of the authorities to determine appropriate reductions in advanced biofuel and total renewable fuel in comparison to the statutory volumes.

As described in Section I, EPA has withdrawn its November 29, 2013 proposed rule to establish 2014 RFS standards, and is re-proposing standards for 2014 that reflect consideration of actual renewable fuel use during 2014. Since the current proposal is substantially different than the previous one, we are generally not providing at this time, and do not intend to provide at the time of our final action on this proposal, a response to comments that were submitted in response to our earlier proposal. However, since this proposal envisions interpretation and use of RFS waiver authorities in essentially the same manner as proposed in the withdrawn NPRM, and since we received a substantial number of comments on that NPRM related to how the waiver authorities should be interpreted and used, we are providing a general response to the major comments we have received from stakeholders on these issues—either in direct response to our November 29, 2013 NPRM or in subsequent dialogue. We have not attempted to respond to all comments on these issues, but instead hope to advance stakeholders' ability to meaningfully comment on this proposal by discussing our consideration to date of the most common comments we have received on these issues.

1. Cellulosic Waiver Authority

Under CAA section 211(o)(7)(D)(i), if EPA determines that the projected volume of cellulosic biofuel production for the following year is less than the applicable volume provided in the statute, then EPA must reduce the applicable volume of cellulosic biofuel to the projected volume available during that calendar year.

Section 211(o)(7)(D)(i) also provides that ''[f]or any calendar year in which the Administrator makes such a reduction, the Administrator may also reduce the applicable volume of renewable fuel and advanced biofuels requirement established under paragraph (2)(B) by the same or a lesser volume.'' Using this authority, the reductions in total renewable fuel and advanced biofuel can be less than or equal to, but no more than, the amount of reduction in the cellulosic biofuel volume. In prior actions EPA has interpreted this provision as authorizing EPA to reduce both total renewable fuel and advanced biofuel, by the same amount, if EPA reduces the volume of cellulosic biofuel.[21]

The cellulosic waiver provision was recently discussed by the United States Court of Appeals for the District of Columbia Circuit, in the context of its review of EPA's 2013 annual RFS rule. As the Court explained,

> [T]he Clean Air Act provides that if EPA reduces the cellulosic biofuel requirement, as it did here, then it ''may also reduce'' the advanced biofuel and total renewable fuel quotas ''by the same or a lesser volume.'' 42 U.S.C. 7545(o)(7)(D)(i). There is no requirement to reduce these latter quotas, nor does the statute prescribe any factors that EPA must consider in making its decision. See id. In the absence of any express or implied statutory directive to consider particular factors, EPA reasonably concluded that it enjoys broad discretion regarding whether and in what circumstances to reduce the advanced biofuel and total renewable fuel volumes under the cellulosic biofuel waiver provision. *Monroe* v. *EPA*, 750 F.3d 909, 915 (D.C. Cir. 2014).

For the 2013 RFS rule, the Court determined that EPA had reasonably declined to use the cellulosic waiver authority to reduce the advanced and total renewable fuel statutory applicable volumes by analyzing ''the availability of renewable fuels that would qualify as advanced biofuel and renewable fuel, the ability of those fuels to be consumed, and carryover RINs from 2012.'' Id. at 916.

Some stakeholders have suggested that EPA may only exercise the cellulosic waiver authority in circumstances described in Section 211(o)(7)(A) (that is, where there is inadequate domestic supply or severe harm to the environment or economy), or that it must in considering use of the cellulosic waiver authority consider the factors specified in Section 211(o)(2)(B)(ii) that are required considerations when EPA sets applicable volumes for years in which the statute does not do so. Contrary to these comments, the DC Circuit found in *Monroe* that the statute does not prescribe any factors that EPA must consider in making its decision; EPA has broad discretion under Section 211(o)(7)(D)(i) to determine when and under what circumstances to reduce the advanced and total renewable fuel volumes when it reduces the statutory applicable volume of cellulosic biofuel.

In general, we do not believe that it would be consistent with the energy security and greenhouse gas reduction goals of the statute to reduce the applicable volumes of renewable fuel set forth in the statute absent a substantial justification for doing so. When using the cellulosic waiver authority, we believe that there would be a substantial justification in circumstances where qualifying renewable fuels either are not available, or legal and practical constraints limit their supply to vehicles and other qualifying uses. In addition we may on a case-by-case basis consider additional factors on our own initiative, if we determine that such factors may present substantial justification for reducing the statutory volumes, or additional justification for not reducing them, and we will also consider all comments on the matter. Factors considered by EPA in exercising the cellulosic waiver authority may include those specified in Section 211(o)(2)(B)(ii), or other factors that EPA deems relevant in the context of the statutory objectives and program structure. We will identify and evaluate any such factors on a case-by-case basis. For this proposed rulemaking, we have identified the availability of renewable fuels and the legal and practical constraints on their supply to vehicles and other qualifying uses as the factors that justify the proposed exercise of our cellulosic waiver authority. We solicit comment on other relevant factors, and whether the relevant factors would justify reducing advanced and renewable fuel volumes by different amounts.

As discussed in Section IV, we are proposing to reduce the applicable volume of cellulosic biofuel for 2014, 2015 and 2016. We are also proposing to use our cellulosic waiver authority under section 211(o)(7)(D)(i) to reduce the applicable volumes of advanced biofuel and total renewable fuel for these years as a first step in determining the volume requirements to propose. Our proposed justification for doing so is a limitation in the availability of

[21] See 74 FR 24914–15, and 78 FR 49794, August 15, 2013.

qualifying advanced biofuel and constraints on the ability to supply qualifying renewable fuels to the vehicles that use them. We have considered the possible role of carryover RINs in avoiding the need to reduce the statutory applicable volumes, as we did in setting the 2013 RFS standards, but have decided that the availability of carryover RINs should not preclude reducing the applicable volumes for the reasons described in Section II.F. We are proposing to use the cellulosic waiver authority to reduce the advanced biofuel volume to the level of available supply, and are also proposing to use this authority to reduce total renewable volumes by the same amount. However, doing so is, we believe, insufficient to address all the supply limitations applicable to total renewable fuel. Therefore, we are proposing to use the general waiver authority as supplemental authority for the reductions in advanced biofuel and as the sole authority for further reductions in total renewable fuel volumes.[22]

2. General Waiver Authority

CAA 211(o)(7)(A) provides that EPA, in consultation with the Secretary of Agriculture (USDA) and the Secretary of Energy (DOE), may waive the applicable volume requirements of the Act in whole or in part based on a petition by one or more States, by any person subject to the requirements of the Act, or by the EPA Administrator on her own motion. Such a waiver must be based on a determination by the Administrator, after public notice and opportunity for comment, that:

- Implementation of the requirement would severely harm the economy or the environment of a State, a region, or the United States; or
- There is an inadequate domestic supply.

We are proposing to use the general waiver authority based on the statute's authorization for the Administrator to act on her own motion on a finding of inadequate domestic supply.[23] We propose to use this authority in a supplemental fashion with respect to the volumes we propose waiving using the cellulosic waiver authority, and as the sole authority for an additional increment of volume reduction for total renewable fuel.

Because the general waiver provision provides EPA the discretion to waive the volume requirements of the Act ''in whole or in part,'' we interpret this section as granting EPA authority to waive any or all of the four applicable volume requirements in appropriate circumstances. Thus, for example, unlike the cellulosic waiver authority, a reduction in total renewable fuel pursuant to the general waiver authority is not limited by the reduction in cellulosic biofuel.

EPA has had only limited opportunity to date to interpret and apply the waiver provision in CAA section 211(o)(7)(A)(ii) related to ''inadequate domestic supply,'' and has never before done so in the context of deriving an appropriate annual RFS standard. As explained in greater detail below, we believe that this ambiguous provision is reasonably and best interpreted to encompass the full range of constraints that could result in an inadequate supply of renewable fuel to the ultimate consumers, including fuel infrastructure and other constraints. This would include, for instance, factors affecting the ability to produce or import qualifying renewable fuels as well as factors affecting the ability to distribute, blend, dispense, and consume those renewable fuels in vehicles.

The waiver provision at CAA 211(o)(7)(A)(ii) is ambiguous in several respects. First, it does not specify what the general term ''supply'' refers to. The common understanding of this term is an amount of a resource or product that is available for use by the person or place at issue.[24] Hence the evaluation of the supply of renewable fuel, a product, is best understood in terms of the person or place using the product. In the RFS program, various parties interact across several industries to make renewable fuel available for use by the ultimate consumers as transportation fuel. Supplying renewable fuel to obligated parties and terminal blenders is one part of this process, while supplying renewable fuel to the ultimate consumer as part of their transportation fuel is a different and later aspect of this process. For example, the renewable fuels ethanol and biodiesel are typically supplied to obligated parties or blenders as a neat fuel, but in almost all cases are supplied to the consumer as a blend with conventional fuel (ethanol blended in gasoline or biodiesel blended in diesel). The waiver provision does not specify what product is at issue (for example, neat renewable fuel or renewable fuel that is blended with transportation fuel) or the person or place at issue (for example, obligated party, blender or ultimate consumer), in determining whether there is an ''inadequate domestic supply.''

The waiver provision also does not specify what factors are relevant in determining the adequacy of the supply. Adequacy of the supply would logically be understood in terms of the parties who use the supply of renewable fuel. Adequacy of supply could affect various parties, including obligated parties, blenders, and consumers. Adequacy of supply with respect to the consumer might well involve consideration of factors different from those involved when considering adequacy of supply to the obligated parties. We believe that interpreting this waiver provision as authorizing EPA to consider the adequacy of supply of renewable fuel to all of the relevant parties, including the adequacy of supply to the ultimate consumer of renewable fuel blended into transportation fuel, is consistent with the common understanding of the terms used in this waiver provision, especially in the context of a fuel program that is aimed at increasing the use of renewable fuel by consumers. In our view, this is the most reasonable and appropriate construction of this ambiguous language in light of the overall policy goals of the RFS program.

EPA has reviewed other fuel related provisions of the Clean Air Act with somewhat similar waiver provisions, and they highlight both the ambiguity of the RFS general waiver provision and the reasonableness of applying it broadly to include adequacy of supply to the ultimate consumer of transportation fuel. For example, CAA section 211(k)(6) contains provisions allowing EPA to defer the application of reformulated gasoline (RFG) in states seeking to opt-in to the program. There are two categories of states that may opt-in: Those with nonattainment classifications indicating a more serious and/or longstanding air quality problem (leading to classification as a Marginal, Moderate, Serious or Severe nonattainment area) and those that do not have such serious concerns, but which are nevertheless within the ''ozone transport region'' established by CAA section 184(a). For the states with

[22] Assuming EPA finalizes a volume reduction for the advanced biofuels that is no larger than the final reduction in the applicable volume of cellulosic biofuel, EPA could rely on only the cellulosic waiver authority for its final action with respect to advanced biofuel.

[23] We note that there are also pending requests pursuant to CAA 211(o)(7(A) from a number of parties for EPA to exercise its waiver authorities to reduce applicable volumes for 2014. While the Administrator is acting on her own motion, she also proposes that to resolve those petitions through and/or consistent with the final rule establishing 2014 volume requirements.

[24] For example, see *http://oxforddictionaries.com/us/definition/american_english/supply* (a stock of a resource from which a person or place can be provided with the necessary amount of that resource: ''*There were fears that the drought would limit the exhibition's water supply.*''); *http://www.macmillandictionary.com/us/dictionary/american/supply* (''*A limited oil supply has made gas prices rise.*'' and ''*Aquarium fish need a constant supply of oxygen.*'').

more serious problems that seek to opt-in to the RFS program, section 211(k)(6)(A)(ii) allows EPA to defer application of RFG requirements if EPA determines that ''there is insufficient domestic *capacity to produce* reformulated gasoline.'' (Emphasis added.) However, for states with less serious ozone nonattainment concerns that are part of the ozone transport region, EPA may defer application of RFG requirements if EPA finds that there is ''insufficient *capacity to supply* reformulated gasoline.'' (Emphasis added.) We believe Congress likely intended the ''capacity to supply'' RFG as being broader in scope than the ''capacity to produce'' RFG. This is consistent with the common understanding of the word ''supply' noted above as the amount of a resource or product that is available for use by the person or place at issue. Thus, while a source can have a ''capacity to produce,'' regardless of whether it has a market for its product, the concept of ''supply'' does not occur in isolation, but in reference to the person intending to make use of the product. The term ''capacity to supply'' would therefore be expected to include consideration of the infrastructure needed to deliver RFG to vehicles in the state within the ozone transport region that is seeking to opt in to the program. This distinction in the context of CAA section 211(k)(6) is logical, since Congress can be expected to have put a higher premium on use of RFG in states with the more serious ozone nonattainment issues, thereby constraining EPA discretion to defer RFG requirements to the limited situation where there is ''insufficient capacity to produce'' RFG. For states with less serious problems, it would be logical for Congress to have provided EPA with somewhat more latitude to defer application of RFG, and Congress referred to this broader set of circumstances as situations where there is an ''insufficient capacity to supply'' RFG. The language of the RFS general waiver provision, in comparison, involves use of a single ambiguous phrase, ''inadequate domestic supply,'' without elaboration or clarification as to whether it refers solely to production capacity or also includes additional factors relevant to the ability to supply the fuel to various persons such as the ultimate consumer. As in the RFG provision, however, the adequacy of supply referred to in the RFS general waiver provision can logically—and we believe should—be read to include factors beyond capacity to produce that impact the ability of consumers to use the fuel as a transportation fuel.[25] This would be consistent with Congress's apparent intent in using the term ''supply'' in the context of the RFG provision.

CAA section 211(c)(4)(C)(ii) provides EPA with waiver authority to address ''extreme and unusual fuel or fuel additive supply circumstances . . . which prevent the distribution of an adequate supply of the fuel or fuel additive to consumers.'' The supply circumstances must be the result of a natural disaster, an Act of God, a pipeline or refinery equipment failure or another event that could not reasonably have been foreseen, and granting the waiver must be ''in the public interest.'' In this case, Congress clearly specified that the adequacy of the supply is judged in terms of the availability of the fuel or fuel additive to the ultimate consumer, and includes consideration of the ability to distribute the required fuel or fuel additive to the ultimate consumer. Although the RFS waiver provision does not contain any such explicit clarification from Congress, its broad and ambiguous wording provides EPA the discretion to reasonably interpret the scope of the RFS waiver provision as relating to supply of renewable fuel (in neat or blended form) to the ultimate consumer.

CAA section 211(m)(3)(C) allows EPA to delay the effective date of oxygenated gasoline requirements for certain carbon monoxide nonattainment areas if EPA finds ''an inadequate domestic supply of, or distribution capacity for, oxygenated gasoline. . . . or fuel additives'' needed to make oxygenated gasoline. Here, Congress chose to expressly differentiate between ''domestic supply'' and ''distribution capacity,'' indicating that each of these elements was to be considered separately. This would indicate that the term inadequate supply, although ambiguous for the reasons discussed above, could in appropriate circumstances be read as more limited in scope. In contrast to the RFS waiver provision, the section 211(m) waiver provision includes additional text that makes clear that EPA's authority includes consideration of distribution capacity—reducing the ambiguity inherent in using just the general phrase ''inadequate domestic supply.'' Presumably this avoids a situation where ambiguity would result in an overly narrow administrative interpretation. The oxygenated gasoline waiver provision is also instructive in that it clarifies that it applies separately to both finished oxygenated fuel and to oxygenated fuel blending components. That is, there could be an adequate supply of the oxygenate, such as ethanol, but not an adequate supply of the blended fuel which is sold to the consumer. The RFS waiver provision employs the phrase ''inadequate domestic supply'' without further specification or clarification, thus providing EPA the discretion to determine whether the adequacy of the supply of renewable fuel can reasonably be judged in terms of availability for use by the ultimate consumer, including consideration of the capacity to distribute the product to the ultimate consumer. In contrast to the section 211(m) waiver provision, Congress arguably did not mandate that the RFS waiver provision be interpreted as providing authority to address problems affecting the supply of renewable fuel to the ultimate consumer. However, given the ambiguity of the RFS provision, we believe that it does provide EPA the discretion to adopt such an interpretation, resulting in a policy approach consistent with that required by the less ambiguous section 211(m) waiver provision.[26]

[25] The reasons why we believe the statute should be interpreted in this way can be illustrated by examining the differences between the RFG opt-in situation and the RFS program. Limiting EPA's consideration to ''capacity to produce'' in the context of deferring RFG implementation in a state with serious air quality concerns is not likely to cause implementation problems because:

1. Infrastructure upgrades necessary to shift from use of conventional gasoline to RFG are relatively modest,;

2. The statute provides for up to one year between EPA's receipt of an opt-in request and the effective date of a rule requiring use of RFG, allowing time for the needed infrastructure upgrades; and

3. Opt-ins typically occur one state at a time, allowing available infrastructure expansion resources to be focused in a relatively small geographic area.

In contrast, allowing RFS waivers only where there is insufficient ''capacity to produce'' renewable fuel would be extremely problematic because:

1. The ethanol industry has the ability to produce far more ethanol than can currently be consumed in the U.S.;

2. Ethanol is already being supplied at E10 levels, and any further growth in ethanol use requires the time consuming installation of costly new E15 or E85 pumps and tanks;

3. The number of vehicles that can use higher ethanol bends is limited;

4. The statute envisions only one month between establishment of annual standards and the start of a compliance year, allowing limited time for infrastructure enhancements; and

5. The RFS is a nationwide program, and infrastructure improvements would be needed throughout the country at the same time to increase the nation's ability to consume renewable fuels at levels corresponding with production capacity.

[26] In CAA section 211(h)(5)(C)(ii), Congress authorized EPA to delay the effective date of certain changes to the federal requirements for Reid vapor pressure in summertime gasoline, if the changes would result in an ''insufficient supply of gasoline'' in the affected area. As with the RFS general waiver

As the above review of various waiver provisions in Title II of the Clean Air Act makes clear, Congress has used the terms ''supply'' and ''inadequate supply'' in different waiver provisions. In the RFS general waiver provision, Congress spoke in general terms and did not address the scope of activities or persons or places that are the focus in determining the adequacy of supply. In other cases, Congress provided, to varying degrees, more explicit direction. Overall, the various waiver provisions lend support to the view that it is permissible, where Congress has used just the ambiguous phrase ''inadequate domestic supply'' in the general waiver provision, to consider supply in terms of distribution and use by the ultimate consumer, and that the term ''inadequate supply'' of a fuel need not be read as referring to just the capacity to produce renewable fuel or the capacity to supply it to obligated parties and blenders.

We are aware that prior to final adoption of the Energy Independence and Security Act of 2007, Congress had before it bills that would have provided for an EPA waiver in situations where there was ''inadequate domestic supply or distribution capacity to meet the requirement.'' [27] EPA is not aware of any conference or committee reports, or other legislative history, explaining why Congress ultimately enacted the language in EISA in lieu of this alternative formulation. There is no discussion, for example, of whether Congress did or did not want EPA to consider distribution capacity, whether Congress believed the phrase ''inadequate domestic supply'' was sufficiently broad that a reference to distribution capacity would be unnecessary or superfluous, or whether Congress considered the alternative language as too limiting, since it might suggest that constraints other than ''distribution capacity'' on delivering renewable fuel to the ultimate consumer should not be considered for purposes of granting a waiver.[28] Given the lack of interpretive value typically given to a failure to adopt a legislative provision, and the lack of explanation in this case, we find the legislative history to be uninformative with regard to Congressional intent on this issue. It does not change the fact that the text adopted by Congress, whether viewed by itself or in the context of other fuel waiver provisions, is ambiguous.

We believe that it is permissible under the statute to interpret the term ''inadequate domestic supply'' to authorize EPA to consider the full range of constraints, including legal, fuel infrastructure and other constraints, that could result in an inadequate supply of renewable fuels to consumers. Under this interpretation, we would not limit ourselves to consideration of the capacity to produce or import renewable fuels but would also consider practical and legal constraints affecting the volume of qualifying renewable fuel supplied to the ultimate consumer.

We believe that our proposed interpretation is consistent with the language of section 211(o), and Congressional intent in enacting the program. It is evident from section 211(o) that Congress's intent was not simply to increase production of renewable fuel, but rather to provide that certain volumes of renewable fuel be used by the ultimate consumer as a replacement for the use of fossil based transportation fuel. The very definition of ''renewable fuel'' requires that the fuel be ''used to replace or reduce the quantity of fossil fuel present in a transportation fuel.'' CAA section 211(o)(1)(I); see also CAA 211(o)(1)(A) (definition of ''additional renewable fuel''). The RFS program does not achieve the desired benefits of the program unless renewable fuels are actually used to replace fossil based transportation fuels in the United States.[29] For example, the greenhouse gas reductions and energy security benefits that Congress sought to promote through this program are realized only through the use by consumers of renewable fuels that reduce or replace fossil fuels present in transportation fuel. Imposing RFS volume requirements on obligated parties without consideration of the ability of the obligated parties and other parties to deliver the renewable fuel to the ultimate consumers would achieve no such benefits and would fail to account for the complexities of the fuel system that delivers transportation fuel to consumers. We do not believe it would be appropriate to interpret the RFS general waiver provision in such a narrow way and limit EPA's consideration of the distribution and use of renewable fuels by the ultimate consumers of these fuels.

As described in more detail in Section II.A.5 below, although at least for 2014 and possibly 2015 and 2016, there is no shortage of ethanol and other types of renewable fuel that could be used to satisfy the statutory applicable volume of total renewable fuel, there are practical and legal constraints on the ability of ethanol to be delivered to and used as transportation fuel by vehicles. Legal requirements limit ethanol content of most gasoline to 10% (which is delivered as E10), but for subsets of vehicles allow up to either 15% ethanol (for 2001 and newer light-duty vehicles) or up to 85% ethanol (for flex fuel vehicles).[30] In addition there are marketplace and infrastructure constraints that limit the use of higher level (>10%) ethanol blends. These considerations prevent the fuel market from supplying vehicles the volumes of ethanol needed to meet the statutory level of total renewable fuel, and as such they create an inadequate domestic supply of renewable fuel that can actually be delivered to consumers and used as transportation fuel. EPA has evaluated this situation, and in this proposed rule is using the general waiver authority, together with our cellulosic waiver authority, to address this inadequate domestic supply situation.

We proposed the same interpretation of our general waiver authority in the November, 2013 NPRM for the 2014 RFS standards (which we are withdrawing in light of this re-proposal of 2014 standards) and we received many comments addressing our proposed interpretation. Although we are not generally responding to comments on the withdrawn 2014 RFS proposal, to aid the public in their evaluation of this proposal we discuss below the most common themes of comments received and our current assessment of them.

A number of stakeholders disagreed that a review of other CAA waiver authorities supports the conclusion that the term ''inadequate domestic supply'' is ambiguous, and that it can be interpreted to include consideration of infrastructure and other constraints related to the delivery and use of renewable fuel by vehicles. Most such stakeholders focused on section

provision, Congress did not specify what considerations would warrant a determination of insufficient supply. EPA has not been called upon to apply this provision to date and has not interpreted it.

[27] H.R. 6 and S. 606 as reported by Senate Envt. & Public Works in Senate Report 109–74.

[28] There are, for example, legal constraints on the amount of certain renewable fuels that may be blended into transportation fuels. These are discussed in Section II.D.1 for ethanol.

[29] For this reason, EPA's implementing regulations require that fuels with multiple possible end uses, such as biogas or electricity, are not considered to be renewable fuels absent a demonstration that they will be used by the ultimate consumers as transportation fuel. For instance, see 40 CFR 80.1426(f)(10)(i)(C) and (f)(10)(ii)(C). Similarly, our regulations require the retirement of RINs representing renewable fuel that is exported as they are not supplied as transportation fuel in the U.S.

[30] See, e.g., EPA partial waiver decisions at 75 FR 68094 (Nov. 4, 2010) and 76 FR 4662 (Jan. 26, 2011).

211(m)(3)(C)(i), which provides for a waiver of the requirement to use oxygenated gasoline in certain carbon monoxide nonattainment areas where there is ''an inadequate domestic supply of, or distribution capacity for, oxygenated gasoline.'' They argued that this provision demonstrates that infrastructure considerations are distinct from supply, and that Congress would have used similar language in section 211(o)(7)(A) if it intended EPA to consider infrastructure and other constraints as a basis for an RFS waiver. These stakeholders asserted that there can be no inadequate domestic supply if there is sufficient qualifying renewable fuel produced and available for purchase by obligated parties and, consequently, that any difficulty that obligated parties may experience in delivering renewable fuels to consumers is irrelevant under CAA section 211(o)(7)(A). However, EPA believes that these stakeholders' analysis has merit only when sections 211(m)(3)(C)(i) and 211(o)(7)(A) are viewed in isolation, and that their argument is not persuasive when all of the CAA provisions containing similar waiver provisions are considered. For example, as discussed above, in section 211(k)(6) Congress used the term ''capacity to produce'' in one RFG waiver context for opt-in states and ''capacity to supply'' in another context. This suggests that the term ''supply' does not unambiguously mean the same thing as ''produce,'' as these commenters argue. The term ''supply'' can mean something different, and logically does in the context of section 211(k)(6) where the two waiver provisions at issue use these different terms and apply in different contexts, to states with considerably different levels of air quality concern. The different ways that the term ''supply'' is used in the various CAA provisions indicates that in section 211(o)(7)(A), where the term is used in isolation, the word ''supply'' is ambiguous and may reasonably be interpreted consistent with the Act's objectives.

Some stakeholders have asserted that interpreting the general waiver authority to allow consideration of all constraints on the use of ethanol by the ultimate consumer would amount to focusing on ''demand'' rather than ''supply'' and would, therefore, be impermissible under the Act. EPA does not agree that a broad consideration of such factors as physical limitations in infrastructure (e.g., availability of E15 and E85 pumps), legal barriers to use of renewable fuel, or ability of vehicles to use renewable fuel at varying concentrations, represent consideration of 'demand' rather than ''supply.' These factors operate as practical and legal limits to how much renewable fuel can be distributed to and used by consumers, and therefore clearly relate to how much renewable fuel can be ''supplied'' to them. Although there may be some element of consumer preference reflected in the historic growth patterns of renewable fuel infrastructure and the current status of the infrastructure, it is nevertheless the case as of today that there are a limited number of fueling stations selling high-ethanol blends, and as a result, the number of stations operates as a constraint on how much ethanol can be delivered. Similarly, only flex fuel vehicles (FFVs) can legally use fuel with ethanol concentrations greater than 15 percent. The population of FFVs has grown considerably in recent years, but is still only a small fraction of the passenger vehicle fleet and there is an even smaller number of FFVs that have ready access to an E85 retail outlet. As a result, the number of FFVs with access to E85 also operates as a constraint on how much ethanol can be delivered. These constraints limit the supply of ethanol to vehicles in the 2014–2016 time period and, we believe, are appropriately considered in evaluating the need for an RFS waiver under section 211(o)(7)(A).

Some stakeholders have stated that even if the term ''inadequate domestic supply,'' were ambiguous, EPA's proposed interpretation is not reasonable because it would either reward obligated parties for their intransigence in planning to supply the volumes set forth in the statute, or because EPA's interpretation would effectively enshrine the status quo, and would prevent the growth in renewable fuel use that Congress sought to achieve in establishing the program. We agree that obligated parties have had years to plan for the E10 blendwall and that there clearly are steps that obligated parties could take to increase investments needed to increase renewable fuel use above current levels, as we have noted in prior actions.[31] We also note, however, that biofuel producers could also have taken appropriate measures, and that nothing precludes biofuel producers from independently marketing E85 or increasing the production of non-ethanol renewable fuels. EPA agrees that its approach to interpreting the term 'inadequate domestic supply' should be consistent with the objectives of the statute to grow renewable fuel use over time by placing appropriate pressure on all stakeholders to act within their powers to increase renewable fuel production and use, while also providing the relief to obligated parties that was intended through the statutory waiver authorities to address supply difficulties that cannot be remedied in the time period over which a waiver would apply. We believe that the approach we have proposed today provides an appropriate balance, and that the proposed applicable volumes are ambitious yet achievable, as described in Section II.D.

3. Assessment of Past Versus Future Supply

In the context of a forward-looking annual RFS standards rulemaking issued consistent with the statutory schedule, we propose that the evaluation of ''supply'' for purposes of determining whether ''inadequate domestic supply'' exists pursuant to section 211(o)(7)A)(ii), should involve an assessment of the maximum renewable fuel volumes that can reasonably be expected to be produced and consumed, and a comparison of those volumes to statutory volumes. This is the approach to the assessment of ''supply'' that we are proposing today for purposes of the 2016 RFS standards. However, the factual situation is different for 2014, since neither this proposed rule nor the final rule we expect to issue later in 2015 can influence the volumes of renewable fuel produced and consumed in the past. Accordingly, our assessment of the ''supply'' available for RFS compliance during 2014 must necessarily focus on the number of RINs generated in 2014 that are available for compliance with the applicable standards. To set the volume requirements at a higher level would require either noncompliance, which EPA deems an unreasonable approach, or the drawdown of the bank of carryover RINs. Although the availability of carryover RINs is a relevant consideration in determining the extent to which a waiver is justified, see Monroe 750 F.3d at 917, we believe that carryover RINs serve an important function under the program, including providing a means of compliance when natural disasters cause unexpected supply limitations, and that in the current circumstances EPA should not set the annual standards for 2014–2016 at levels that would clearly necessitate a reduction in the current bank of carryover RINs. See Section II.F for further discussion of our consideration of carryover RINs in this proposal.

For 2015, the situation is essentially a hybrid of the fact patterns for 2014

[31] See, for instance, 77 FR 70773 (November 27, 2012), column 1.

and 2016. A number of months have passed prior to issuance of this NPRM, and during those months this rulemaking could not influence renewable fuel use. Accordingly, this proposal accounts for actual renewable fuel use in the earlier part of 2015, and projects renewable fuel use only for future months. We are therefore proposing to use the same approach towards projecting renewable fuel growth in the latter part of 2015 as we are using for 2016.

4. Combining Authorities for Reductions in Total Renewable Fuel

EPA is today proposing reductions in the applicable volumes of advanced biofuel and total renewable fuel based on limitations in the availability of qualifying renewable fuels and factors that constrain supplying available volumes to the vehicles that can consume them. These two factors are both relevant forms of inadequate domestic supply, which authorize reductions under the general waiver authority and also justify reductions under the cellulosic waiver authority. We believe that reducing both total renewable and advanced biofuel are appropriate responses to these circumstances. We are proposing to use both the cellulosic biofuel waiver authority and the general waiver authority to reduce the statutory volumes for both advanced biofuel and total renewable fuel by 2.6 billion gallons in 2015 and 3.85 billion gallons in 2016. These two authorities are exercised individually, in a complementary fashion, and each justify our action. In addition, as the volume reduction required for total renewable fuel is greater than that needed for advanced biofuel, we are proposing to use the general waiver authority exclusively as the basis for further reducing the applicable volume of total renewable fuel by 1.6 billion gallons in 2015 and 1.0 billion gallons in 2016.

5. Inability of the Market To Reach Statutory Volumes

In order to use the general waiver authority in CAA 211(o)(7)(A) to reduce the applicable volumes of advanced biofuel and total renewable fuel, we must make a determination that there is either ''inadequate domestic supply'' or that implementation of the statutory volumes would severely harm the economy or environment of a State, a region or the United States. This section summarizes our proposed determination that there is an inadequate domestic supply of advanced biofuel and total renewable fuel in the time period 2014–2016, and thus that the statutory volume targets are not achievable.

As described in Section II.C.1 below, actual supply of renewable fuel in 2014 was 2.22 billion gallons below the applicable volume target in the statute (15.93 versus 18.15 billion gallons). Since the requirements we establish for 2014 cannot change what occurred in the past, our assessment of the ''supply'' available for RFS compliance during 2014 must necessarily focus on actual renewable fuel use, which we propose to be based on the volume of RINs actually generated in 2014 and available for use in complying with the applicable standards.[32] While we could also consider the availability of carryover RINs in assessing supply (as we did in the context of establishing the 2013 RFS annual standards), we have determined that in the current circumstances it would be imprudent and contrary to the long term objectives of the program to assess supply, and then set corresponding renewable fuel volume requirements, at levels that would necessitate a significant reduction in the current bank of carryover RINs. Further discussion of our evaluation of carryover RINs is presented in Section II.F.[33] Since we have determined that actual 2014 advanced biofuel and total renewable fuel use was less than the statutory applicable volume targets, we believe we are authorized to use the general waiver authority to address the ''inadequate domestic supply'' in 2014.

The statute sets targets of 20.5 billion gallons of renewable fuel in 2015 and 22.25 billion gallons of renewable fuel in 2016. We have determined that these volumes cannot be achieved under even the most optimistic assumptions given current circumstances. To make this determination, we first assumed that every gallon of gasoline would contain 10% ethanol, and also assumed production and use of BBD volumes at the highest historical level, which occurred in 2014. When these supplies of renewable fuel are taken into account, a significant additional volume of renewable fuel would still be needed for the statutory volume targets to be met.

TABLE II.A.5–1—ADDITIONAL VOLUMES NEEDED TO MEET STATUTORY TARGETS FOR TOTAL RENEWABLE FUEL

[Million ethanol-equivalent gallons]

	2015	2016
Statutory target for total renewable fuel	20,500	22,250
Maximum ethanol consumption as E10 [a]	−13,780	−13,690
Historical maximum biomass-based diesel supply [b]	−2,500	−2,500
Additional volumes needed	4,220	6,060

[a] Derived from projected gasoline energy demand from EIA's Short-Term Energy Outlook (STEO) from May 2015.
[b] Represents the 1.63 billion gallons of biodiesel and renewable diesel supplied in 2014.

Based on the current and near-future capabilities of the industry, we expect that only a relatively small portion of the additional volumes needed would come from non-ethanol cellulosic biofuel, non-ethanol advanced biofuels other than BBD, and non-ethanol conventional renewable fuels. In total these sources could account for several hundred million gallons, as demonstrated by supply of these sources in 2013 and 2014.[34] The more likely sources of additional renewable fuel that could fulfill the need for 4.22 billion gallons in 2015 or 6.06 billion gallons in 2016 are BBD in addition to the 1.63 billion gallons supplied in 2014, or ethanol consumed as higher ethanol blends such as E15 and E85. In either case, more than 70% of those additional ethanol-equivalent volumes

[32] RINs available for use in complying with the standards represent ethanol-equivalent gallons actually used. Some RINs generated in 2014 may not be available for compliance purposes if they are retired for exports, spills, invalidity, or similar circumstances.

[33] Although we do not believe that carryover RINs should be relied on to set a higher volume requirement for 2014 than is reflected by actual 2014 renewable fuel use, we note that even if the entire estimated bank of 1.8 billion carryover RINs were used for 2014 compliance, a waiver from statutory applicable volumes would still be required for 2014.

[34] Non-ethanol supply other than BBD was 238 mill gal in 2013 and 175 mill gal in 2014. Details of actual supply in 2013 and 2014 can be found in the docket.

would need to be advanced biofuel in order to meet the statutory volume requirement for advanced biofuel.[35]

If all of the additional volumes needed were biodiesel, the industry would need to supply a total of about 4.5 billion gallons in 2015 and 5.7 billion physical gallons in 2016. There currently exists only about 2.8 billion gallons of registered biodiesel production capacity in the U.S., though total production capacity considering unregistered facilities may be as high as 3.6 billion gallons. In addition to expanding the registered production capacity, the industry would need to restart all idled facilities, secure sufficient feedstocks including diverting them from current uses, implement significantly expanded distribution, blending, and retail sales infrastructure, and establish new contracts for distribution and sales. Based on current market circumstances, including the biodiesel sector's current production capacity and broader infrastructure limitations, we do not believe that an expansion in production and use of this magnitude is possible in 2015 or 2016. Just as importantly, volumes on the order of 4.5 billion gallons in 2015 and 5.7 billion physical gallons in 2016 are far in excess of what could actually be consumed in this short timeframe. This volume of BBD would constitute about 8% of the diesel pool in 2015 and 10% in 2016.[36] Although most medium and heavy-duty engine manufacturers warrant the use of blends up to B20 in their more recent models, some light-duty engine manufacturers do not, and the majority of highway and nonroad diesel engines in use today are warranted for no more than 5% biodiesel. Also, biodiesel concentrations in the winter months are sometimes kept to lower levels by engine owners due to cold weather operability and storage concerns. The National Biodiesel Board has extensive efforts underway working with the vehicle and engine manufacturers to continue to expand product offerings capable of operating on B20, working with their membership to improve fuel quality, expanding infrastructure to address cold temperature issues, and working with dealers and technicians to clear away obstacles standing in the way of expanding biodiesel acceptance in the marketplace.[37] There are also efforts to increase the use of biodiesel in heating oil. These will continue to bear fruit, allowing the biodiesel volume to continue to rise over time, but not to the levels that would be needed in 2015 and 2016 if the additional volumes shown in Table II.A.5–1 were met with biodiesel.

Alternatively, if all of the additional volumes were ethanol, the U.S. would need to consume volumes of E85 far higher, in our estimation, than the market is capable of supplying: in 2015 the required volume of E85 would need to be about 6.4 billion gallons, while in 2016 it would need to be about 9.2 billion gallons.[38] [39] These volumes are 30–50 times higher than actual E85 consumption in 2014, and would require many of those FFVs that do not have an E85 retail outlet anywhere close by to use it.[40] Moreover, a majority of this additional ethanol would need to be advanced, and currently the only substantial source of advanced ethanol is imported sugarcane ethanol from Brazil which has recently increased its own ethanol use requirements. In order to meet the statutory volume requirement for advanced biofuel, the U.S. would need to import at least 3.0 billion gallons in 2015 and 4.7 billion gallons in 2016.[41] Such volumes would be on the order of ten times higher than actual annual imports in the past. The highest volume of Brazilian sugarcane ethanol that has ever been imported was 680 million gallons in 2006, and in recent years ethanol imports have been considerably lower.[42] In 2014, imports were only 64 million gallons.[43] While production of sugarcane ethanol in Brazil has increased, demand for ethanol in Brazil has also increased. For instance, Brazil recently increased the required ethanol content of gasoline from 25% to 27.5%.[44] As a result, we believe that exports of 3.0—4.7 billion gallons from Brazil to the U.S. in the 2015—2016 timeframe are infeasible.

The additional volume of 4.22 billion gallons in 2015 or 6.06 billion gallons in 2016 could also be satisfied through production and use of a combination of BBD and E85. However, even in this case the volumes are untenable. Figure II.A.5–1 shows the range of possibilities for both 2015 and 2016.

[35] Assumes that all ethanol consumed as E10 in Table II.A.5–1 is conventional (non-advanced).

[36] Based on EIA's May 2015 Short-Term Energy Outlook (online interactive table), nationwide diesel consumption is projected to be 57.5 bill gal in 2015 and 58.9 bill gal in 2016.

[37] ''NBB Technical Update for EPA, April 30, 2015'' in docket EPA–HQ–OAR–2015–0111.

[38] In general when discussing efforts to increase the use of ethanol beyond the blendwall we focus on the volume of E85 that is consumed, since volumes of E15 are likely to be small in 2016. See additional discussion of this issue in Section II.D.1 below.

[39] Due to relative ethanol content and the fact that E85 displaces some E10, each gallon of ethanol above the E10 blendwall requires the use of 1.51 gallons of E85.

[40] Further discussion of the E10 blendwall can be found in Section II.D.1.

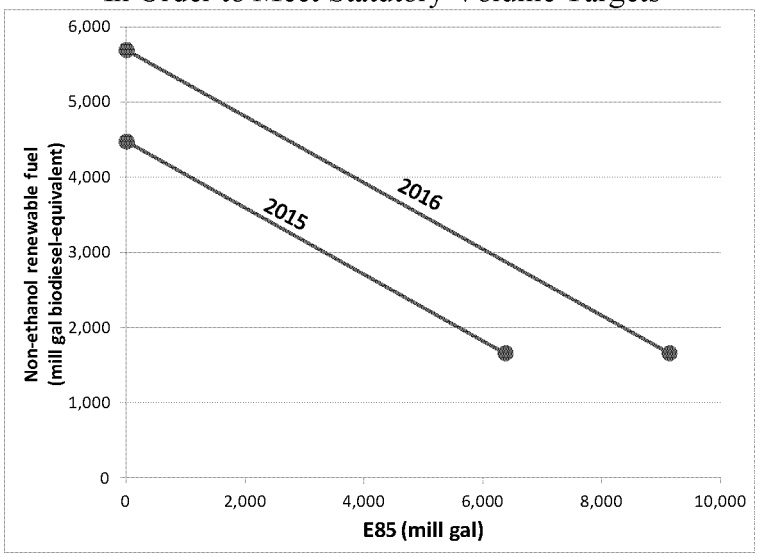
[41] The balance of the additional volumes needed, as shown in Table II.A.5–1, would most likely be corn-ethanol.

[42] 42 Ethanol import data from EIA, representing imports directly from Brazil and indirectly through the Caribbean Basin Initiative (CBI) and the Central America Free Trade Agreement (CAFTA). *http://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_epooxe_im0_mbbl_m.htm.*

[43] Based on import data from EMTS.

[44] ''Brazil Hikes Ethanol Blend in Gasoline to 27%,'' DownstreamBusiness.com, March 12, 2015.

Figure II.A.5-1
Volumes of Biodiesel Versus E85 That Must Be Supplied In Order to Meet Statutory Volume Targets



We recognize that the market could potentially reach higher total volumes than those reached in 2014 by using a combination of biodiesel and E85. Even so, we believe that the market could not reach the volumes specified in the statute. For instance, one possible combination for 2016 would be 4.5 billion gallons of E85 and 3.7 billion gallons of biodiesel. While both of these volumes are considerably less than the maximums that would be required if the market supplied only one or the other, nevertheless both levels appear to be beyond the reach of the market under current circumstances. Based on this assessment, we do not believe that the statutory volumes for advanced biofuel and total renewable fuel can be met in 2015 or 2016.

B. Overview of Approach to Determining Volume Requirements

Although the statute does not require that EPA issue a waiver of the statutory applicable volumes when EPA determines that there is an inadequate domestic supply of renewable fuel, we are in fact proposing to do so.[45] However, we are proposing to exercise that authority only to the extent necessary to remove the inadequacy in supply. That is, our objective in exercising the general waiver authority is to set the volume requirements at the boundary between an adequate domestic supply and an ''inadequate domestic supply.''[46] One way of expressing this objective is to say we are seeking to determine the maximum volumes of renewable fuel that are achievable in light of supply constraints. This is a very challenging task not only in light of the myriad complexities of the fuels market and how individual aspects of the industry might change in the future, but also the fact that we cannot precisely predict how the market will respond to the volume-driving provisions of the RFS program. Thus the determination of the maximum achievable volumes is one that we believe necessarily involves considerable exercise of judgment. To this end, we are proposing ''maximum achievable'' volumes of advanced biofuel and total renewable fuel in this package that reflect our judgment as to where the intersection between adequate domestic supply and inadequate domestic supply might fall. There are a number of indications, described below, that the volumes we are proposing today represent a reasonable estimate of the maximum volumes achievable.

In the November 2013 NPRM we projected achievable volumes by following an approach wherein we first projected future volumes for each of the various components of the renewable fuel pool and then combined them using a statistical approach to arrive at overall totals. By considering each possible source of renewable fuel in isolation, we had intended to reduce the generation of the proposed standards to a collection of more easily estimated components. We acknowledged that each source of renewable fuel was not independent from other sources under the influence of the RFS program, but we nevertheless treated them as such. However, because the projected volume of each individual source was uncertain, there needed to be flexibility in the proposed volume requirements so that excesses of one source could compensate for potential shortfalls in another source. To account for this fact, and also for the fact that the uncertainty associated with each individual source was compounded when those sources were added together, we targeted the mean of the projected range of potentially achievable volumes rather than some higher value as the basis for the proposed volume requirements.

After further consideration, we believe that the approach we took in the November 2013 NPRM underestimated achievable volumes and did not fully account for the potential of the market to respond to the standards that we set. We have determined that considering each potential source of renewable fuel in isolation, adding those sources together, and then using the mean of the resulting range was more suited to taking a neutral aim at accuracy of supply, rather than estimating the maximum volumes that can be achieved from a responsive market as implicitly required by the statute. The applicable

[45] 211(o)(7)(A) says, ''The Administrator . . . may waive the requirements . . .'' [emphasis added]

[46] As discussed in Section II.A, EPA has considerable discretion in exercising the cellulosic waiver authority, and is not constrained to consider any particular factor or list of factors in doing so. Nevertheless, EPA is proposing to base its exercise of the cellulosic waiver authority on the same general considerations justifying its use of the general waiver authority—availability of renewable fuel and the legal and practical constraints on their supply to vehicles and other qualifying uses. We invite comment on this approach.

volumes established by Congress in the statute were very ambitious, and even in cases where we have determined that the statutory volumes cannot be met we are under an obligation to set volume requirements that are achievable but still ambitious. Therefore, for this proposal we have found it more straightforward and more in keeping with the statute's goals to estimate the total maximum achievable volumes for both advanced biofuel and total renewable fuel based on the market potential for overcoming the various constraints at play. In this process was have considered the contributions from individual sources of renewable fuel, including E15 and E85, in the aggregate rather than individually, and in the context of a market that is responsive to the standards that we set.

Section II.A above lays out the rationale and justification for exercising our waiver authority under the Clean Air Act's relevant provisions. In determining the specific volumes to propose, we have considered not only the current circumstances and limitations in the ability to supply renewable fuels to the consumer, but also historic renewable fuel growth patterns and maximum supplies, the intent of Congress to use the RFS program to drive growth in renewable fuel use, and our assessment (based on years of regulating the fuel production and distribution industry) of the ability of the RFS program to effect changes that will result in growth. As a result, our proposed approach envisions growth in supply beyond historical levels as envisioned by the statute. This section provides an overview of our approach to determining the proposed volume requirements.

1. Fulfilling Congressional Intent To Increase Use of Renewable Fuels

Although there is scant legislative history for the Energy Independence and Security Act (EISA) to confirm the facts that were considered by Congress at the time of enactment, we believe that when Congress specified the renewable fuel volume targets that the RFS program was to attain, that it likely was with the understanding that the growth reflected in the statutory tables of applicable volumes would be beyond any previously demonstrated ability of the industry to produce, distribute, and consume renewable fuels. For example, the annual average growth reflected in the statutory volumes for the time period between 2009 and 2022 is 1.6 billion gallons per year for advanced biofuel and 1.9 billion gallons per year for total renewable fuel. However, in the period 2001 to 2007 leading up to enactment of EISA, annual average growth rates were lower: 0.8 billion gallons per year for ethanol, which was not advanced biofuel, and 0.07 billion gallons per year for biodiesel. The supply of other renewable fuels during this timeframe was essentially zero. In other words, Congress set targets that envisioned growth at a pace that far exceeded historical growth and prioritized that growth as occurring principally in advanced biofuels (contrary to historical growth patterns). It is apparent, therefore, that Congress intended to require changes that would be unlikely to occur absent the new program.

Moreover, it is highly unlikely that Congress expected the very high volumes that it specified in the statute to be reached only through the consumption of E10; indeed the statute does not explicitly require the use of ethanol at all. At the time EISA was passed in 2007, EIA's Annual Energy Outlook for 2007 projected that 17.3 billion gallons of ethanol is the maximum that could be consumed in 2022 if all gasoline contained E10 and there was no E0, E15, or E85.[47] However, 17.3 billion gallons is far less than the 35 billion gallons of renewable fuel other than BBD that Congress targeted for use in 2022. Thus, if the statutory targets were to be achieved, 17.7 billion gallons of renewable fuel would need to be consumed in 2022 either as higher level ethanol blends (E11—E85), or as non-ethanol fuels. Such levels were far beyond the industry's abilities at the time of EISA's enactment, strongly suggesting that Congress expected the RFS program to compel the industry to make dramatic changes in a relatively short period of time.

Congress did not explicitly indicate, in EISA or in any other document associated with it, the sort of changes that may have been expected to occur to reach 36 billion gallons by 2022. Instead, there was an implicit assumption that the market would respond appropriately to overcome those obstacles to significant growth that might exist. Today we know that the changes needed to significantly expand renewable fuel use fall into a select number of areas, including:

- Increased production and/or importation of ethanol, primarily advanced ethanol
- Increased use of E15 in model year 2001 and later vehicles
- Increased use of E85 or other higher level ethanol blends in flex-fuel vehicles (FFVs)
- Increased production and/or importation of non-ethanol biofuels (e.g., biodiesel, renewable diesel, renewable gasoline, and butanol) for use in conventional vehicles and engines
- Increased use of biogas in CNG vehicles
- Increased use of renewable jet fuel and heating oil
- Increased use of non-food based feedstocks
- Co-development of new technology vehicles and engines optimized for new fuels

In the near term we expect that increases in E85 and biodiesel will dominate efforts to increase the use of renewable fuel, with smaller roles played by other avenues (e.g., increased E15 use). In the longer term, sustained ambitious volume requirements are necessary to provide the certainty of a guaranteed future market that is needed by investors; the development of new technology won't occur unless there is clear profit potential, and it requires multiple years to build new production, distribution, and consumption capacity. We believe that the approach we take to setting the standards must be consistent with Congress' clear goal of compelling the industry to make dramatic changes to increase renewable fuel use. To this end, the approach presented in this action makes use of the statutory waiver authorities only to the degree necessary to ensure that the resulting volumes of advanced biofuel and total renewable fuel are within reach of the market.

We believe that over time use of both higher level ethanol blends and non-ethanol biofuels can and will increase, consistent with Congress' intent in enacting EPAct and EISA. As stated above, while Congress provided waiver authority to account for supply challenges, we do not believe that Congress intended the renewable fuels market to be ultimately constrained by the E10 blendwall or any other particular limitation that may exist in supplying renewable fuels. The fact that Congress set volume targets reflecting increasing and substantial amounts of renewable fuel use clearly signals that it intended the RFS program to create incentives to increase renewable fuel supplies and overcome supply limitations. Notwithstanding these facts,

[47] Assumes that AEO2007's 2022 demand for gasoline energy was fulfilled entirely by E10. AEO2007 however, projected that considerably less gasoline used in 2022 would be E10. We have converted the projected 2022 gasoline energy demand into an equivalent volume of E10 to determine the maximum volume of ethanol that could have been consumed in 2022, based on the AEO2007, if all gasoline was E10.

Congress also authorized EPA to adjust statutory volumes as necessary to reflect situations where only partial progress had been made towards eliminating supply limitations, as well as to address situations involving unexpected severe economic or environmental harm resulting from program implementation.

2. RFS Program Mechanisms and Their Role in Supporting Growth in Renewable Fuel Use

Congress charged EPA with implementing a program whose explicit goal is increased renewable fuel use over time, and EPA, in developing an implementation framework, sought to achieve this goal in a fashion that maximizes flexibility and the power of the marketplace, while at the same time recognizing the complex and disaggregated structure of the fuel production and distribution systems. EPA created a system whereby renewable fuel producers generate RINs for each gallon of renewable fuel produced. These RINs, under certain conditions, can be separated from the renewable fuel and bought and sold by registered parties. They are ultimately used by obligated parties as a means of demonstrating compliance with their renewable volume obligations. In establishing a compliance approach based on RINs, EPA sought to encourage efficient, market-based solutions to the challenges associated with increasing the production, distribution, and consumption of renewable fuels.

The RIN system is the mechanism established by EPA for obligated parties to demonstrate compliance with the standards, and is designed to provide obligated parties flexibility in the means they use to demonstrate compliance. The RFS program, acting through the mechanism of the RIN system, operates to provide an incentive for renewable fuel producers to increase the production of renewable fuels by, in effect, increasing the price blenders and obligated parties are willing to pay for renewable fuels. Under the RFS program, renewable fuel producers sell not only the fuels they produce, such as ethanol or biodiesel, but also the RINs that are ''assigned'' to the renewable fuel. As the demand for RINs increases, the willingness of the market to pay for renewable fuels and the RINs assigned to them also increases. When working efficiently, this system allows renewable fuel producers to continue to profitably market renewable fuel at times that would otherwise result in negative margins, such as when the price of feedstock or other inputs are unusually high, the price of the petroleum fuels that renewable fuels replace is unusually low, or when market demand for renewable fuel is low. In this way the RFS program, through the RIN system, also assists renewable fuel producers seeking to finance the construction of new facilities, especially facilities capable of producing cellulosic or advanced biofuels, by providing certainty that there will be a market for increasing volumes of renewable fuels.

The RIN system should also incentivize the development of the renewable fuel distribution infrastructure by helping to decrease the net cost of renewable fuels. As mentioned, when fuel blenders or obligated parties purchase renewable fuel directly from renewable fuel producers this fuel generally comes with an assigned RIN. When a fuel blender blends the renewable fuel with petroleum-based fuel to create finished transportation fuel, the blender is able to separate and sell the RIN that was previously assigned to the renewable fuel. Whatever price the fuel blender or obligated party receives for the RIN can be thought of as reducing the net purchase price of the renewable fuel. For example, if a fuel blender purchases a gallon of ethanol with an attached RIN for $1.50 and, after blending the ethanol to create transportation fuel, sells the RIN for $0.50, the blender has effectively paid $1.00 for the gallon of ethanol without the RIN. The higher the price received for the RIN, the lower the effective cost of the renewable fuel. Higher RIN prices therefore enable fuel blenders to market finished fuels that contain renewable fuel components at lower prices by allowing them to purchase renewable fuels for a lower effective price. A fuel blender can choose not to reduce the price of the blended fuel and keep the value associated with the RIN as profit, or they can attempt to increase their market share by passing along the lower effective purchase price of the renewable fuel to the customers in the price of their fuel blends.[48] By increasing the potential profitability of blending renewable fuels, higher RIN prices can incentivize the build out of the infrastructure necessary to blend and distribute renewable fuel blends as parties seek to enter or expand their position within this market.[49]

Finally, the RFS program, operating through the RIN system should increase the consumption of renewable fuels by ultimately decreasing the cost of renewable fuel blends to consumers relative to the cost of fuel blends that do not contain renewable fuels. RIN prices can be used by blenders to decrease the effective cost of renewable fuel used to create transportation fuel. As more market participants enter the renewable fuel blending and distribution marketplace, and consumers learn to accurately compare the cost of E10 and other higher-level ethanol blends, over some period of time the competition among renewable fuel blenders and distributors should result in a greater portion of the reduced effective cost of renewable fuel blends enabled by the sale of the RIN to be passed on to fuel consumers. Transportation fuel that contains renewable fuels should then reflect these cost reductions relative to transportation fuel containing lower volumes of renewable fuel (or no renewable fuel) in proportion to their renewable fuel content; transportation fuel containing a greater percentage of renewable fuels should be priced lower than transportation fuel containing a lesser percentage of renewable fuel. Motivated by the lower fuel prices for transportation fuel containing greater renewable fuel content (such as E85) relative to fuels containing less renewable fuel (such as E10), consumers will then choose to purchase increasing volumes of renewable fuel. If the price discount for renewable fuels is great enough for a long enough period of time, they may also be motivated to purchase vehicles capable of utilizing fuels containing higher percentages of renewable fuels, such as flexible fuel vehicles.

While economic theory and the illustration in the preceding paragraphs support the idea that RINs can serve as a mechanism to increase the production, distribution, and consumption of renewable fuels, it is important to note that this is dependent on the marketplace working efficiently. In reality, there is a timing component associated with each of the steps outlined above. Renewable fuel producers and investors must see a sustained, profitable market for renewable fuels before they will be willing to invest in the construction of additional fuel production capacity,

[48] In competitive markets, such as the market for E10, fuel blenders must reflect the lower effective prices of renewable fuel (ethanol) in the price of the E10. For emerging markets, such as E85, there may be greater opportunities for fuel blenders to withhold profit due to a lack of market competition until such a time as other parties enter the E85 market.

[49] Although not directly relevant to the establishment of the proposed standards, for further background information on EPA's understanding of the RIN and renewable fuel market dynamics see ''A Preliminary Assessment of RIN Market Dynamics, RIN Prices, and Their Effects,'' Dallas Burkholder, Office of Transportation and Air Quality, US EPA. May 14, 2015, EPA Air Docket EPA–HQ–OAR–2015–0111.

which may take years to construct and bring online. Fuel blenders and distributors must see sustained profit opportunities before they are willing to invest in new infrastructure to increase their capacity to blend and distribute renewable fuels. Market competition must increase before fuel blenders and distributors are willing to pass along the reduced effective price of renewable fuel to consumers. New fueling infrastructure may need to be built to facilitate the sales of fuels containing an increasing percentage of renewable fuel. Consumers will need to learn to be able to identify value in fuel blends containing higher proportions of renewable fuels, as well as their vehicle's ability to handle these fuel blends and where they are available for purchase.

This suggests that while the RFS program established by EPA can be effective at increasing the renewable content of transportation fuels over time, it likely cannot substantially increase the available supply of renewable fuels to consumers to the volumes envisioned by Congress in the short term. The program, as Congress clearly indicated, is intended to grow over a period of years. EPA remains committed to promoting renewable fuel production and use in the United States, and we believe the RFS program will be effective in achieving this end. Due to the current state of the renewable fuel production, distribution, and consumption marketplace, we believe the required volumes of renewable fuel must be reduced below the statutory levels in the immediate near term. An approach that provides volume targets that balances aggressive growth with marketplace realities is necessary, is consistent with the statute and Congressional intent, and is the intended outcome of this proposed action.

3. Current and Future Shortfalls in Supply

In 2013 and 2014, the market supplied less renewable fuel to the domestic transportation sector than the statutory targets for those years. While the standards for 2013 were not finalized until August 15, 2013 and the standards for 2014 have not yet been finalized, we do not believe that these delays are the only reasons that actual supply fell short of the statutory volumes. Shortfalls in production and import capability of non-ethanol renewable fuels and constraints on the supply of ethanol to vehicles were also significant factors in not meeting the statutory volume targets, and we expect these factors to continue in 2015 and beyond.

Supplies of BBD and advanced biofuel in 2013 exceeded the statutory requirements for these two categories of renewable fuel by a wide margin. In addition, there was a record high of about 250 million ethanol-equivalent gallons of non-advanced biodiesel and renewable diesel imported in 2013. However, supply of total renewable fuel fell far short of the statutory target of 16.55 billion gallons, reaching only 15.54 billion gallons. The most likely source of additional renewable fuel that could have made it possible to reach a total of 16.55 billion gallons was corn-ethanol. Consuming an additional 1 billion gallons of ethanol would have required consumption of E85 to increase to more than 1.5 billion gallons.[50] The fact that the market only achieved about 130 million gallons of E85 in 2013 despite substantial increases in the production and import of non-ethanol blends and the substantial draw-down in the bank of carryover RINs indicates that E85 consumption was constrained.[51] We believe these constraints included those related to infrastructure (e.g., availability of E85 at retail and the number of FFVs in the fleet) and poor pricing of E85 relative to E10 that fails to overcome the lower energy content of E85 and any inclinations that FFV owners may have to opt to use gasoline.[52]

A similar situation existed in 2014, except that both the advanced biofuel and total renewable fuel volumes supplied fell short of the statutory volume targets. We recognize that the market may have been influenced by the proposed volume requirements for 2014 specified in the November 2013 Notice of Proposed Rulemaking (NPRM) which included proposed reductions from the statutory levels.[53] However, there are reasons to believe that the November 2013 NPRM was not the only factor resulting in actual supply falling short of the statutory volumes. Not only did we request comment on volume requirements higher than those we proposed, but there was an inherent possibility that we might finalize the statutory volumes for 2014. Indeed, we received over 340,000 comments on the November 2013 NPRM, many of which requested that we set the 2014 volume requirements at the statutory levels. We believe that obligated parties would likely act prudently to minimize the risk that they would be out of compliance regardless of the outcome in the final rule. The fact that total demand for gasoline was about the same in 2014 as it was in 2013 suggests that the E10 blendwall also played a role in limiting the supply of renewable fuel. Thus the facts suggest that factors other than the NPRM were principally responsible for renewable fuel use being considerably below the statutory volume levels. In particular, we believe these factors include insufficient production and import of non-ethanol renewable fuels, and constraints on the supply of ethanol to vehicles that can consume it.

Our view that factors other than the November 2013 NPRM were responsible for renewable fuel use being considerably below the statutory volume levels in 2014 is also supported by the fact that the supply of advanced biofuel was insufficient to fill the gap created by the shortfall in cellulosic biofuel. Under the statute, cellulosic biofuel was intended to fill 1.75 billion gallons out of the 3.75 billion gallons advanced biofuel applicable volume target. In reality, cellulosic biofuel was only 0.03 billion gallons. The market did increase the supply of other advanced biofuel, but those increases were insufficient to reach the statutory volume target. Specifically, the market supplied 1.63 billion gallons (2.5 billion ethanol-equivalent gallons) of BBD but only 143 million gallons of other advanced biofuel. We expect the gap created by the shortfall in cellulosic biofuel to widen further in 2015 and 2016 as the statutory volume targets quickly increase but the supply potential of the market increases at a slower rate.

Supply of ethanol in higher level ethanol blends, primarily E15 and E85, also fell far short of what would have been needed to reach the statutory volumes of total renewable fuel in 2014. While the total volume of ethanol that could in theory have been consumed in 2014 in the form of E15 and E85 was about 26 billion gallons[54] based on the

[50] E85 is assumed to contain 74% ethanol, consistent with the concentration assumed by EIA. Each gallon of E85 displaces some E10. The net result of these two factors is that every gallon of ethanol that must be consumed above the E10 blendwall requires 1.51 gallons of E85.

[51] Because the applicable volume requirement for total renewable fuel in 2013 was 16.55 bill gal, but actual supply was only 15.54 bill gal, there was a shortfall of about 1 bill RINs needed for compliance.

[52] For a further discussion of the ability of the RFS program, acting through the RIN system, to impact E85 infrastructure and pricing as well as the limitations of the RFS program see Section II.B.2.

[53] 78 FR 71732, November 29, 2013.

[54] 26 bill gal estimate assumes that FFVs in the fleet in 2014 had a cumulative consumption capacity of about 13 billion gallons of E85, that E85 would average 74% ethanol, and that model year 2001 and later conventional vehicles had a cumulative consumption capacity of about 110

consumption capacity of vehicles that are legally permitted to use these fuels, constraints such as those imposed by blending and dispensing infrastructure and poor pricing relative to E10 resulted in only about 100—200 million gallons of ethanol actually being consumed as E15 and E85 in 2014.[55] Use of E15 in 2014 was limited by the very small number of stations choosing to market it, which numbered less than 100 by the end of 2014 out of a total of more than 150,000 stations nationwide. Similarly, the number of retail stations offering E85 was about 3,000 by the end of 2014, representing only about 2% of stations nationwide.[56] There were about 14 million FFVs in the fleet in 2014, representing about 6% of all light-duty cars and trucks. However, with only about 2% of retail stations offering E85, only a minority of those FFVs had an E85 refueling station nearby. The relative pricing of E15 and E85 compared to E10 at the retail level also likely played a role in sales of these higher level ethanol blends falling far below the available consumption capacity; while some retailers passed savings associated with high ethanol RIN value along to consumers, increasing demand for higher level ethanol blends, this was not typical across the nationwide market.[57]

Since 2013, the number of FFVs in the fleet and the number of retail stations offering E15 and E85 have grown, and we believe that this growth has been influenced in part by the RFS program. However, this growth has been very modest. Similarly, growth in the ability of the market to supply advanced biofuel other than cellulosic biofuel and BBD has also been modest. Current indications are that growth in all of these areas will continue, and the capability exists for growth to accelerate. However, growth is very unlikely to reach a level that would enable the statutory volume targets to be met in the near term. As a result, we believe that there will continue to be constraints on the total volume of renewable fuel that can be consumed in 2015 and 2016.

C. Proposed Volume Requirements

The purpose of the RFS program is to ensure that renewable fuels are increasingly used to replace or reduce the use of fossil-fuel based transportation fuel. Ethanol is currently the most widely used renewable fuel for this purpose, with biodiesel being the second most common renewable fuel and other fuels making up a significantly smaller portion of the pool. For non-ethanol renewable fuels, the primary supply constraint at present is the projected shortfall in domestic production or importation of qualifying volumes. For ethanol blends, there are both legal and practical constraints on the amount of ethanol that can be supplied to the vehicles that can use it, notwithstanding the considerable volumes that can be produced and/or imported. Gasoline-powered vehicles and engines have for many years been designed and warranted to use gasoline with ethanol up to 10%, and only blends up to 10% ethanol have historically been legal for use. There are, however, two other avenues through which gasoline with higher concentrations of ethanol can be used. In 2010 and 2011, EPA granted partial waivers that together allow 2001 and later model year light-duty motor vehicles to use gasoline containing up to 15% ethanol.[58] While such fuels are legal, retail service stations have been slow to offer them. In addition, manufacturers have been increasingly warranting their new vehicles to operate on E15 and have for some time also been designing and marketing FFVs capable of operating on denatured ethanol concentrations as high as 85%. These vehicles represent about 7% of the in-use fleet in 2015. However, like the use of E15 in 2001 and later model year vehicles, use of E85 in FFVs has been limited in part by the relatively small number of retail stations offering it.

While there are constraints on expansion of renewable fuel use, markets have a demonstrated ability to overcome constraints with the appropriate policy drivers in place, as discussed in Section II.B.2 above. We believe that the RFS program can drive renewable fuel use, and that it is appropriate to consider the potential of the market to respond to the standards we set when we assess the amount of renewable fuel consumption that can be achieved. Thus, we are proposing volume requirements for advanced biofuel and total renewable fuel that take into account both the constraints on supply and the ability of the RFS program to drive consumption.

1. 2014

Since 2014 has passed, we are proposing to base the applicable volume requirements for that year on the number of RINs supplied in 2014 that are expected to be available for use in complying with the standards. These RINs would include those that were generated for renewable fuel produced or imported in 2014 as recorded in the EPA-Moderated Transaction System (EMTS), minus any RINs that have already been retired for non-compliance reasons or would be expected to be retired to cover exports of renewable fuels.[59] RINs that have already been retired for non-compliance purposes include those retired to correct for invalidly generated RINs, volumes for renewable fuel that was spilled after RIN generation, etc. These RINs are recorded in EMTS on an ongoing basis. However, the total number of RINs that would be expected to be retired to cover exports of renewable fuel in 2014 will only be recorded in EMTS after the compliance demonstration deadline for 2014 has passed. Since the compliance deadline for all 2014 RIN exports has not yet passed, we are proposing to estimate likely RIN retirements for renewable exports using renewable fuel export information from EIA.[60] If RINs retired for exports are recorded in EMTS prior to issuance of the final rule, we will use EMTS data instead of EIA data in determining supply for 2014 in the final rule.

Actual supply in 2014 is shown in Table II.C.1–1 below. Further details are provided in a memorandum to the docket.[61] Since EIA does not distinguish exports by D code, we assumed based on past practice that all ethanol exports represent D6 ethanol, and all biodiesel exports represent D4 BBD. We expect

billion gallons of E15 which would contain 15% ethanol.

[55] Low actual consumption compared to consumption capacity may also be a function of vehicle warranties which do not explicitly permit the use of E15.

[56] Source: DOE's Alternative Fuels Data Center.

[57] The largest nationwide average discount for E85 relative to gasoline reported in the Department of Energy's quarterly Clean Cities Alternative Fuel Price Report in 2014 was 13.8% (October 2014; the average gasoline price was $3.34 per gallon and the average E85 price was $2.88 per gallon). The Energy Information Administration estimates that E85 contains 74% ethanol on average, requiring a discount of approximately 22% per gallon for E85 relative to gasoline for E85 to priced equal to gasoline on a dollar per BTU basis. Price discounts for E85 relative to gasoline were higher or lower for individual regions, states, and stations.

[58] 75 FR 68,094 (Nov. 4, 2010) (First E15 Partial Waiver Decision); 76 FR 4662 (Jan. 26, 2011) (Second E15 Partial Waiver Decision).

[59] Although we estimate that there are approximately 1.8 billion carryover RINs available, we are proposing not to count those RINs as part of the ''supply'' for 2014 or later years, for the reasons described in Section II.F.

[60] *http://www.eia.gov/dnav/pet/pet_move_expc_a_EPOORDB_EEX_mbbl_m.htm.*

[61] ''Summary of data on 2014 RIN Generation and Consumption,'' memorandum from David Korotney to EPA docket EPA–HQ–OAR–2015–0111.

that any errors introduced by this assumption will be very small.

TABLE II.C.1–1—2014 ACTUAL SUPPLY

[Million RINs]

D code	Domestic production	Imports	Exports	Net supply [a]
3 & 7	33	0	0	33
4	2,131	496	124	2,502
5	79	64	0	143
6	13,759	336	846	13,250
All advanced biofuel (D3+D4+D5+D7)	2,243	560	124	2,679
All Renewable fuel (D3+D4+D5+D6+D7)	16,002	896	970	15,929

[a] Totals may not add up due to rounding.

Based on these volumes, we are proposing the applicable volume requirements for advanced biofuel and total renewable fuel for 2014, as shown in Table II.C.1–2 below. Discussion of the proposed cellulosic biofuel and BBD volume requirements for 2014 can be found in Sections IV.C and III.C, respectively.

TABLE II.C.1–2—PROPOSED VOLUME REQUIREMENTS FOR 2014

[Billion gallons]

Advanced biofuel	2.68
Renewable fuel	15.93

2. 2015

Despite the fact that this proposal is being released well into 2015, we believe that the market can achieve growth this year in comparison to the volumes that were supplied in 2014 (though the rate of growth will not be as high as compared to a scenario under which the market is given the full lead time envisioned by the statute). To this end, we are proposing that the volume requirement for advanced biofuel in 2015 be 2.90 billion gallons. The market has already demonstrated that this level is achievable, having reached 2.92 billion gallons in 2013. Nevertheless, it would be a significant increase from actual supply in 2014 of 2.68 billion gallons and would recognize the lower volumes already supplied to date in 2015. The primary reason that 2014 advanced biofuel volumes were below 2013 volumes is that imports of sugarcane ethanol were 435 million gallons in 2013 but only 64 million gallons in 2014.[62] If this reduction had not occurred in 2014, total advanced biofuel volumes could have been above 3.00 billion gallons. Therefore, we believe that 2.90 billion gallons of advanced biofuel is within reach of the market in 2015, despite late issuance of this proposal. While it would require the market to supply more advanced biofuel in 2015 than was actually supplied in 2014, supplies that increase annually is exactly what Congress expected the RFS program to compel. Indeed, an examination of the volumes of advanced biofuel set forth in the Clean Air Act shows that Congress intended that the rate of growth accelerate every single year between 2009 and 2015, though cellulosic biofuel represents the majority of this growth.

A 2015 volume requirement of 2.90 billion gallons for advanced biofuel would be a substantial reduction from the statutory volume target of 5.50 billion gallons. As discussed in Section II.A.4, we believe that a reduction from the statutory volumes is necessary given the limitations on production and import capabilities and constraints imposed by the ability of vehicles and engines to use renewable fuels, particularly ethanol. Growth in advanced biofuel supply from 2014 to 2015 would be about 220 million gallons, substantially less than the growth in the statutory volume target of 1,750 million gallons. However, growth of 220 million gallons from 2014 to 2015 would require the market to respond to the standard we set by supplying more advanced biofuel than would be expected absent the RFS program, and to do so in substantially less than a full calendar year. Indeed without the RFS program, actual supply in 2015 may be no different than it was in 2014. Nevertheless, we believe that 2.90 billion gallons of advanced biofuel is possible given the potential for higher volumes of domestic and imported advanced biofuels, including biodiesel and sugarcane ethanol, among others, and would achieve both the intent of Congress to drive the market forward and also acknowledge the clear limitations on supply that exist. We believe that 2.90 billion gallons represents the maximum amount of advanced biofuel that can be supplied in 2015.

Similarly, for total renewable fuel, we are proposing a reduction in the 2015 statutory volume target of 20.50 billion gallons to 16.30 billion gallons. While the statutory volume target for total renewable fuel cannot be achieved in 2015 as discussed in Section II.A.4, we believe that some growth can be expected in 2015 as the annual volume requirement we set in the RFS program drives expansion in production and import capabilities and infrastructure, and incentivizes more favorable pricing of renewable fuels in the marketplace. Much of the increase from 2014 of about 370 million gallons would result from the increase in the advanced biofuel standard of 2.90 billion gallons discussed above, with the remainder resulting from growth in the use of conventional renewable fuel such as corn ethanol. We believe that the market has already demonstrated that this increment of growth is possible. For instance, growth in total renewable fuel in 2014 was 390 million gallons, and in 2013 it was even higher, despite the fact that in both years the gasoline pool was essentially saturated with ethanol.[63] Thus, growth of 370 million gallons is within reach of a responsive market even though 2015 is partially over.

We request comment on our proposal for 2.90 billion gallons of advanced biofuel and 16.30 billion gallons of total renewable fuel for 2015. Specifically, we request comment on whether these proposed volumes appropriately reflect constraints on supply resulting from the E10 blendwall and limitations in production and import capabilities, as well as the ability of the market to respond to the standards we set in the time available. Since we recognize that these proposed volumes represent our

[62] Based on import data from EMTS.

[63] According to EIA's Short-Term Energy Outlook (May 2015), pool-wide ethanol content was about 9.75% in 2013 and 9.85% in 2014.

proposed judgment as to the maximum amount of renewable fuel that can be supplied in 2015, and commenters may have information that supports a different assessment, we request comment on whether higher or lower volume requirements for advanced biofuel and total renewable fuel for 2015 would be more appropriate. For example, some commenters may view the market as unable to overcome barriers such as significant availability of E85 to consumers in the 2015 timeframe or significantly higher volumes of BBD than were supplied in 2014, and would therefore suggest applicable volumes for 2015 closer to what we are proposing for 2014. Other commenters may be more optimistic about the ability of the market to respond to this NPRM and the final rule in the time period remaining in 2015, and may suggest that once we have exercised our authority to waive volumes of advanced biofuel and total renewable fuel under the cellulosic waiver authority, additional volume waivers under the general waiver authority for total renewable fuel for 2015 are unnecessary. Finally, while we believe that growth in advanced biofuel should be a priority in light of the lifecycle greenhouse gas emissions reductions goals of the statute, and have reflected this view in our proposed volume requirements, we also request comment on whether a different relative growth in advanced biofuel and conventional renewable fuel would be appropriate.

3. 2016

We intend to finalize the volume requirements for 2016 by November 30 of this year, in accordance with the schedule set forth in the statute. As a result, obligated parties and other stakeholders in the marketplace will have the full compliance year to respond to the standards that we set for 2016, unlike for 2015 when they will only have part of the year to respond to the standards. We believe, therefore, that the supply of renewable fuels to vehicles can grow more dramatically in 2016 than in 2015. Moreover, as for the 2015 proposal, we believe that this growth should emphasize advanced biofuels, as Congress envisioned that all renewable fuel growth after 2014 would arise from growth in advanced biofuel as opposed to conventional fuels. Advanced biofuels are required to have substantially greater GHG benefits than conventional renewable fuel. As a program designed not only to increase the nation's energy security position but also contribute to efforts to reduce impacts of climate change, we believe that a focus on growth in advanced biofuel is appropriate. However, we also acknowledge that the volume of non-advanced biofuel production and use that has been achieved to date falls short of the volumes that Congress envisioned. Therefore we believe it is appropriate to provide for the continued growth of conventional renewable fuels at this time as well.

We are proposing that the advanced biofuel volume requirement would grow by 500 million gallons in 2016, as compared to 2015, while the remainder (the non-advanced portion) of the total renewable fuel requirement would grow by 600 million gallons in the same timeframe. As a result, the 2016 advanced biofuel and total renewable fuel requirements would be 3.40 billion gallons and 17.40 billion gallons, respectively. The corresponding amount of conventional renewable fuel that would be needed would be 14.0 billion gallons. These proposed volumes for both advanced biofuel and total renewable fuel represent substantial reductions from the volumes specified in the statute for 2016. While we do expect the market to respond to the standards we set to drive changes in production and consumption infrastructure as well as more favorable relative pricing, we do not have confidence that those changes could occur fast enough to attain volumes larger than we are proposing for 2016.

While the reductions in the statutory volumes that we are proposing are substantial, the volume requirements that we are proposing for 2016 would nevertheless be significantly larger than any previous volume requirements. The market would need to respond by increasing domestic production and/or imports of renewable fuel, by significantly expanding the infrastructure for distributing and consuming that renewable fuel, and by improving the relative pricing of renewable fuels and conventional transportation fuels at the retail level to ensure that they are attractive to consumers. As described more fully in the next section, we believe that the market has the capability of doing this in 2016 and thus reaching the volumes that we are proposing.

We request comment on our proposal for 3.40 billion gallons of advanced biofuel and 17.40 billion gallons of total renewable fuel for 2016; in particular we request comment on whether these proposed 2016 volumes appropriately reflect constraints on supply resulting from the E10 blendwall and limitations in production and import capabilities, as well as the ability of the market to respond to the standards we set in the time available. Our intent is to set volumes at the maximum level that in our judgment can be supplied to consumers, and we request comment on whether higher or lower volume requirements for advanced biofuel and total renewable fuel for 2016 would be more appropriate. As for 2015, we request comment on whether volumes closer to those we are proposing for 2014 would be more appropriate for 2016, or alternatively whether it would be appropriate to only waive volumes of advanced biofuel and total renewable fuel under the cellulosic waiver authority for 2016 without waiving volumes of advanced biofuel or total renewable fuel under the general waiver authority. Finally, while we believe that growth in advanced biofuel should be a priority and have reflected this view in our proposed volume requirements, we also request comment on whether a different relative growth in advanced biofuel and conventional renewable fuel would be appropriate.

D. Market Response to Proposed Volume Requirements for 2016

In recognition of the fact that the various constraints on supply that exist today were not as significant in years past, the volumes of advanced biofuel and total renewable fuel that we are proposing for 2016 would require increases from 2014 levels that, while substantial, are less than the increases that actually occurred in 2013. Moreover, as shown in Figures II.D–1, II.D–2, and II.D–3, the volume requirements in 2015 and 2016 would follow an upward trend consistent with that from 2012–2014, extending the market activities that produced increases in past years to the near future.

Figure II.D-1
Proposed Growth in Advanced Biofuel[64]

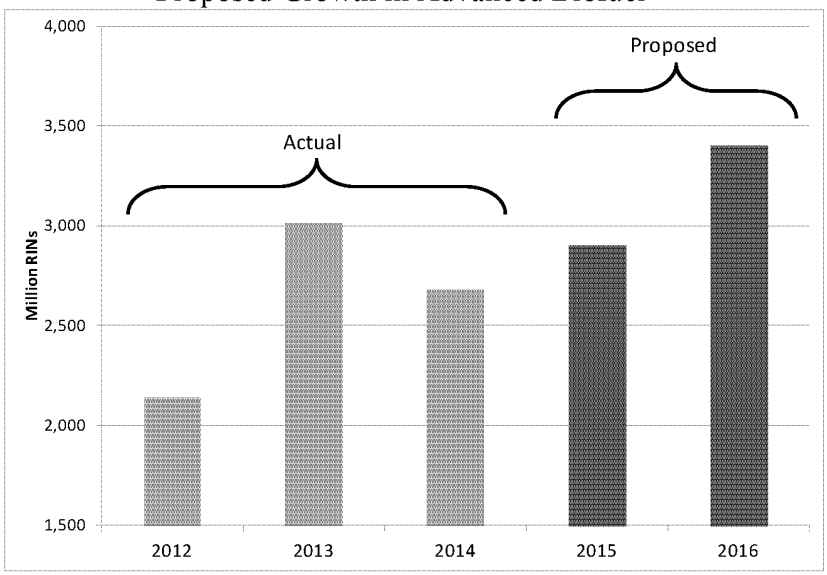
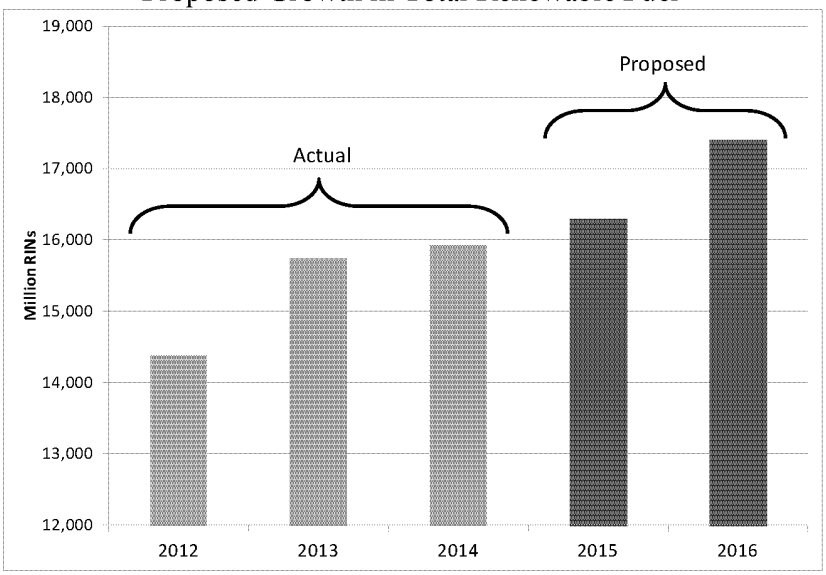
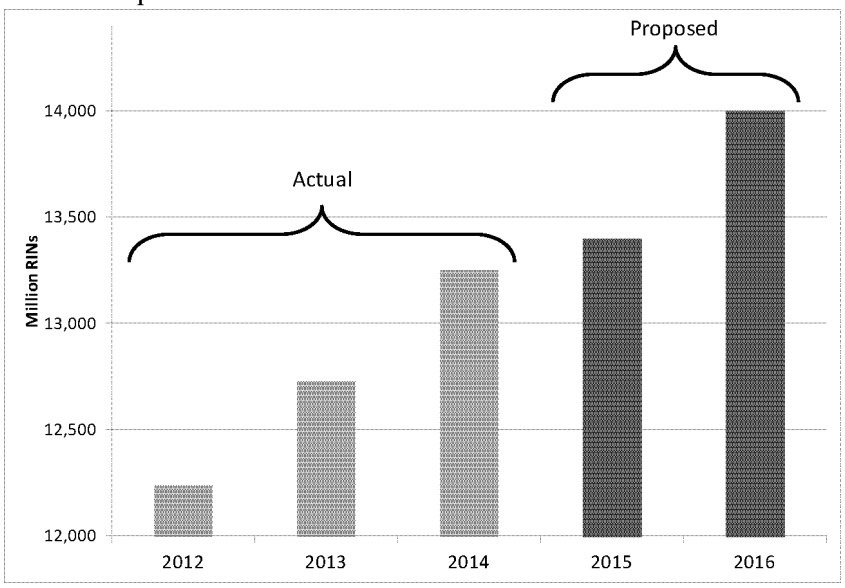


Figure II.D-2
Proposed Growth in Total Renewable Fuel



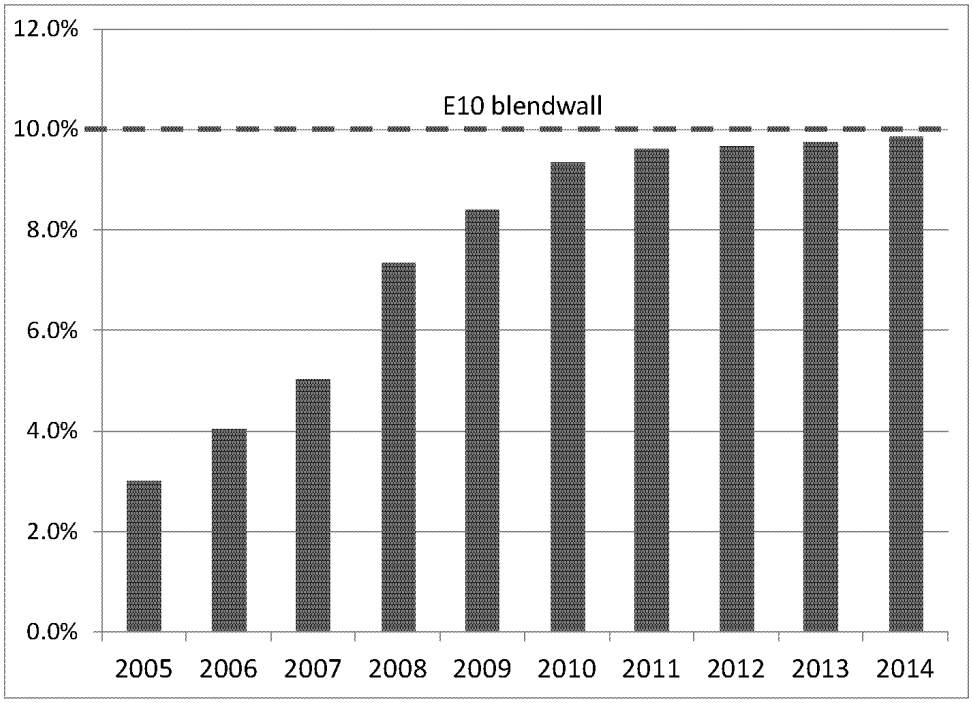
[64] As described in Section II.C.2, 2014 advanded biofuel bolumes were below 2013 volumes primarily because imports of sugarcane ethanol were 435 million gallons in 2013 but only 64 million gallons in 2014. BBD volumes were slightly higher in 2014 than they were in 2013.

Figure II.D-3
Proposed Growth in Conventional Renewable Fuel



We believe the required volumes being proposed for advanced biofuel and total renewable fuel for 2015 and 2016 reflect the maximum volumes that can reasonably be expected to be produced and consumed for those years. While we acknowledge that there is considerable judgment involved in identifying the appropriate volumes, we note that each increment is increasingly difficult for the market to accommodate. For instance, the use of ethanol in gasoline increased dramatically between 2000 and 2009, but by 2010 nearly all gasoline contained ethanol. Additional volumes of ethanol use in 2010 and thereafter increased much more slowly as the market approached the E10 blendwall.

Figure II.D-4
Ethanol Concentration of Gasoline



Source: EIA's Short Term Energy Outlook

This trend suggests that increases in renewable fuel use after 2014 will require more dramatic efforts than in the past. Implementation of the RFS program to date has led to ethanol use that is essentially at the E10 blendwall today. Any further growth in ethanol volumes must entail the use of higher-ethanol blends such as E15 and E85. As the volume requirements we are proposing for 2016 represent significant increases from 2014, we believe it would be unreasonable to expect the market to supply more than the proposed volumes.

In order to demonstrate that the volume requirements that we are proposing are achievable, we investigated a number of scenarios involving different types and sources of renewable fuel. Each of these scenarios differs in terms of the volumes of higher ethanol blends that would be supplied and the relative volumes of such fuels as BBD, imported sugarcane ethanol, corn-ethanol, renewable diesel, and other non-ethanol renewable fuel. While we cannot predict precisely how the market would respond to the standards we are proposing, the fact that at least some of the scenarios fall within the reasonably expected capabilities of the market demonstrates that the volume requirements we are proposing are achievable.

Section II.D.1 below describes the E10 blendwall, while Section II.D.2 uses estimates of ethanol volumes associated with the E10 blendwall as the basis for a number of volume scenarios that include possible volumes of E85 use and the associated need for other renewable fuels to meet the proposed volume requirements. While we have focused this discussion on our proposal for volumes for 2016, a similar pattern would exist with respect to our proposal for 2015 volumes.

1. E10 Blendwall

In 2007 when Congress enacted the Energy Independence and Security Act with provisions for the current RFS program, the gasoline pool was composed of about half E10 and half E0. Today it is almost entirely E10. While the E0 pool has been shrinking, the pools of E10, E15, and higher level ethanol blends up to E85 have been increasing. In the context of determining the total volume of ethanol that can be supplied to vehicles in 2016, all of these gasoline-ethanol blends could potentially play a role.

For 2016, the portion of the statutory applicable volume for total renewable fuel that may be satisfied with non-advanced biofuel (e.g., conventional renewable fuel, which is primarily ethanol) is 15.0 billion, and this amount is 67% of the total renewable fuel volume target of 22.25 billion gallons specified by the statute for 2016.[65] However, the ability of the market to use ethanol in 2016 is constrained by the E10 blendwall, the volume of ethanol that could be used if all gasoline contained 10% ethanol and there were no higher level ethanol blends. The amount of ethanol associated with the E10 blendwall is driven by the total demand for gasoline, and thus ethanol consumption will tend to increase if gasoline consumption increases and ethanol consumption will tend to decrease if gasoline consumption decreases. However, gasoline consumption is in fact declining. Prior to EISA's passage, EIA in its AEO 2007 projected that U.S. gasoline consumption would rise to about 159 billion gallons in 2016.[66] Instead, gasoline consumption has declined considerably, and EIA now predicts that approximately 137 billion gallons of gasoline will be consumed in 2016.[67] If all of the gasoline currently projected to be consumed contained 10% ethanol, a total of 13.7 billion gallons of ethanol would be used. For the RFS program, the decline in gasoline consumption has meant that the E10 blendwall has become constraining sooner and at a lower overall volume of ethanol than was expected in 2007. The trend of declining gasoline consumption is projected to continue for a number of reasons, including the increasingly stringent GHG and fuel economy standards set by EPA and NHTSA for on-road vehicles.

In the face of declining gasoline consumption, using greater volumes of ethanol beyond the E10 blendwall is a function of several factors, some legal, and some market-driven. The ability to go beyond the E10 blendwall is a function of actions taken by various fuel market participants, including obligated parties, renewable fuel producers, distributors and marketers, gasoline and diesel retailers, and consumers. In this regard, the market has significant potential flexibility and opportunities, and we believe that it can respond to the standards we set to drive the use of higher ethanol blends, the E10 blendwall notwithstanding.

Another constraint on the volume of ethanol that can be consumed is the demand for E0. While there will undoubtedly be some volumes of E0 in 2016, we expect such volumes to be lower than they were in the past as the market strives to expand consumption of ethanol under the influence of the RFS program. The primary context in which E0 might continue to be used is in recreational marine engines or other small nonroad engines. As described in a memorandum to the docket, we expect that the use of E0 rather than E10 would only reduce the total volume of ethanol that can be consumed by about 13 million gallons out of the 13.69 billion gallons we estimated above.[68] We have recently been made aware of E0 being marketed in some locations, such as Florida where recreational marine is a significant market, and in parts of the Midwest such as Iowa where concerns over ethanol's impact on other small engines may be at play. Nevertheless, we anticipate such E0 marketing to remain fairly limited given the widening use of ethanol overall. As a result, we do not anticipate the volume of E0 having a significant impact on ethanol consumption in 2016, particularly in light of the offsetting effect of E15 volumes as described below. Therefore, we have omitted from the scenarios described below the small expected impact of E0 use on total ethanol consumption.

Efforts to increase the use of ethanol beyond the blendwall is primarily a function of the volume of E85 that is consumed, since volumes of E15 are likely to continue to be small in 2016. Over the last several years, EPA has taken a series of regulatory steps to enable E15 to be sold in the U.S. In 2010 and 2011, EPA issued partial waivers to enable use of E15 in model year 2001 and newer motor vehicles, and in June of 2011, EPA finalized regulations to prevent misfueling of vehicles, engines, and equipment not covered by the partial waiver decisions. However, growth in the number of retail stations offering E15 has been slow—currently there are only about 100 stations offering it. Even if this number grows more quickly in 2015 and 2016 than it did previously, such increases would probably not increase total ethanol consumption by more than 5–10 million gallons in comparison to the use of ethanol in E10.[69] In the context of the

[65] Notably, by 2015 no more than 15 billion gallons of non-advanced biofuel may be used for compliance with RFS standards. The statute requires that advanced biofuel account for all the growth in renewable fuels used to comply with RFS standards beyond 2015.

[66] EIA's Annual Energy Outlook 2007: *http://www.eia.gov/forecasts/archive/aeo07/pdf/0383(2007).pdf.*

[67] EIA's May 2015 Short-Term Energy Outlook (STEO).

[68] ''Estimating E0 Volume Sold in the U.S. at marinas'', memorandum from Lester Wyborny to EPA docket EPA–HQ–OAR–2015–0111

[69] ''Projection of potential E15 consumption and its impacts on total ethanol consumption'', memorandum from David Korotney to EPA Air Docket EPA–HQ–OAR–2015–0111.

offsetting effect of E0 volumes on ethanol use that is described above, therefore, we have omitted this small impact on total ethanol consumption from the scenarios described below. However, in discussing the volume of E85 that might need to be consumed to meet the volume requirements we are proposing today, we acknowledge that there may also be some E15.

We have assumed that E10 contains 10.0% denatured ethanol. This is consistent with survey data collected by the Alliance of Automobile Manufacturers—indicating that the average ethanol content of all gasoline containing at least 5% ethanol is about 9.74%. This estimate is based on the use of ASTM International (ASTM) test method D–5599, which measures only the alcohol portion of the gasoline, not any denaturant that would have been included with the ethanol before it was blended into gasoline. Since the denaturant portion of ethanol is at least 2%, ethanol that is blended into gasoline contains no more than 98% ethanol. When blended into gasoline, therefore, the E98 would result in a gasoline-ethanol blend containing no more than 9.8% pure ethanol, or 10.0% denatured ethanol. Since all RFS ethanol volumes and RINs are also calculated on a denatured ethanol basis, it is thus appropriate to assume 10.0 percent denatured ethanol. Similarly, all references to ''ethanol'' in this NPRM mean denatured ethanol.

2. Volume Scenarios

The transportation fuel market is dynamic and complex, and the RFS program is only one of many factors that determine the relative types and amounts of renewable fuel that will be used. Thus, while we set the applicable volume requirements for advanced biofuel and total renewable fuel, we cannot precisely predict how the market will choose to meet those requirements. We can, however, delineate a range of possibilities, and doing so provides a means for judging whether the proposed volume requirements are attainable.

For our proposed 2016 total renewable fuel volume requirement of 17.40 billion gallons, there would be about 0.84 billion ethanol-equivalent gallons needed beyond that supplied by E10, the proposed BBD volume requirement of 1.8 billion actual gallons (equivalent to 2.7 billion D4 RINs as described in Section III.D.4), and that portion of the cellulosic biofuel volume which we would expect to be derived from non-ethanol biofuel (see Section IV.E).

TABLE II.D.2–1—BREAKDOWN OF RENEWABLE FUEL USE IN 2016 BASED ON PROPOSED VOLUMES

[Billion ethanol-equivalent gallons]

Total renewable fuel	17.40
Ethanol consumed as E10 [a]	−13.69
Non-ethanol cellulosic biofuel	−0.17
Biomass-based diesel [b]	−2.70
Additional renewable fuel that must be used	0.84

[a] Includes all sources of ethanol (cellulosic, advanced, and conventional)
[b] Represents 1.80 billion physical gallons.

The E10 blendwall and limitations in production capabilities for non-ethanol biofuels are the primary factors that constrain renewable fuel supply. Other factors include the relative pricing of renewable fuels and conventional (fossil-based) fuels, engine warranty limitations on the use of biodiesel for the current in-use fleet, and the need for distribution system improvements. All of these factors could play a role in determining how the market chooses to supply the additional 0.84 billion gallons needed as shown in Table II.D.2–1. The options available to the market to fulfill the need for 0.84 billion gallons of renewable fuel include the following:

- Increase the production and use of BBD above the proposed standard of 1.80 billion gallons
- Increase import and use of sugarcane ethanol and/or domestic production of corn-ethanol, which would result in a corresponding increase in E85
- Increase production and/or imports of conventional (D6) biodiesel and renewable diesel
- Increase the production of other non-ethanol advanced biofuels, such as heating oil, jet fuel, naphtha, butanol, and renewable fuels coprocessed with petroleum

In determining the amounts of each type of renewable fuel, the market would also need to satisfy the proposed advanced biofuel standard of 3.40 billion gallons.

To illustrate the possible outcomes, we evaluated a number of scenarios with varying levels of E85, imported sugarcane ethanol, advanced biodiesel and other non-ethanol advanced biofuels, and imported conventional biodiesel (likely to be made from palm oil). In doing so we sought to capture the range of possibilities for each individual source. For imported conventional biodiesel we examined volumes up to and slightly higher than the level that was actually imported in 2014—225 million gallons.[70] The range of other non-ethanol advanced biofuels is based on the range of volumes achieved over the last several years. Each of the rows in Table II.D.2–2 represent a scenario in which the proposed total renewable fuel and advanced biofuel volume requirements would be satisfied.

TABLE II.D.2–2—VOLUME SCENARIOS ILLUSTRATING POSSIBLE COMPLIANCE WITH 3.40 BILL GAL ADVANCED BIOFUEL AND 17.40 BILL GAL TOTAL RENEWABLE FUEL

[Million gallons] [a] [b]

E85	Total ethanol [c]	Biomass-based diesel (D4) [d]	Sugarcane ethanol (D5)	Other non-ethanol advanced (D5)	Conventional biodiesel (D6)
100	13,760	1,997	102	100	250
100	13,760	2,030	102	50	250
100	13,760	2,063	102	0	250
100	13,760	2,131	0	0	182
200	13,826	1,952	168	100	250
200	13,826	1,986	168	50	250

[70] Actual imports of conventional non-ethanol renewable fuels in 2014 were 53 million gallons of biodiesel and 151 million gallons of renewable diesel. They have been represented here in biodiesel-equivalents for simplicity.

TABLE II.D.2–2—VOLUME SCENARIOS ILLUSTRATING POSSIBLE COMPLIANCE WITH 3.40 BILL GAL ADVANCED BIOFUEL AND 17.40 BILL GAL TOTAL RENEWABLE FUEL—Continued

[Million gallons] [a] [b]

E85	Total ethanol [c]	Biomass-based diesel (D4) [d]	Sugarcane ethanol (D5)	Other non-ethanol advanced (D5)	Conventional biodiesel (D6)
200	13,826	2,019	168	0	250
200	13,826	2,065	0	100	138
400	13,959	1,898	301	50	250
400	13,959	1,989	113	100	125
400	13,959	2,056	113	0	125
400	13,959	2,098	0	50	50
600	14,091	1,800	433	64	250
600	14,091	1,901	245	100	125
600	14,091	2,026	58	100	0
600	14,091	2,093	58	0	0

[a] Assumes that the cellulosic biofuel proposed standard for 2016 is 206 mill gal, of which 33 mill gal is assumed to be ethanol for the purposes of these scenarios and the remainder is primarily biogas.

[b] Biomass-based diesel and conventional biodiesel are given as biodiesel-equivalent volumes. Others are given as ethanol-equivalent volumes. Biodiesel-equivalent volumes can be converted to ethanol-equivalent volumes by multiplying by 1.5.

[c] For the range of total ethanol shown in this table, the nationwide poolwide average ethanol content would range from 10.05% to 10.28%. The majority of gasoline will contain 10% ethanol, and some gasoline will contain higher levels of ethanol such as E15 or E85.

[d] Includes supply from both domestic producers as well as imports.

The scenarios in the table above are clearly not the only ways that the market could choose to meet the total renewable fuel and advanced biofuel volume requirements that we are proposing today, but they are illustrative of many ways that it could play out. While we are not in a position to predict how the market would respond to the volume requirements we are proposing today, we believe that the range of possibilities for E85, BBD, and other sources is a clear indication that the standards we are proposing are achievable.

With regard to E85, according to EIA there will be about 16 million FFVs in the in-use fleet in 2016 with a total consumption capacity of about 14 billion gallons of E85.[71] While only about 2% of retail stations nationwide currently offer E85, the fraction of FFVs with access to E85 is higher than 2% since the vast majority of vehicles are within reasonable range of more than one retail station on typical trips. If only 5% of all FFVs had a retail station nearby that offered E85, they could consume 800 million gallons of E85 in 2016 under favorable consumer pricing conditions. We recognize that the market would need to compel E85 prices to be increasingly favorable relative to E10 in order to provide the incentive for FFV owners to purchase E85, but this is exactly how a fully functional market will react to standards designed to drive growth in renewable fuel as Congress intended. Thus we believe it is possible for the market to reach volumes perhaps as high as 600 million gallons under favorable pricing conditions (i.e., where consumers believe they are obtaining an economic advantage through purchase of E85).

We also believe that it is possible for the market to exceed 1.8 billion gallons of BBD in 2016. As of 2013, the total production capacity for all registered and unregistered biodiesel facilities was about 3.6 billion gallons,[72] substantially more than the actual domestic production in 2014 of 1.46 billion gallons.[73] More than 2.7 billion gallons of this production capacity has already been registered under the RFS program. Moreover, the U.S. imported several hundred million gallons of biodiesel and renewable diesel in 2014. The combined volumes of soybean oil, corn oil, and waste oils produced annually is far more than would be needed to produce 2.1 billion gallons of biodiesel. It is possible that the market could divert additional feedstocks from food and other domestic uses or exports to the production of biodiesel. For instance, in 2014 exports of soy oil were 250 million gallons and exports of rendered fats and greases was 440 million gallons.[74] [75]

As Table II.D.2–2 illustrates, the proposed standards could result in the consumption of as much as 2.3 billion gallons of D4 and D6 biodiesel and renewable diesel, representing an increase of about 600 million gallons over the historical high. While this would be a substantial increase, we believe that it is possible. A portion of this increase is likely to be renewable diesel which is indistinguishable from conventional diesel fuel and thus would experience no impediments related to cold temperatures or manufacturer warranties; in both 2013 and 2014, the market supplied about 300 million gallons of renewable diesel. Even if there were no renewable diesel, 2.3 billion gallons of biodiesel would represent less than 4% of the nationwide pool of diesel fuel in 2016. Because essentially all engine manufacturer warranties permit up to 5% biodiesel to be used in their engines, and most medium and heavy-duty engine manufacturers warrant the use of blends up to B20 in their more recent models,[76] the use of biodiesel in 4% of the overall diesel pool should be possible from a consumption viewpoint. For instance, most diesel fuel could contain 5% biodiesel while still allowing some diesel fuel to contain no biodiesel to accommodate that used in northern states during the coldest months of the year. Also, B20 could be used in a number of centrally-fuelled fleets composed of newer engines without violating manufacturer warranties, and additional volumes of biodiesel could be used in heating oil. It is reasonable to expect that the

[71] According to AEO2015, Table 42, total vehicle miles travelled by FFVs in 2016 will be about 7.95% of all light-duty gasoline-powered vehicles, equivalent to about 10.9 bill gal of E10 or 13.9 bill gal of E85.

[72] A complete list of biodiesel plants and their capacities as of 2–6–13 has been placed in the docket. We are not aware of significant changes to the industry profile since this list was compiled.

[73] 1.46 bill gal represents total domestic production of both D4 biodiesel and renewable diesel.

[74] USDA Economic Research Service, Oil Crops Yearbook, Table 5, ''Soybean oil: Supply, disappearance, and price'', updated 3/30/2015. Assumes 7.68 lb/gal.

[75] Render Magazine, April 2015. Table 2. Assumes 7.68 lb/gal.

[76] ''OEM Support,'' fact sheet from National Biodiesel Board, August 2014.

infrastructure that already exists to distribute and blend such fuels could be expanded to accommodate this additional volume in the time available.

While the scenarios in Table II.D.2–2 are intended to demonstrate the flexibility that the market has to respond to the volumes we are proposing, and indeed many additional scenarios could be generated, we do not believe that all scenarios are equally likely. Certainly some are more likely than others. However, we are not in a position to identify those that are most likely and we are not in a position to predict what will actually occur. In particular, those scenarios that represent reliance on one source without taking advantage of supply from other sources are, we believe, least likely to occur.

The market can be expected to choose the lowest cost path to compliance, but regulated parties may also respond to the standards we set with investments in production, distribution, and consumption infrastructure that is focused on longer term growth. Such investments could result in the selection of higher cost options in the near term, but would enable lower costs in the longer term. Other activities that result in more favorable pricing between renewable fuels and fossil-based fuels will also play a role in determining the actual mix of types and amounts of biofuels used to meet the final standards, and such activities cannot be predicted. Because of these complexities in market dynamics, we do not believe it would be appropriate to identify a specific scenario from Table II.D.2–2 as being most representative of how the market will respond to the proposed volume requirements.

Further, it would be inappropriate to construct new scenarios based on the highest volumes in each category that are shown in Table II.D.2–2 in order to argue for higher volume requirements than we have proposed. Doing so would presume that the specific volumes for each type of renewable fuel, and thus the underlying scenarios, are all equally likely or equally achievable. We have more confidence in the ability of the market to achieve 3.40 billion gallons of advanced biofuel through some combination of different types of renewable fuel than we have in the ability of the market to achieve a specific level of, say, BBD. Thus, for instance, while the highest BBD volume shown in Table II.D.2–2 is 2,131 million gallons, we are not able to say whether this specific level of BBD is one that the market could be expected to achieve in 2016, notwithstanding our belief that such volumes are theoretically possible as described earlier. The same is true for the highest level of E85 shown in Table II.D.2–2 of 600 million gallons, or the highest level of sugarcane ethanol of 433 million gallons. In addition, the consumption of each fuel in Table II.D.2–2 is not independent of the consumption of the other fuels in the table. For example, greater BBD production reduces the likelihood of large imports of palm biodiesel because these two fuels compete against one another. The probability that the upper limits of all sources shown in Table II.D.2–2 could be achieved simultaneously is extremely unlikely.

The range of options available to the market to attain compliance with the proposed volume requirements provide us with confidence that they are achievable. Nevertheless, we recognize that to the extent that the proposed waivers rely on a finding of ''inadequate domestic supply'', our objective is to set the volume requirements as precisely as possible at the intersection between an ''inadequate supply'' and supply that is adequate. Given the complexities of the fuels market, this is a very challenging task, and one that necessarily involves considerable judgment. Based on our assessment of both the current capabilities of the industry and the power of the market to respond to ambitious volume requirements, we believe that our proposed volumes are the best possible estimate of the intersection between ''inadequate supply'' and supply that is adequate.

Because the standards that we are proposing would compel the market to supply higher volumes than would occur in the absence of an RFS program and indeed higher volumes than are currently being supplied, RIN prices are likely to be higher than historical levels. RIN price increases are an expected market response to an increased renewable fuel mandate that is pushing volumes beyond levels that the market would otherwise use. Furthermore, high RIN prices help to promote growth in renewable fuel supply. For instance, higher RIN prices would likely increase the incentive to import renewable fuels. Both ethanol and biodiesel/renewable diesel worldwide could be diverted from their current markets given a sufficiently high RIN price. High RIN prices can also provide the potential for reductions in the retail selling prices of E85 and E15 if distributors, blenders, and retailers pass the value of those RINs to end users. Finally, sustained high RIN prices create the incentives needed to spur investment in new technologies and production capacity, a critical need if the market is going to continue expanding in future years according to Congress' intentions.

Given the variability in potential compliance scenarios that exists, we believe that regulated parties have the ability to meet the proposed standards for 2016. Stakeholders have the ability to overcome market barriers to expanded use of renewable fuels, making the standards we are proposing today attainable. Potential actions that stakeholders can take include:

- Working with vehicle manufacturers to increase the number of FFVs in the fleet
- Increasing the number of retail stations offering E15 and E85 through direct installation of new equipment or providing grants to retail owners, and locating those stations offering E15/E85 closest to higher populations of vehicles than can use those fuels
- Developing contractual mechanisms to ensure favorable pricing of E15 and E85 at retail compared to E10 to boost sales volumes
- Increased production and/or imports of non-ethanol renewable fuels (e.g., greater production of drop-in biofuels)
- Expanded co-production of non-ethanol renewable fuels with petroleum at new and existing facilities

Finally, the RFS program contains two other provisions that provide additional flexibility to obligated parties in the event that they choose not to invest in increasing the supply of renewable fuels. The first is the option to carry a deficit into 2017. This option would provide the industry additional time to increase supply. The second available flexibility is carryover RINs, discussed in more detail in Section II.F.

E. Treatment of Carryover RINs

Neither the statute nor EPA regulations specify how or whether EPA should consider the availability of carryover RINs in exercising its waiver authorities either in the standard-setting context or in response to petitions for a waiver during a compliance year. As described in the 2007 rulemaking establishing the RFS regulatory program,[77] carryover RINs are intended to provide flexibility in the face of a variety of circumstances that could limit the availability of RINs, including weather-related damage to renewable fuel feedstocks and other circumstances affecting the supply of renewable fuel that is needed to meet the standards. In the 2010–2012 time period, obligated parties collectively surpassed the RFS renewable fuel blending requirements,

[77] 72 FR 23900, May 1, 2007.

and were able to accumulate 2.6 billion carryover RINs.

The potential role of carryover RINs in minimizing waivers of the statutory applicable volume targets was first addressed in the context of the rule establishing RFS standards for 2013. In the context of that rulemaking, we estimated that 14.5 billion gallons of ethanol would be needed to meet the total statutory total renewable fuel volume target of 16.55 billion gallons, assuming that no BBD was produced above the 1.28 billion gallons required by the BBD standard. We also determined that the total amount of ethanol the market could absorb as E10 in 2013 was 13.1 billion gallons, leaving a potential gap of 1.4 billion gallons. We then described how BBD production in excess of the BBD standard, increased production of other non-ethanol renewable fuels, and use of E85 could contribute to the needed gallons. We also pointed out that about 2.6 billion carryover RINs would be available in 2013, which was more than enough to cover the potential gap of 1.4 billion gallons if other approaches to compliance were not realized. We decided, therefore, that a waiver of the statutory applicable volume of total renewable fuel was not needed in 2013.[78] Our approach was challenged in court, and upheld in Monroe Energy v. EPA.[79]

We are not now in a position to confidently assess the volume of carryover RINs currently available, since obligated parties and exporters have not yet submitted their compliance demonstrations for 2013. However, based on the number of RINs generated in 2013 and available data on renewable fuel exports and RIN retirements in 2013, we estimate that 800 million carryover RINs will need to be used for compliance with the 2013 RFS standards. This will reduce the bank of carryover RINs to approximately 1.8 billion RINs. For purposes of our proposed volume requirements for 2014, 2015, and 2016, we considered whether some specific number of carryover RINs below the current level of 1.8 billion would be sufficient for the critical compliance flexibility, market liquidity, and program buffer functions served by carryover RINs, such that we could effectively require some use of carryover RINs by setting applicable volume requirements at levels higher than could be achieved through actual renewable fuel blending and use in these years.

We believe, however, that it would be prudent, and would advance the long-term objectives of the Act, not to set standards for 2014, 2015, and 2016 so as to intentionally draw down the current bank of carryover RINs. We believe that the availability of this full volume of carryover RINs will be important for both obligated parties and the RFS program itself in addressing significant future uncertainties and challenges, particularly since compliance with the proposed advanced and total renewable fuel standards is expected to require significant progress in growing and sustaining production of advanced biofuels and using ethanol in quantities that exceed the E10 blendwall.[80]

Although the issue in this proposed rulemaking is whether to waive statutory applicable volumes in the context of establishing new standards, we note that the availability of carryover RINs is an important factor in deciding whether to waive standards already in effect. Each year, obligated parties make significant efforts to comply with RFS requirements, and participants in the renewable fuels market make significant efforts to supply the renewable fuels needed for compliance. Changing those requirements during the compliance year to address unforeseen supply disruptions or for other reasons would be disruptive to businesses and therefore to the long-term objectives of the RFS program to provide incentives to industry to increase the production and use of renewable fuels. Preserving the current bank of carryover RINs at this time will reduce the risk that waivers may be needed after the 2014, 2015 and 2016 standards are in place to address unforeseen circumstances.[81]

In addition, the RIN system was developed in part to implement the statutory requirement for obligated parties to earn ''credits'' for overcompliance that could be used in another year or sold to others. The RFS standards are a mandate with serious ramifications to obligated parties that fail to comply. As intended by Congress, carryover RINs help provide compliance flexibility. We appreciate that obligated parties make individual decisions about whether and how many RINs to acquire for their compliance management purposes, and that a decision by EPA to effectively ''draw down'' their bank of carryover RINs in calculating future volume requirements may decrease their compliance flexibility, increase their risk of noncompliance, and affect their incentives to build-up carryover RIN balances. We understand that obligated parties in many instances acquire RINs for carryover to provide just that kind of flexibility, and that assuming use of carryover RINs in setting the RFS standards may in the future discourage that kind of responsible behavior.

Finally, we appreciate that with the increasing renewable fuel volume targets established in the Act for the future, combined with the projected decreasing use of gasoline and diesel fuel resulting from more stringent vehicle emission and mileage requirements, the ability of obligated parties to increase the bank of carryover RINs through additional overcompliance in the future will be much more difficult. Therefore, any draw-down in the bank of carryover RINs required through setting volume requirements at levels higher than can be achieved through actual renewable fuel use could not likely be reversed in the future. Given the importance of carryover RINs noted above, this consideration suggests that a deliberate draw-down of the RIN bank would not be prudent.

For all of the reasons noted above, EPA is not proposing to set renewable fuel volume requirements at levels that would envision the draw-down in the bank of carryover RINs. We welcome comments on this analysis and thoughts on how EPA should consider carryover RINs in establishing renewable fuel volume requirements for 2014, 2015, and 2016.

F. Impacts of Proposed Standards on Costs

In the following sections we provide cost estimates for three illustrative scenarios—one, if the entire change in the advanced standards is met with soybean oil BBD; two, if the entire change in the advanced standards is met with sugarcane ethanol from Brazil; and three, if the entire change in the conventional standards (*i.e.*, non-advanced) is met with corn ethanol. While a variety of biofuels could help fulfill the advanced standard beyond soybean oil BBD and sugarcane ethanol

[78] 78 FR 49794, August 15, 2013.

[79] *Monroe Energy* v. *EPA*, 750 F.3d 909 (D.C. Cir. 2014).

[80] As previously explained in this action, the ''E10 blendwall'' is the volume of ethanol that can be consumed domestically as E10. We expect that compliance with the total renewable fuel volume requirements will require more ethanol use than is possible through widespread use of E10.

[81] The statute and EPA's regulations provide another means of compliance flexibility—obligated parties may carry forward a compliance deficit for one year. But the statute and regulations also require that any deficit be paid back in the following year and that the standards applicable in the following year be met. Given that our proposed standards increase year to year, it may be increasingly difficult for an obligated party to both repay a deficit and meet higher standards in the same year. Thus, this provision does not replace carryover RINs as an important compliance tool to address increasingly challenging requirements and unforeseen circumstances.

from Brazil, these two biofuels have been most widely used in the past. We believe these scenarios provide illustrative costs of meeting the proposed standards. For this analysis, we estimate the per gallon costs of producing biodiesel, sugarcane ethanol and corn ethanol relative to the petroleum fuel they replace at the wholesale level, then multiply these per gallon costs by the applicable volumes established in this rule for the advanced and total renewable fuel categories. More background information on this section, including details of the data sources used and assumptions made for each of the scenarios, can be found in a memorandum submitted to the docket.[82]

A number of different scenarios could be considered the ''baseline'' for the assessment of the costs of this rule. For the purposes of showing illustrative overall costs of this rulemaking, we are proposing to use the preceding year's standard as the baseline (e.g., the baseline for the 2016 advanced standard is the proposed applicable 2015 advanced standard, etc.), an approach consistent with past practices.

The 2014 standards were not finalized in 2014 so it is difficult to estimate what their costs may have been. Market participants may have anticipated a final 2014 standard would require higher levels of biofuels than the market would provide in the absence of the standard, which would contribute to the positive RIN prices witnessed in 2014. In contrast, the 2014 standards being proposed in this rulemaking represent reductions in both the advanced and conventional volumes compared to the 2013 standards, suggesting a reduction in costs for this proposed 2014 rule compared to the 2013 standards. Finally, the 2014 standards being proposed in this rulemaking are based on actual production levels in 2014, suggesting that the 2014 standards we are proposing are what would have happened in the marketplace absent a rulemaking. Given the complexity of this issue, we have not attempted to estimate the costs of the 2014 standards. Therefore, we only provide illustrative costs for the 2015 and 2016 advanced biofuel standards and total renewable fuel standards.

Because we are focusing on the wholesale level in each of the three scenarios, these comparisons do not consider taxes, retail margins, and any other costs or transfers that occur at or after the point of blending (*i.e.*, transfers are payments within society and not additional costs). Further, we do not attempt to estimate potential costs related to infrastructure expansion with increased biofuel volumes. In addition, because more ethanol gallons must be consumed to go the same distance as gasoline and more biomass-based diesel must be consumed to go the same distance as petroleum diesel due to each of the biofuels' lesser energy content, we consider the costs of ethanol and biomass-based diesel on an energy equivalent basis to their petroleum replacements (*i.e.*, per energy equivalent gallon (EEG)).

For our first scenario, we consider the costs of soybean-based biodiesel to meet the entire change in the advanced standards. The proposed 2014 standard is being set at the actual level of advanced biofuels produced in 2014, 2.68 billion gallons. The total advanced biofuel volumes are being proposed for 2015 at 2.90 billion gallons and 3.40 billion gallons in 2016. Comparing the difference in costs between biomass-based diesel and petroleum-based diesel, we estimate a cost difference that ranges from $1.48 to $1.56/EEG in 2015 and from $1.45 to $2.09/EEG in 2016. Multiplying the per gallon cost estimates by the volume of fuel displaced by the advanced standard, on an energy equivalent basis, results in an overall annual cost of $218 to $229 million in 2015 and $483 to $697 million in 2016.

For our second scenario, we provide illustrative estimates of what the potential costs might be if all additional volumes used to meet the 2015 and 2016 advanced biofuel standards above the previous year's advanced biofuel standard are met with imported Brazilian sugarcane ethanol. Comparing the difference in costs between sugarcane ethanol and the wholesale gasoline price on a per gallon basis, we estimate cost differences that range from $1.04 to $2.80/EEG in 2015 and from $0.85 to $2.61/EEG in 2016. Taking the difference in per gallon costs for sugarcane ethanol and the wholesale gasoline price and multiplying that by the volume of petroleum displaced on an energy equivalent basis from the advanced standard results in an overall estimated annual cost of $228 to $615 million for 2015 and $424 to $1,303 million for 2016.

For the third scenario, we assess the difference in cost associated with a change in the implied volumes available for conventional (*i.e.*, non-advanced) biofuels for 2015 and 2016. We provide illustrative estimates of what the potential costs might be if corn ethanol is used to meet the entire conventional renewable fuel volumes. The implied 2014 volume allowance for conventional renewable fuel is 13.25 billion gallons, 13.40 billion gallons in 2015, and 14.00 billion gallons in 2016. If corn ethanol is used to meet the difference between the implied 2014 to 2015 and 2015 to 2016 conventional renewable fuel volume increases, an increase of 150 million gallons of corn ethanol would be required in 2015 and 600 million gallons in 2016. Comparing the difference in costs between corn ethanol and the wholesale gasoline price, we estimate cost differences that range from $0.81 to $0.92/EEG in 2015 and from $0.58 to $0.90/EEG in 2016. Taking the difference in per gallon costs between the corn ethanol and the wholesale gasoline price estimates and multiplying that by the volume of petroleum displaced on an energy equivalent basis by the conventional standard results in an overall estimated annual cost of $122 to $138 million for 2015 and $348 to $541 million for 2016.

An alternative way of looking at the illustrative costs in 2016, given the fact that this is a three year rule and the 2015 standards may change, is to consider a volume change relative to the 2014 proposed standard. The cost estimate for meeting the 2016 standard would range from $695 to $1,003 million if the entire advanced standard were to be met with soybean-based diesel. The cost estimates would range from $610 to $1,877 million if the entire advanced standard were met with sugarcane ethanol. The cost estimate for meeting the entire conventional standard in 2016 with corn ethanol would range from $435 to $676 million.

The short time frame provided for the annual renewable fuel rule process does not allow sufficient time for EPA to conduct a comprehensive analysis of the benefits of the 2015 and 2016 standards and the statute does not require it. Moreover, as discussed in the proposed rule establishing the 1.28 billion gallon requirement for BBD in 2013, the costs and benefits of the RFS program as a whole are best assessed when the program is fully mature in 2022.[83] We continue to believe that this is the case, as the annual standard-setting process encourages consideration of the program on a piecemeal (*i.e.*, year to year) basis, which may not reflect the long-term economic effects of the program. Therefore, for the purpose of this annual rulemaking, we have not quantified benefits for the 2015 and 2016 proposed standards. We do not have a quantified estimate of the GHG impacts for the

[82] ''Illustrative Costs Impact of the Proposed Annual RFS2 Standards, 2014–2017,'' Memorandum from Michael Shelby to EPA Air Docket EPA–HQ–OAR–2015–0111.

[83] 77 FR 59477, September 27, 2012.

single year (*e.g.*, 2015, 2016). When the RFS program is fully phased in, the program will result in considerable volumes of renewable fuels that will reduce GHG emissions in comparison to the fossil fuels which they replace. EPA estimated greenhouse gas, energy security and air quality impacts and benefits for the 2010 Proposed RFS Rule for 2022.

III. Proposed Biomass-Based Diesel Volumes for 2014–2017

In this section we discuss the proposed biomass-based diesel (BBD) applicable volumes for 2014 through 2017. It is important to note that the BBD volume requirement is nested within both the advanced biofuel and the total renewable fuel volume requirements; so that any ''excess'' BBD produced beyond the mandated BBD volume can be used to satisfy both these other applicable volume requirements. Therefore, in assessing what is the appropriate applicable BBD volume for 2014–2017, it is important to consider not only the volume for BBD, which effectively guarantees a minimum amount that will be produced, but also the advanced biofuel and total renewable fuel volume requirements, which historically have played a significant role in determining demand for BBD as well.

In proposing an applicable volume for 2017 we are addressing the volume requirement but not the percent standards, in order to satisfy a statutory requirement that when EPA sets the applicable volumes in the absence of a statutory volume target, that we do so no later than 14 months before the first year for which such applicable volume will apply.[84] Since the statute does not specify a BBD volume target for 2017, we plan to finalize the applicable volume by this November. Since the statute includes applicable volume targets for advanced biofuel, total renewable fuel and cellulosic biofuel for 2017, we are not required to establish 2017 applicable volumes for them at this time. We believe it is prudent to delay establishing such volume targets until the statutory deadline of November 30, 2016, to enable EPA to use the most up-to-date information prior to the start of the calendar year.

A. Statutory Requirements

The statute establishes applicable volume targets for years through 2022 for cellulosic biofuel, advanced biofuel, and total renewable fuel. For BBD, applicable volume targets are specified in the statute only through 2012. For years after those for which applicable volumes are specified in the statute, EPA is required under CAA section 211(o)(2)(B)(ii) to determine the applicable volume, in coordination with the Secretary of Energy and the Secretary of Agriculture, based on a review of the implementation of the program during calendar years for which the statute specifies the applicable volumes and an analysis of the following factors:

1. The impact of the production and use of renewable fuels on the environment, including on air quality, climate change, conversion of wetlands, ecosystems, wildlife habitat, water quality, and water supply;
2. The impact of renewable fuels on the energy security of the United States;
3. The expected annual rate of future commercial production of renewable fuels, including advanced biofuels in each category (cellulosic biofuel and BBD);
4. The impact of renewable fuels on the infrastructure of the United States, including deliverability of materials, goods, and products other than renewable fuel, and the sufficiency of infrastructure to deliver and use renewable fuel;
5. The impact of the use of renewable fuels on the cost to consumers of transportation fuel and on the cost to transport goods; and
6. The impact of the use of renewable fuels on other factors, including job creation, the price and supply of agricultural commodities, rural economic development, and food prices.

The statute also specifies that the applicable volume for BBD cannot be less than the applicable volume for calendar year 2012, which is 1.0 billion gallons. The statute does not, however, establish any other numeric criteria, or provide any guidance on how the EPA should weigh the importance of the often competing factors, and the overarching goals of the statute when the EPA sets the applicable volumes in years after those for which the statute specifies applicable volumes. In the period 2013–2022, the statute specifies increasing applicable volumes of cellulosic biofuel, advanced biofuel, and total renewable fuel, but provides no guidance on the extent to which BBD volumes should grow.

B. BBD Production and Compliance in Previous Years

Due to the delayed issuance of the major regulatory revisions necessary to implement changes enacted through the Energy Independence and Security Act of 2007, EPA established a 2010 BBD standard that reflected volume requirements for both 2009 and 2010, and allowed RINs generated as early as 2008 to be used for compliance with that standard. Given the complexity associated with the 2010 BBD standard, we begin our review of implementation of the program with the 2011 compliance year. Reviewing the implementation of the BBD standards in previous years is required by the CAA, and also provides insight into the capabilities of the BBD industry to produce and import fuel. It also helps us to understand what factors, beyond the BBD standard, may incentivize the production and import of BBD. The number of BBD RINs generated, along with the number of RINs retired for reasons other than compliance with the annual BBD standards, are shown in Table III.B–1 below.

TABLE III.B–1—BIOMASS-BASED RIN GENERATION AND STANDARDS IN 2011–2013

[Million gallons] [85]

	BBD RINs generated	Exported BBD (RINs)	BBD RINs retired, non-compliance reasons	Available BBD RINs	BBD standard (Gallons)	BBD standard (RINs) [86]
2011	1,692	110	97	1,484	800	1,200
2012	1,737	193	80	1,465	1,000	1,500
2013	2,739	295	94	2,350	1,280	1,920

[84] CAA 211(o)(2)(B)(ii).

[85] Net BBD RINs Generated and BBD RINs Retired for Non-Compliance Reasons information from EMTS. Biodiesel Export information from EIA (*http://www.eia.gov/dnav/pet/pet_move_expc_a_EPOORDB_EEX_mbbl_a.htm*).

[86] Each gallon of biodiesel generates 1.5 RINs due to its higher energy content per gallon than ethanol. Renewable diesel generates between 1.5 and 1.7 RINs per gallon.

In reviewing historical BBD RIN generation and use we see that the number of RINs available for compliance purposes exceeded the BBD standard by a significant margin in 2011 and 2013. Additional demand for biodiesel may have been driven by a number of factors, including demand to satisfy the advanced biofuel and total renewable fuels standards, the biodiesel tax credit, and favorable blending economics. In 2012 the available BBD RINs were slightly less than the BBD standard. There are many reasons this may have been the case, including the lapse of the biodiesel tax credit at the end of 2011.[87]

While total BBD volume produced and imported in 2013 was 1.79 billion gallons (2.74 billion BBD RINs), it is also instructive to review the data on volumes that were produced domestically, imported, exported, and retired for reasons other than compliance. Total domestic production of BBD was 1.45 billion gallons (2.19 billion RINs), while imports resulted in an additional 0.34 billion gallons (0.55 billion RINs).[88] This volume was not entirely available for compliance purposes, however, since some of the BBD produced domestically was exported and some RINs had to be retired for purposes other than compliance. Based on EIA export data, we estimate that 0.196 billion gallons (0.295 billion RINs) of BBD was exported in 2013.[89] A corresponding number of BBD RINs will eventually be retired by exporters, as required by the RFS regulations, and therefore are not available for use by refiners and importers in satisfying their 2013 obligations.[90] Additionally, 0.094 billion BBD RINs were retired for reasons other than compliance, such as volume error corrections, contaminated or spoiled fuel, or fuel used for purposes other than transportation fuel, heating oil, or jet fuel. Based on this information, the actual amount of BBD available for compliance in 2013 totaled 2.36 billion RINs, representing approximately 1.55 billion gallons of BBD. This is 430 million more BBD RINs than were required for compliance with the BBD standard in 2013.

C. Applicable Volume of Biomass-Based Diesel for 2014

For 2014 we are proposing to base the applicable volume requirements on the number of RINs supplied in 2014. We propose to define supply for 2014 as the number of BBD RINs that were available for compliance in 2014. Supply would thus include RINs that were generated for renewable fuel produced or imported in 2014 as recorded in the EMTS, minus any RINs that have already been retired or would be expected to be retired to cover exports of renewable fuels or for any purpose other than compliance. RINs that have already been retired for such circumstances as RINs being invalid, spills, corrected and replaced RINs, etc. are recorded in EMTS on an ongoing basis. However, complete information on RINs that are retired to cover exports of renewable fuel is not available through EMTS until after the compliance demonstration deadline for a given calendar year has passed. Since compliance cannot occur until the standards are set, we propose to use biodiesel export information from EIA in 2014 to estimate the number of 2014 BBD RINs that will be retired to satisfy obligations associated with exported BBD.

Actual supply of BBD in 2014 is shown in Table III.C–1 below. Further details are provided in a memorandum to the docket.[91] Since EIA does not distinguish exports by D code, we assumed that all biodiesel exports represent D4 BBD. We expect that any errors introduced by this assumption will be very small.

TABLE III.C–1—2014 ACTUAL SUPPLY OF BIOMASS-BASED DIESEL

	Domestic production and imports	Exports	BBD RINs retired, non-compliance reasons	Net supply
Million RINs	2,709	124	82	2,502
Million gallons	1,763	83	48	1,631

While the actual physical volume of D4 BBD supplied in 2014 was 1.63 billion gallons, we have used a physical volume of 1.67 billion gallons as the 2014 volume requirement because the formula for calculating the BBD percentage standard in 40 CFR 80.1405(c) includes a factor of 1.5, presuming that all BBD is biodiesel. In reality, a significant portion of BBD in 2014 was renewable diesel (328 million gallons), which generally has an equivalence value of 1.7 rather than 1.5. The use of a physical volume of 1.67 billion gallons ensures that the applicable percentage standard for BBD accounts for the higher equivalence value of the volume of renewable diesel produced and imported in 2014 and results in a requirement for 2.50 billion RINs, consistent with supply.

D. Determination of Applicable Volume of Biomass-Based Diesel for 2015–2017

The statute requires that, in determining the applicable volume of BBD, we review the implementation of the program in previous years. Based on the fact that the industry made more BBD available in 2011 and 2013 than volume requirements for those years, we conclude that the BBD standard is not the sole driver for the amount of BBD produced or imported into the United

[87] The biodiesel tax credit was reauthorized in January 2013. It applied retroactively for 2012 and for the remainder of 2013. It was once again extended in December 2014 through the end of 2014.

[88] ''Summary of data on 2013 RIN generation and consumption'', memorandum from David Korotney to EPA Air Docket EPA–HQ–OAR–2015–0111.

According to the U.S. Energy Information Administration (EIA), Annual import data for BBD (Biodiesel and Renewable diesel countries contributing to BBD imports (million gallons) were Argentina = 132, Aruba = 6, Australia = 1, Belgium = 5, Canada = 45, Finland = 36, Germany = 61, Indonesia = 52, Netherlands = 8, Norway = 9, South Korea = 20, Panama = 3, Singapore = 164, Spain = 4, Taiwan = 1. (See *http://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_EPOORDB_im0_mbbl_a.htm* and *http://www.eia.gov/dnav/pet/pet_move_impcus_a2_nus_EPOORDO_im0_mbbl_a.htm* (last accessed April 6, 2015).

Note that not all of the imported volumes generated BBD (D4) RINs. Some of this volume may have generated Renewable Fuel (D6) RINs or no RINs at all.

[89] U.S. Energy Information Administration (EIA). Annual export data for Biodiesel (2013). See *http://www.eia.gov/dnav/pet/pet_move_expc_a_EPOORDB_EEX_mbbl_a.htm* (last accessed April 6, 2015).

[90] EMTS includes data on RINs retired for export, but the values are incomplete as of this writing since the 2013 compliance deadline has not yet passed.

[91] ''Summary of data on 2014 RIN Generation and Consumption,'' memorandum from David Korotney to EPA docket EPA–HQ–OAR–2015–0111.

States.[92] We believe that the advanced biofuel and total renewable fuel standards are significant factors in the amount of biodiesel produced and imported into the United States. We also believe that the advanced and/or total renewable fuel standards can continue to drive BBD supply in 2015–2017. As described in more detail in Section II.C, we are proposing volumes of advanced biofuel and total renewable fuel for 2015–2016 that require substantial growth beyond the volumes supplied in 2014. We expect that the advanced biofuel and total renewable fuel standards will continue to provide incentives for BBD supply that exceeds the BBD standard.

However, we recognize that in addition to being a component of advanced biofuel and total renewable fuel, Congress also intended that BBD have its own specific standard. Given that the statute requires annual increases in advanced biofuel through 2022, it may be appropriate for BBD to play an increasing role in supplying advanced biofuels to the market, especially in light of the fact that BBD does not contribute to the E10 blendwall. This proposal seeks to balance the goals of supporting the BBD industry and incentivizing the production of non-BBD advanced biofuels by providing a guaranteed, increasing market for BBD and allowing all advanced biofuels to compete for market share within the advanced biofuel category. In doing so we have considered the ability of the advanced biofuel and total renewable fuel standards to incentivize an increasing supply of BBD, the implementation of the RFS program to date, and the statutory factors listed in CAA 211(o)(2)(B) (discussed in further detail in Section III.E below).

1. Implication of Nested Standards

The BBD standard is nested within the advanced biofuel and total renewable fuel standards. This means that when an obligated party retires a BBD RIN (D4) to satisfy their obligation, this RIN also counts towards meeting their advanced biofuel and total renewable fuel obligations. It also means that obligated parties may use BBD RINs in excess of their BBD obligations to satisfy their advanced biofuel and total renewable fuel obligations. Higher advanced biofuel and total renewable fuel standards, therefore, can create demand for BBD if there is an insufficient supply of other advanced or conventional renewable fuels to satisfy the standards, or if BBD RINs can be acquired at or below the price of other advanced or conventional biofuel RINs.

In reviewing the implementation of the RFS program to date, it is apparent that the advanced and/or total renewable fuel requirements were in fact helping to provide a market for volumes of biodiesel above the BBD standard. Table III.D.1–1 below shows the number of BBD RINs generated and available for use towards demonstrating compliance[93] in each year from 2011–2013. As can be seen from the table, in 2011 and 2013 the number of BBD RINs available for use exceeds the BBD standard. In 2013 the number of advanced RINs generated from fuels other than BBD is not large enough to satisfy the implied standard for ''other advanced'' biofuel (advanced biofuel that is not BBD or cellulosic biofuel). In fact, the amount by which the available BBD RINs exceed the BBD standard (421 million RINs) is slightly larger than the amount by which the non-BBD RINs fall short of the ''other advanced'' biofuel implied standard (285 million RINs). This supports the theory that the advanced biofuel standard provided an incentive to support BBD production and import into the United States in excess of the BBD standard.

TABLE III.D.1–1—BIOMASS-BASED DIESEL AND ADVANCED BIOFUEL RIN GENERATION AND STANDARDS

[Million gallons]

	Available BBD RINs	BBD standard (RINs)	Available non-biodiesel advanced biofuel	''Other'' Advanced biofuel requirement
2011	1,484	1,200	225	150
2012	1,465	1,500	597	500
2013	2,360	1,920	552	830

The prices paid for advanced biofuel and BBD RINs also support the theory that advanced biofuel and/or total renewable fuel standards provided sufficient incentive for additional biodiesel production and import. Because the BBD standard is nested within the advanced biofuel and total renewable fuel standards, we would expect the price of BBD RINs to exceed that of advanced and renewable RINs. If, however, BBD RINs are being used by obligated parties to satisfy their advanced biofuel and/or total renewable fuel obligations, above and beyond the BBD standard, we would expect the price of renewable fuel, advanced biofuel, and BBD RINs to converge. When examining RIN prices data from 2011 through 2014, shown in Figure III.D.1–1 below, we see that until January 2013 there is a consistent price differential between the price of BBD and the relatively cheaper advanced biofuel and renewable fuel RINs. Beginning in 2013 the price of BBD RINs and advanced biofuel RINs converge, and remain at a similar price throughout 2014. This is more evidence that suggests that the advanced biofuel standard and/or total renewable fuel standard is capable of incentivizing increased production and importation of BBD beyond the BBD standard, and that it in fact operated in this manner in 2013 and 2014.

[92] The blenders tax credit for biodiesel likely also incentivized additional biodiesel blending in these years.

[93] RINs available for use is number of RINs generated minus the number of RINs retired (or that we anticipate will be retired) for any reason other than a demonstration of annual compliance, such as RINs retired for exported biofuel, volume error corrections, enforcement actions, fuel used in applications other than transportation fuel, heating oil, or jet fuel, etc.

Figure III.D.1-1
RIN Prices: July 2011 – July 2014

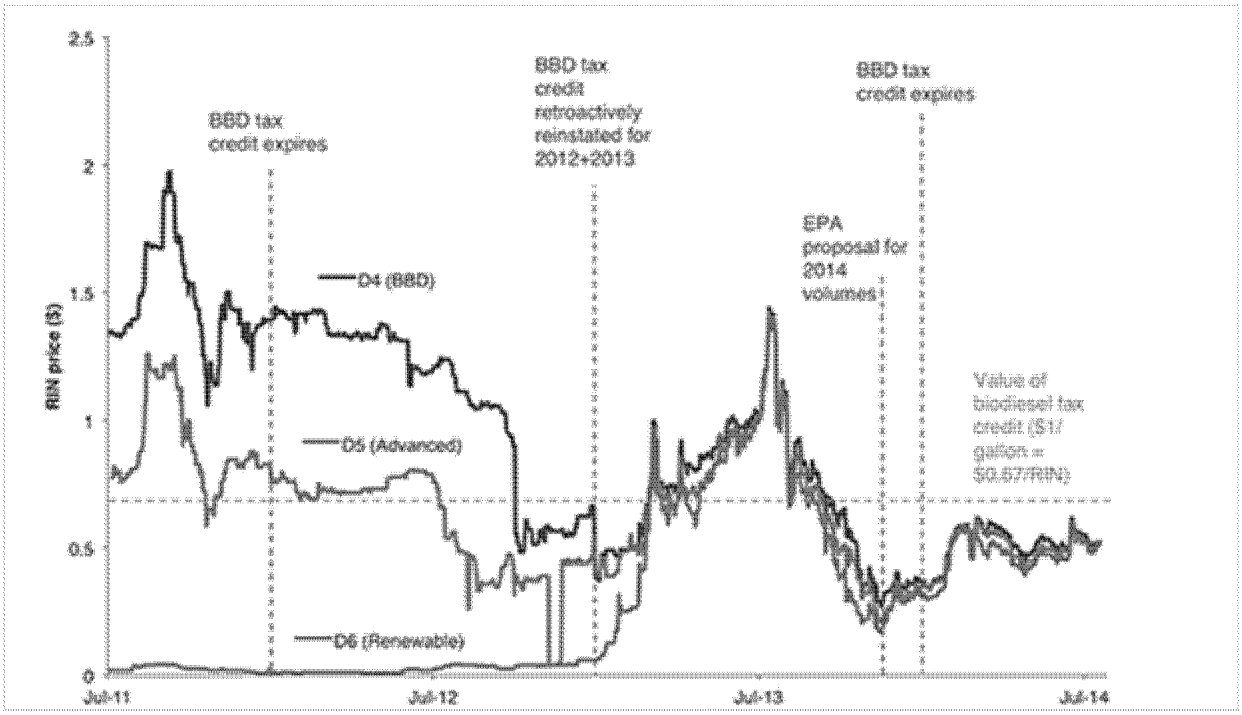


Image from ICCT. Available online: http://www.theicct.org/blogs/staff/does-biodiesel-really-need-tax-credit

2. Biomass-Based Diesel as a Fraction of Advanced Biofuel

Another implication of the fact that the BBD standard is nested within the advanced biofuel standard is that, for any given advanced biofuel standard, the higher the BBD standard is, the lower the opportunity for other non-BBD fuels to compete for market share within the context of the advanced biofuel standard. The statutory volumes of renewable fuel established by Congress in CAA section 211(o)(2)(B) allow for an opportunity for other advanced biofuels (advanced biofuels that do not qualify as cellulosic biofuel or BBD) to be used to satisfy the advanced biofuel standard after the cellulosic biofuel and BBD standards have been met. This unspecified advanced biofuel volume starts at 0.25 billion gallons in 2013 and grows to 3.5 billion gallons in 2022. It is, however, heavily dependent on EPA actions. Increasing the BBD standard above 1 billion gallons, as we did in 2013, reduces the potential market for other advanced biofuels to contribute towards meeting the advanced biofuel standard. Conversely, reducing the cellulosic biofuel standard while simultaneously maintaining the advanced biofuel standard (or reducing it by a lesser amount), as we have done each year since 2010, increases the potential market for other advanced biofuels.

Both BBD and other advanced biofuels achieve estimated greenhouse gas reductions of at least 50% relative to the petroleum fuels they replace. Increasing the guaranteed market for BBD, rather than allowing excess BBD to compete for market share with other advanced biofuels within the advanced biofuel standard, would likely reduce competition and thus result in increased costs associated with the RFS program with no additional GHG reductions. It will also have a negative impact on investment in the development and deployment of other advanced biofuels, as these fuels will have a lower potential market if the BBD standard is increased. The long term success of the RFS program will depend on the growth in a variety of advanced biofuels. The standards we set today must therefore provide an incentive for the ongoing research, development, and commercialization of a variety of types of advanced biofuels beyond just BBD. We note again, however, that allowing for a greater use of other advanced biofuels by setting a lower BBD standard does not limit the amount of BBD that may be used towards satisfying the advanced biofuel standard. If BBD can be supplied at a lower cost than other advanced biofuels it can—and we expect would—be used to satisfy the majority or even all of the unspecified volume of advanced biofuels. Allowing for a larger portion of the advanced biofuel standard to be unspecified, by setting a lower BBD standard, maintains an incentive for the development and deployment of other advanced biofuels, while at the same time allowing a level of competition that can reduce compliance costs while also allowing growth in the supply of BBD and maintaining the greenhouse gas emissions reductions achieved by the use of advanced biofuels in the RFS program. We believe these are important considerations in determining the required BBD volumes in the 2015–2017 time period, as well as in future years.

3. Ensuring Growth in Biomass-Based Diesel and Other Advanced Biofuel

While the ability of the advanced and total renewable fuel standards to incentivize increasing production of BBD and the desire to allow other advanced biofuels to compete with BBD for market share under the advanced standard suggest that a flat or even decreasing BBD volume requirement may be the optimal solution, these are not the only considerations. Despite many of these same issues being present

in 2013, EPA decided to increase the BBD standard in 2013 to 1.28 billion gallons. EPA's decision to establish the higher 1.28 billion gallon BBD volume for 2013 was made against the backdrop of the BBD industry having increased production from about 400 million gallons in 2010 to over 1 billion gallons in 2011.[94] At that time, we were not confident in the ability of other advanced biofuels to be able to supply all the necessary volume of advanced biofuel needed to offset the shortfall in cellulosic biofuel and to meet the statutory volume target of 2.75 billion gallons for advanced biofuel. EPA was also not completely confident in the ability of the BBD industry to further increase production without an increased BBD standard. While BBD production had performed well in 2011 and the early part of 2012, the biodiesel industry had gone through a period of instability in 2009 and 2010.[95]

During the development of the 2013 standards rulemaking, we were also concerned that the cellulosic biofuel standard, also nested within the advanced biofuel requirement, was lagging significantly behind the 1 billion gallon statutory volume target. The shortfall in cellulosic biofuel volume meant that either other sources of advanced biofuel would be necessary to fulfill the specified volumes in the statute for the advanced biofuel standard, or EPA would need to waive a portion of the advanced biofuel standard. It is in this context that EPA determined that raising the BBD requirement to 1.28 billion gallons was appropriate. Most importantly, an applicable volume requirement of 1.28 billion gallons was expected to encourage continued investment and innovation in the BBD industry, providing necessary assurances to the industry to increase production for 2013 while also serving the long term goal of the RFS statute to increase volumes of advanced biofuels over time.[96]

There are also advantages to increasing the BBD standard in order to help provide stability to the BBD industry. This industry is currently the single largest contributor to the advanced biofuel pool, one that to date has been largely responsible for providing the growth in advanced biofuels envisioned by Congress. Nevertheless, there has been variability in the number of biodiesel facilities in production over the last few years, as well as the percent utilization of individual facilities, both of which contribute uncertainty in the rate of production in the near future, and which can be mitigated to some degree with an increase in the BBD applicable volume. Increasing the BBD standard should help to provide market conditions that allow these BBD production facilities to operate with greater certainty. This result would be consistent with the goals of the Act to increase the production and use of renewable fuels.

4. Proposed Volumes for 2015–2017

With these considerations in mind, as well as our analysis of the factors specified in the statute and described below, and in coordination with the Departments of Agriculture and Energy, we are proposing to increase the applicable volume of BBD to 1.70 billion gallons for 2015, and to further increase the BBD volume requirement by 0.1 billion gallons in 2016 and 2017, respectively. We believe this proposal strikes the appropriate balance between providing a market environment where other advanced biofuels can compete, and achieving the benefits associated with increasing the required volume of BBD. Given our proposed volumes for advanced biofuel in these years, setting the BBD standard in this manner continues to allow a considerable portion of the advanced biofuel volume to be satisfied by either additional gallons of BBD or by other unspecified types of qualifying advanced biofuels (see Table III.D.4–1 below). While we have not yet determined the applicable volume of advanced biofuel for 2017, we anticipate the continued growth in the advanced biofuel standard such that the advanced biofuel standard will provide an incentive for both increasing volumes of BBD and other advanced biofuels. We believe maintaining this unspecified or other advanced biofuel volume will provide the incentive for development and growth in other types of advanced biofuels. At the same time, allowing the portion of the advanced biofuel volume requirement that is dedicated to BBD to increase concurrently with the increase in the overall advanced biofuel volume requirement will contribute to market certainty for both the BBD industry and the renewable fuels program in general.

TABLE III.D.4–1—PROPOSED BIOMASS-BASED DIESEL, CELLULOSIC BIOFUEL, AND ADVANCED BIOFUEL STANDARDS: 2015–2017

[Billion gallons]

	BBD (gallons)	BBD (RINs)	Cellulosic biofuel	Advanced biofuel	Unspecified advanced
2015	1.70	2.55	0.11	2.90	0.24
2016	1.80	2.70	0.20	3.40	0.50
2017	1.90	2.85	TBD	TBD	TBD

In proposing these standards for BBD for 2015–2017 EPA has taken into account the statutory requirements found in CAA section 211(o)(2)(B)(ii), including coordination with the Departments of Energy and Agriculture, review of the implementation of the renewable fuels program to date, and analysis of the statutory factors specified in CAA section 211(o)(2)(B)(ii)(I)–(VI). Of particular relevance in our review of the implementation of the renewable fuels program to date were the circumstances and context that led us to increase the BBD standard from 1.0 billion gallons in 2012 to 1.28 billion gallons for 2013, and the biofuel industry's successful performance in 2013. We have also reviewed the statutory factors in the context that the BBD volume requirement is nested within the advanced biofuels and total renewable fuels volume requirements. This discussion of the statutory factors is found in Section III.E., below.

In deciding to propose an applicable volume of 1.70 billion gallons of BBD for 2015, with annual increases of 0.10 billion gallons for 2016 and 2017, we

[94] 77 FR 59461 col. 1, September 27, 2012.

[95] Regulations of Fuels and Fuel Additives: 2013 BBD Renewable Fuel Volume; Proposed Rule. 77 FR 59458, 59460–59461. *http://www.epa.gov/otaq/fuels/renewablefuels/regulations.htm* (last accessed May 20, 2014).

[96] 77 FR 59458, 59462 and 59483.

considered not only the short-term impacts, but also the potential long-term impacts of our action on the RFS program. We took into account the competitive impact such an increase in the BBD set-aside would likely have on other advanced biofuel producers already in the marketplace as well as on potential new market entrants. This increase in the BBD set-aside through 2017 should result in a requirement for unspecified advanced biofuel sufficient to provide opportunity for continued investment in and growth of advanced biofuels other than BBD.

Raising the guaranteed BBD volume beyond the proposed volumes to a volume that approaches the maximum possible supply of BBD could result in a less competitive advanced biofuels market, increasing RIN prices, and a less efficient market-driven renewable fuels program. Our decision today to propose increasing the BBD volume in 2015–2017 by 100 million gallons per year would not be expected to lead to such adverse result. We believe that the proposed increases for 2015–2017 will both contribute to market stability for the renewable fuels program and continue to promote a growing and competitive advanced biofuels marketplace, one which encourages the growth and development of diverse biofuels along with additional volumes of BBD beyond the volumes required by the BBD standard. We request comment on our proposal for increasing the BBD applicable volumes in 2015–2017 and whether higher or lower volume requirements for BBD for 2015–2017 would be more appropriate.

E. Consideration of Statutory Factors for 2014–2017

In this section we discuss our considerations of the statutory factors set forth in CAA section 211(o)(2)(B)(ii)(I)–(VI). As discussed earlier in Section III.D.1, the BBD volume requirement is nested within both the advanced biofuel and the total renewable fuel volume requirements; so that any BBD produced beyond the mandated BBD volume can be used to satisfy both these other applicable volume requirements. The result is that in considering the statutory factors when setting the biomass-based standard we must consider the potential impacts of increasing BBD in comparison to other advanced biofuels,[97] not to diesel fuel. Greater or lesser applicable volumes of BBD do not change the amount of advanced biofuel used to displace petroleum fuels; rather, increasing the BBD applicable volume may result in the displacement of other types of advanced biofuels that could have been used to meet the advanced biofuels volume requirement.

1. Primary and Supplementary Statutory Factors Assessment for 2015–2017 Biomass-Based Diesel Applicable Volumes

EPA's primary assessment of the statutory factors for years 2015 through 2016 is that because the proposed advanced biofuel volume requirements for 2015–2016 reflect the maximum volumes of all advanced biofuels (including BBD) that can reasonably be expected to be produced and consumed, and because the BBD requirement is nested within the advanced biofuel volume requirement, we expect that the advanced biofuel volume requirement will determine the level of BBD production and import; the same volume of BBD will be produced and imported regardless of the BBD applicable volumes that we require for 2015–2016. This assessment is based in part on our review of implementation of the RFS program to date, as discussed in Sections III. B and D. Since our decision on the BBD applicable volumes for 2015–2016 is not expected to impact the volume of BBD produced and imported during this time period, we do not expect our decision to result in a difference in any of the factors we are required to evaluate pursuant to CAA section 211(o)(2)(B)(ii)(I)–(VI), with the exception, that in considering statutory factor 211(o)(2)(B)(ii)(III), we believe that our decision on the level of the nested BBD volume requirement can have an impact on the future development and marketing of non-BBD advanced biofuels and can also be seen as sending a supportive or non-supportive signal to potential investors in BBD.

Similarly for 2017, even though we are proposing only the 2017 BBD requirement at this time and not the 2017 advanced biofuel requirement, we believe this same primary assessment is appropriate since, as in previous years, the 2017 advanced biofuel requirement will be set to reflect the maximum volumes of all advanced biofuels (including BBD) that can reasonably be expected to be produced and consumed for 2017, and it is the advanced standard that can be expected to drive BBD production and use.

As an additional supplementary assessment, we have considered the potential impacts of modifying the applicable volume of BBD from the proposed levels of 1.70 billion gallons in 2015, 1.80 billion gallons in 2016, and 1.90 billion gallons in 2017, based on the assumption that in guaranteeing BBD volumes at any given level there could be greater use of BBD and a corresponding decrease in the use of other types of advanced biofuels for years 2015–2017. However, setting a higher or lower BBD volume requirement than the levels proposed would only be expected to impact BBD volumes on the margin, protecting to varying degrees this advanced biofuel from being outcompeted by other advanced biofuels. This assessment analyzes all of the statutory factors, and is described in a memorandum to the docket.[98] Overall, the supplemental assessment does not appear, based on available information, to provide a good reason for setting a higher or lower nested standard for BBD than 1.70 billion gallons in 2015, 1.80 billion gallons in 2016, and 1.90 billion gallons in 2017.

2. Assessment for 2014 Biomass-Based Diesel Applicable Volume

Given the fact that the 2014 compliance year has passed, we believe that our action in setting the 2014 BBD volume requirement will result in no real-world impacts, including no impacts with respect to the factors listed under CAA section 211(o)(2)(B)(ii)(I)–(VI). For example, there is no longer any ability for other advanced biofuels to compete with BBD for a greater share of the advanced biofuel pool in 2014, so there would be no marginal benefit in terms of incentivizing production of such fuels in setting a lower volume requirement than the volume of BBD that was actually produced and imported and available for compliance in 2014. Setting the applicable volume at a higher level would require a draw-down in the bank of carryover RINs, which EPA does not consider prudent for the reasons discussed in Section II.E. of this preamble. In light of these considerations, we propose to establish the 2014 applicable volume as equal to the volume actually produced and imported, which is available for compliance.

[97] While BBD can be used to satisfy the total renewable fuel requirement we anticipate that it will be used to satisfy the advanced biofuel volume requirement in 2015–2017. See Table II.D.2–2, ''Volume Scenarios Illustrating Possible Compliance with 3.40 Bill Gal Advanced Biofuel[a] and 17.40 Bill Gal Bill Gal Total Renewable Fuel''.

[98] ''Memorandum to docket: Statutory Factors Assessment for 2015–2017 BBD Applicable Volumes'' EPA–HQ–OAR–2015–0111.

IV. Proposed Cellulosic Biofuel Volume for 2014–2016

In the past several years the cellulosic biofuel industry has made significant progress towards commercial scale production. Quad County Corn Processors produced the first cellulosic biofuel RINs from corn kernel fiber at a corn ethanol plant in 2014. In addition, in 2014 two large scale cellulosic ethanol facilities owned and operated by the experienced biofuel production companies Abengoa and Poet completed construction. EPA also determined that compressed natural gas (CNG) and liquefied natural gas (LNG) produced from biogas from landfills, municipal waste-water treatment facility digesters, agricultural digesters, and separated municipal solid waste (MSW) digesters is eligible to generate cellulosic RINs. This determination lead to a significant increase in cellulosic RIN generation, as fuel that previously had been qualified to generate advanced biofuel RINs began to be used to generate cellulosic RINs. Efforts continue to be made at facilities across the country to reduce both capital costs and production costs associated with cellulosic biofuel production through technology advances and the development of best practices gained through operating experience. EPA also continues to support the ongoing development of cellulosic biofuels through actions such as the evaluation of new pathways with the potential to generate cellulosic biofuel RINs.[99] This section describes the available supply of cellulosic biofuel RINs in 2014, the volumes that we project will be produced or imported in 2015 and 2016, and some of the uncertainties associated with those volumes.

In order to project the volume of cellulosic biofuel production in 2015 and 2016 we considered data reported to EPA through the EPA Moderated Transaction System (EMTS) and information we collected regarding individual facilities that have produced or have the potential to produce qualifying volumes for consumption as transportation fuel, heating oil, or jet fuel in the U.S. in 2014, 2015, or 2016. New cellulosic biofuel production facilities projected to be brought online in the United States over the next few years would significantly increase the production capacity of the cellulosic industry. Operational experience gained at the first few commercial scale cellulosic biofuel production facilities should also lead to increasing production of cellulosic biofuel from existing production facilities. The following section discusses the companies the EPA reviewed in the process of projecting qualifying cellulosic biofuel production in the United States in 2015 and 2016. Information on these companies forms the basis for our production projections of cellulosic biofuel that will be produced for use as transportation fuel, heating oil, or jet fuel in the United States in these years (see Table IV–1 below). We request comment on the projected volumes of cellulosic biofuel production for each of these years, as well as the methodology used to project these volumes.

TABLE IV–1—PROPOSED CELLULOSIC BIOFUEL STANDARDS

Year	Volume (million gallons)
2014	33
2015	106
2016	206

A. Statutory Requirements

The volumes of renewable fuel to be used under the RFS program each year (absent an adjustment or waiver by EPA) are specified in CAA section 211(o)(2). The volumes of cellulosic biofuel specified in the statute for 2014, 2015, and 2016 are shown in Table IV.A–1 below. The statute provides that if EPA determines, based on EIA's estimate, that the projected volume of cellulosic biofuel production in a given year is less than the statutory volume, then EPA is to reduce the applicable volume of cellulosic biofuel to the projected volume available during that calendar year.[100]

TABLE IV.A–1—STATUTORY VOLUMES OF CELLULOSIC BIOFUEL

Year	Volume (million gallons)
2014	1,750
2015	3,000
2016	4,250

In addition, if EPA reduces the required volume of cellulosic biofuel below the level specified in the statute, the Act also indicates that we may reduce the applicable volumes of advanced biofuels and total renewable fuel by the same or a lesser volume, and we are required to make cellulosic waiver credits available. Our consideration of the 2014, 2015, and 2016 volume requirements for advanced biofuels and total renewable fuel is presented in Section II.

B. Cellulosic Biofuel Industry Assessment

In order to project cellulosic biofuel production for 2015 and 2016 we have tracked the progress of several dozen potential cellulosic biofuel production facilities. As we did in establishing the 2013 annual volumes, we have focused on facilities with the potential to produce commercial volumes of cellulosic biofuel rather than small R&D or pilot-scale facilities. We did so because the larger commercial-scale facilities are much more likely to generate RINs for the fuel they produce and the volumes they produce will have a far greater impact on the cellulosic biofuel standards for 2015—2016. From this list of facilities we used information from EMTS and publically available information, and information provided by representatives of potential cellulosic biofuel producers, to make a determination of which facilities are the most likely candidates to produce cellulosic biofuel and generate cellulosic biofuel RINs in 2015 and 2016. Each of these companies was investigated further in order to determine the current status of its facilities and its likely cellulosic biofuel production and RIN generation volumes for 2015 and 2016. Both in our discussions with representatives of each company[101] and as part of our internal evaluation process we gathered and analyzed information including, but not limited to, the funding status of these facilities, current status of the production technologies, anticipated construction and production ramp-up periods, facility registration status, and annual fuel production and RIN generation targets.

EPA is proposing to use a slightly different methodology for projecting the available volume of cellulosic biofuel for each of the three years. Our approach to each of these years can

[99] Additionally, on April 3rd, 2015 EPA published a direct final rule modifying the process by which the cellulosic waiver credit prices are established, and indicating the prices for these credits in 2014 and 2015 using the regulations modified by this rule (80 FR 18136, April 3, 2015).

[100] On January 25, 2013, the United States Court of Appeals for the District of Columbia Circuit issued its decision concerning a challenge to the 2012 cellulosic biofuel standard. In this decision the Court stated that in projecting potentially available volumes of cellulosic biofuel EPA must apply a ''neutral methodology'' aimed at providing a prediction of ''what will actually happen,'' as required by the statute.

[101] In determining appropriate volumes for CNG/LNG producers we did not contact individual producers but rather relied primarily on discussions with industry associations, and information on likely production facilities that are already registered under the RFS program. In some cases where further information was needed we did speak with individual companies.

broadly be described as one that seeks to use actual production volumes where they are available (such as for all of 2014 and several months of 2015) and to project production volumes from likely production facilities for future months in which actual production volumes are not available. In previous projections of cellulosic biofuel production EPA, as directed by the CAA, has considered information provided by EIA in making our projections. EPA received a letter from EIA on February 19, 2014 containing cellulosic biofuel projections for 2014,[102] but to date have not received any projections of cellulosic biofuel production for 2015 or 2016. As discussed in more detail below EPA now has data, through EMTS, on the actual number of cellulosic RINs generated in 2014 and we are proposing to establish the 2014 cellulosic biofuel standard using this data rather than EIA's projection from early 2014. We anticipate that for the final rule EIA will provide EPA with projected production volumes of cellulosic biofuel in 2015 and 2016 and we intend to consider these projections in our final rule.

Our approach for each of the three years is discussed in more detail in Sections IV.D–IV.F below. The remainder of this Section discusses the current status of the companies and facilities EPA expects may be in a position to produce commercial scale volumes of cellulosic biofuel by the end of 2016. This information forms the basis for our proposed standards for cellulosic biofuel for 2014, 2015, and 2016.

1. Potential Domestic Producers

There are a number of companies and facilities [103] located in the United States that have either already begun producing cellulosic biofuel for use as transportation fuel, heating oil, or jet fuel at a commercial scale, or are anticipated to be in a position to do so by the end of 2016. The financial incentive provided by cellulosic biofuel RINs, combined with the fact that all these facilities intend to produce fuel for domestic consumption using approved pathways, gives us a high degree of confidence that cellulosic biofuel RINs will be generated for any fuel produced. In order to generate RINs, each of these facilities must be registered under the RFS program and comply with all the regulatory requirements. This includes using an approved RIN-generating pathway and verifying that their feedstocks meet the definition of renewable biomass. Many of the companies and facilities have already successfully completed facility registration, and several have successfully generated RINs. A brief description of each of the companies that EPA believes may produce commercial scale volumes of RIN generating cellulosic biofuel by the end of 2016 can be found in a memorandum to the docket for this proposed rule.[104] These descriptions are based on a review of the publicly available information and information provided to EPA in conversations with company representatives. The key data for each of these companies used in our projection of the potentially available volume of cellulosic biofuel in 2015 and 2016 is summarized in Table IV.B.3–1 below.

2. Potential Foreign Sources of Cellulosic Biofuel

In addition to the potential sources of cellulosic biofuel located in the United States, there are several foreign cellulosic biofuel companies that may produce cellulosic biofuel in 2015 or 2016. These include facilities owned and operated by Beta Renewables, Enerkem, GranBio, and Raizen. All of these facilities use fuel production pathways that have been approved by EPA for cellulosic RIN generation provided eligible sources of renewable feedstock are used. These companies would therefore be eligible to register these facilities under the RFS program and generate RINs for any qualifying fuel imported into the United States. While these facilities may be able to generate RINs for any volumes of cellulosic biofuel they import into the United States, demand for the cellulosic biofuels they produce is expected to be high in local markets. EPA is charged with projecting the volume of cellulosic biofuel that will be produced or imported into the United States. Based on information available to EPA at the time of this proposed rulemaking, including the lack of cellulosic biofuel imports to date, we do not believe cellulosic biofuel will be imported into the United States from foreign cellulosic biofuel production facilities other than the Ensyn facility in Ontario, Canada. As such, production volumes from foreign facilities (with the exception of Ensyn) have not been included in our projection of potentially available volume for 2014–2016. EPA plans to continue to monitor the progress of foreign cellulosic biofuel facilities and may include volumes from foreign facilities in future rulemakings if appropriate and supported by new information.

3. Summary of Volume Projections for Individual Companies

The information we have gathered on cellulosic biofuel producers, described above, along with the data collected through EMTS forms the basis for our projected volumes of cellulosic biofuel production for each facility in 2015 and 2016. As in 2013, we have focused on commercial scale cellulosic biofuel production facilities. This focus is appropriate, as the volume of cellulosic biofuel produced from R&D and pilot scale facilities is quite small in relation to that expected from the commercial scale facilities. R&D and demonstration scale facilities have also generally not generated RINs for any fuel they have produced.

By 2016 there are a number of cellulosic biofuel production facilities that have the potential to produce fuel at commercial scale. Each of these facilities is discussed in a memorandum to the docket,[105] and the relevant information used to project a likely production range for each company is summarized in Table IV.B.3–1 below.[106] We will continue to monitor the status of these facilities and will update this information for the final rule.[107] If we receive information that suggests facilities not currently included in this table, either foreign or domestic, may produce commercial-scale volumes of cellulosic biofuel for use as transportation fuel, heating oil, or jet fuel in the United States by 2016 we will include them in our projections for our final rule as appropriate. We will also remove facilities from our projections if new information suggests

[102] Letter from Adam Sieminski, EIA Administrator to Gina McCarthy, EPA Administrator February 19, 2014.

[103] The volume projection from CNG/LNG producers does not represent production from a single company or facility, but rather a group of facilities utilizing the same production technology.

[104] ''Cellulosic Biofuel Producer Company Descriptions'', memorandum from Dallas Burkholder to EPA Air Docket EPA–HQ–OAR–2015–0111.

[105] ''Cellulosic Biofuel Producer Company Descriptions'', memorandum from Dallas Burkholder to EPA Air Docket EPA–HQ–OAR–2015–0111.

[106] For the purpose of the preamble discussion we have grouped together all facilities expected to produce cellulosic CNG/LNG. The individual facilities included in our assessment are listed in ''Assessment of Cellulosic Biofuel Production from Biogas (2015–2016)'', memorandum from Dallas Burkholder to EPA Air Docket EPA–HQ–OAR–2015–0111.

[107] Given timing constraints for issuing a final rule, EPA does not anticipate providing an opportunity for comment on any updated data. Commenters may therefore wish to focus their comments both on the types of data we are proposing be used, as well as EPA's proposed approach for using the data.

they will not produce cellulosic by 2016.

TABLE IV.B.3–1—PROJECTED PRODUCERS OF CELLULOSIC BIOFUEL BY 2016

Company name	Location	Feedstock	Fuel	Facility capacity (MGY) [108]	Construction start date	First production [109]
Abengoa	Hugoton, KS	Corn Stover	Ethanol	25	September 2011	April 2015.
Cool Planet	Alexandria, LA	Wood Waste	Gasoline	1	2Q 2015	Late 2016.
CNG/LNG Producers [110].	Various	Biogas	CNG/LNG	Various	N/A	August 2014.
DuPont	Nevada, IA	Corn Stover	Ethanol	30	November 2012	3Q 2015.
Edeniq	Various	Corn Kernel Fiber	Ethanol	Various	Various	2nd Half 2015.
Ensyn	Renfrew, ON	Wood Waste	Heating Oil	3	N/A	2014.
INEOS Bio	Vero Beach, FL	Vegetative Waste	Ethanol	8	February 2011	2Q 2015.
Poet	Emmetsburg, IA	Corn Stover	Ethanol	24	March 2012	3Q 2015.
QCCP	Galva, IA	Cork Kernel Fiber	Ethanol	2	Late 2013	October 2014.

C. Cellulosic Biofuel Volume for 2014

EPA is charged with projecting the available volume of cellulosic biofuel for each year, and to reduce the applicable volume of cellulosic biofuel to the level projected to be available for years in which the projected available volume falls below the cellulosic biofuel applicable volume target specified in the CAA 211(o)(2). EPA believes that for any historical time period, the required projection is best calculated as the sum of the cellulosic biofuel RINs (D3) and the cellulosic diesel RINs (D7) generated, adjusted for RINs that are retired for purposes other than compliance with the annual standards. EPA publishes the number of cellulosic biofuel and cellulosic diesel RINs generated on a month by month basis on our Web site.[111] The number of cellulosic biofuel and cellulosic diesel RINs generated for each month of 2014 can be found in Table IV.C–1 below. From this total, we subtract the number of cellulosic biofuel and cellulosic diesel RINs retired for reasons other than compliance with the annual standards, as these RINs are not available to obligated parties.[112] In calculating the number of cellulosic biofuel RINs available for compliance with the annual standards for 2014 we have assumed that there were no exports of cellulosic biofuel.[113] EPA proposes to establish the cellulosic biofuel requirement for 2014 at 33 million gallons. We believe this number, calculated by subtracting the total number of cellulosic biofuel RINs (D3 and D7) retired for reasons other than compliance with the annual standards from the total number of cellulosic biofuel RINs generated in 2014 (D3 and D7), represents the total available supply of cellulosic biofuel RINs for 2014.

TABLE IV.C–1—CELLULOSIC BIOFUEL RIN GENERATION IN 2014 [114]

	Cellulosic biofuel (D3)	Cellulosic diesel (D7)
January 2014	58,415	0
February 2014	7,072	0
March 2014	6,624	472
April 2014	643	10,950
May 2014	0	0
June 2014	0	0
July 2014	4,156	1,248
August 2014	3,492,106	5,532
September 2014	7,555,432	17,073
October 2014	7,047,762	24,030
November 2014	6,325,080	0
December 2014	8,863,270	0
Total	33,360,560	59,305
RINs retired for reasons other than compliance with the annual standards	346,318	4,997
RINs Available	33,014,242	54,308
Available Cellulosic RINs (D3 and D7)	33,068,550	

[108] The Facility Capacity is generally equal to the nameplate capacity provided to EPA by company representatives or found in publicly available information. If the facility has completed registration and the total permitted capacity is lower than the nameplate capacity then this lower volume is used as the facility capacity. For companies generating RINs for CNG/LNG derived from biogas the Facility Capacity is equal to the lower of the annualized rate of production of CNG/LNG from the facility or the sum of the volume of contracts in place for the sale of CNG/LNG for use as transportation fuel (reported as the actual peak capacity for these producers).

[109] Where a quarter is listed for the first production date EPA has assumed production begins in the middle month of the quarter (i.e. August for the 3rd quarter) for the purposes of projecting volumes

[110] For more information on these facilities see ''Assessment of Cellulosic Biofuel Production from Biogas (2015–2016)'', memorandum from Dallas Burkholder to EPA Air Docket EPA–HQ–OAR–2015–0111.

[111] *http://www.epa.gov/otaq/fuels/rfsdata/index.htm.*

[112] In 2014 Cellulosic Biofuel and Cellulosic Diesel RINs were retired for Remedial Actions and Invalid RINs.

[113] The vast majority of cellulosic biofuel RINs generated in 2014 (approximately 32 or the 33 million RINs) were for CNG or LNG. These fuels require verification that the CNG/LNG was used as transportation fuel in the United States in order for RINs to be generated.

D. Cellulosic Biofuel Volume for 2015

To project the volume of cellulosic biofuel in 2015, EPA has relied on a combination of production information reported to EPA through EMTS for months in which we have data available and facility or company specific estimates of likely production for months for which EMTS data is not available. For months in which information on the production of cellulosic biofuel is available we have used the methodology discussed in Section IV.C, subtracting the number of RINs retired for reasons other than compliance in 2015 from the total number of RINs produced in 2015 that are eligible to be used towards satisfying the cellulosic biofuel standard (D3 and D7 RINs). We have again assumed that no cellulosic biofuel was exported in the first three months of 2015. This data is shown in Table IV.D–1 below.

TABLE IV.D–1—CELLULOSIC BIOFUEL RIN GENERATION IN EARLY 2015

	Cellulosic biofuel (D3)	Cellulosic diesel (D7)
January 2015	4,076,744	0
February 2015	7,935,446	0
March 2015	7,799,749	0
Total	19,811,939	0
RINs retired for reasons other than compliance	76,942	0
RINs Available	19,734,997	0
Total Available Cellulosic RINs (D3 and D7)	19,734,997	

For months in which information is unavailable EPA has updated our projection methodology from the methodology used in previous rulemakings and our proposed rule for 2014. Our projection methodology starts with estimating a range of potential production volumes for each company for the portion of 2015 where production data is not available.[115] EPA has established a range of potential production volumes for each company such that it is possible, but unlikely, that the actual production will be above or below the range. We believe that it is more appropriate to project a range of potential production volumes rather than a single point estimate due to the highly uncertain and variable nature of biofuel production at cellulosic biofuel facilities, especially those in the early stages of production. The projected production ranges for each facility are used to generate a single point estimate for the total production of cellulosic biofuel from all companies in 2015 for the months in which actual production volumes through EMTS are not available.

In establishing a range for each company, we began by determining an appropriate low end of the range. The low end of the range for each company is designed to represent the volume of fuel EPA believes each company would produce if they are unable to begin fuel production on their expected start-up date and/or if they experience challenges that result in reduced production volumes or a longer than expected ramp-up period. In this proposal EPA has set the low end of the production range for each company based on the volume of RIN-generating cellulosic biofuel the company has produced in the most recent 12 months for which data is available.[116] Because we are not attempting to determine a low end of a likely production range for a full year, but rather only the months in 2015 for which data is not available, this number is then multiplied by a scaling factor[117] to appropriately scale this annual production volume for use as the low end of the range over the number of months of 2015 for which actual production data is unavailable.

This approach provides us with an objective methodology for calculating the low end of the potential production range for each company that we believe is appropriate in light of the history of start-up delays and missed production targets in the cellulosic biofuel industry. If a company has not yet begun producing RIN-generating volumes of cellulosic biofuel, our experience suggests that they may experience challenges in progressing toward commercial-scale production that would result in the delay of the production of cellulosic biofuel. We acknowledge that in the majority of cases cellulosic companies that have begun producing fuel and are currently in the start-up and ramp-up phases of production will increase their production of cellulosic biofuel from one year to the next as they work towards production rates at or near the facility capacity. Fuel production by these companies may, however, be interrupted, either intentionally or unexpectedly, and these interruptions may hinder the ability of these companies to increase biofuel production year over year. We will account for the likelihood of increasing production in developing the high end of each company's production range. Finally, there may be cases in which information is available that suggests a company is unlikely to meet the production volumes achieved in the previous 12 months for which data is available, due to technical, financial, or legal difficulties. We do not believe this is the case with any of the companies projected to produce cellulosic biofuel in 2015.

It is important to note that the low end of the range does not necessarily represent a worst-case scenario. The worst-case scenario for any of these facilities for the months in which we are projecting production is no production, as it is always possible that extreme circumstances or natural disasters may result in extended delays, facility damages, or liquidation. While not denying such a possibility, we nevertheless believe it is generally appropriate to use the production over the previous 12 months as the low end of the range, with exceptions made where available information indicates that such production may be unlikely. In situations where a company has not

[114] All numbers from EPA Web site: *http://www.epa.gov/otaq/fuels/rfsdata/index.htm.* Accessed February 9, 2015.

[115] For the purposes of projecting RIN generation from CNG/LNG projections were made for parent companies, generally representing multiple companies. For more detail see ''Assessment of Cellulosic Biofuel Production from Biogas (2015–2016)'', memorandum from Dallas Burkholder to EPA Air Docket EPA–HQ–OAR–2015–0111.

[116] For the final rule we intend to update this information and use the data available for the most recent 12 months at the time of the final rule.

[117] The scaling factor is 0.75; equal to the 9 months for which production data is being projected divided by 12.

produced any cellulosic biofuel in the previous 12 months, we believe it is appropriate to use zero as the low end of the projected production range given the many uncertainties and challenges associated with the commissioning and start-up of a new cellulosic biofuel production facility we have observed to date.

To determine the high end of the range of expected production volumes for each company we considered a variety of factors, including the expected start-up date and ramp-up period, facility capacity, and fuel off-take agreements. As a starting point, EPA calculated a production volume using the expected start-up date, facility capacity, and a benchmark of a six-month straight-line ramp-up period representing an optimistic ramp-up scenario.[118] We then compared the volume calculated using this methodology to the company's own expectations for the period in which we are projecting production where they were available. We are proposing that any company projection that exceeds our benchmark volume not be used for developing the high end of the range of expected production volumes. If the production estimate EPA received from a company was lower than the volume calculated using the projected start-up date, facility capacity, and six month straight-line ramp-up period, EPA used the company production targets instead. While we understand that many of these company projections represent the company's actual expectations for production, rather than a goal or high end of an expected production range, we do not believe it would be appropriate to ignore the history of the cellulosic biofuel industry. In previous years EPA has gathered information, including volume production projections, from companies with the potential to produce cellulosic biofuel. Each of these companies supported these projections with successful pilot- and demonstration-scale facilities as well as other supporting documentation. In each of these cases the companies were unable to meet their own volume projections, and in many cases were unable to produce any RIN-generating cellulosic biofuel.

The inability of cellulosic biofuel producers in previous years to achieve their projection production targets does not provide a sufficient basis for completely discounting production of cellulosic biofuel in future years, either for these same facilities that were previously unable to achieve their target projections or from new facilities expected to start-up in 2015 or 2016. Each of these companies is an individual case, with their own production technologies, construction and operations staffs, and financial situations, and we do not believe it is appropriate to dismiss all future potential cellulosic biofuel production because of the failure of several facilities to successfully operate at commercial scale. We do believe it strongly suggests that we should view the individual company projections as something other than the most likely outcomes. In order to take a ''neutral aim at accuracy'' in projecting cellulosic biofuel production volumes, as directed by the United States Court of Appeals for the DC Circuit, we have decided to treat these company projections as the high end of a potential production range unless this volume exceeds the volume calculated using our six-month straight-line ramp-up period methodology, suggesting that these company projections are unreasonably high. We will continue to monitor the progress and experience of the cellulosic biofuel industry and may adjust our approach as appropriate in light of additional experience.

We believe our range of projected production volumes for each company represents the range of what is likely to actually happen for each company. A brief overview of each of the companies we believe will produce cellulosic biofuel and make it commercially available in 2015 can be found in a memorandum to the docket.[119] In the case of cellulosic biofuel produced from CNG/LNG we have discussed the production potential from these facilities as a group rather than individually. EPA believes it is appropriate to discuss these facilities as a group since they are utilizing a proven production technology and face many of the same challenges related to demonstrating that the fuel they produce is used as transportation fuel and therefore eligible to generate RINs under the RFS program.[120]

After establishing a projected production range for each facility (or group of facilities for CNG/LNG producers), we must then determine a method for using these projected production ranges to project the volume of cellulosic biofuel most likely to be produced by the cellulosic biofuel industry as a whole in 2015. As discussed above, the high and the low end of the range for each company represents values such that it is possible but unlikely that actual volumes would fall outside of those ranges. At present, data does not exist to allow EPA to develop a unique production probability distribution for each company based on the available information. Even if EPA were able to undertake such a task there is no evidence that the distributions we developed would necessarily be more accurate than a standardized distribution curve as the cellulosic biofuel industry is still in its infancy and there is a high degree of uncertainty associated with many of the factors that will impact production at each individual facility. This is supported by the poor accuracy of the individual company estimates in previous years, which were made by individuals with significant technical expertise and knowledge of each individual company and technology.

Rather than attempting to develop a unique probability distribution curve that represents likely cellulosic biofuel production for each company, EPA has instead separated the list of potential cellulosic biofuel producers into two groups; those who have already achieved consistent commercial-scale production and those who have not. We believe grouping the potential cellulosic biofuel producers using the criteria of whether or not they have achieved consistent commercial-scale production is appropriate for the purposes of projecting a likely production volume. While each of these groupings contains a diverse set of companies with their own production technologies and challenges, we believe there is sufficient commonality in the challenges related to the funding, construction, commissioning, and start-up of commercial-scale cellulosic biofuel facilities to justify aggregating these company projections into a single group for the purposes of projecting the most likely production volume of cellulosic biofuel. The challenges new production facilities face are also significantly different than those of facilities ramping up production volumes to the facility

[118] We did not assume a six-month straight-line ramp-up period in determining the high end of the projected production range for CNG/LNG producers. This is because these facilities generally have a history of CNG/LNG production prior to producing RINs, and therefore do not face many of the start-up and scale-up challenges that impact new facilities. For further information on the methodology used to project cellulosic RIN generation from CNG/LNG producers see ''Assessment of Cellulosic Biofuel Production from Biogas (2015–2016)'', memorandum from Dallas Burkholder to EPA Air Docket EPA–HQ–OAR–2015–0111.

[119] ''Cellulosic Biofuel Producer Company Descriptions'', memorandum from Dallas Burkholder to EPA Air Docket EPA–HQ–OAR–2015–0111.

[120] For individual company information see ''Cellulosic Biofuel Individual Company Projections for 2014–2016 (CBI)'', memorandum from Dallas Burkholder to EPA Air Docket EPA–HQ–OAR–2015–0111.

capacity and maintaining consistent production. After separating the companies into these two groups we then summed the low and high ends of each of the ranges for each individual company (or group of companies for CNG/LNG producers) within the group to calculate an aggregate projected production range for each group of companies. The ranges for each group of companies are shown in Tables IV.D–2 and IV.D–3 below.

TABLE IV.D–2—2015 PRODUCTION RANGES FOR COMPANIES WITHOUT CONSISTENT COMMERCIAL SCALE PRODUCTION

[Million gallons]

	Low end of the range [a]	High end of the range [a]
Abengoa	0	12
CNG/LNG Producers (New Facilities)	0	37
CoolPlanet	0	0
DuPont	0	5
Edeniq	0	1
Ineos BIO	0	4
Poet	0	4
Total	0	63

[a] Rounded to the nearest million gallons.

TABLE IV.D–3—2015 PRODUCTION RANGES FOR COMPANIES WITH CONSISTENT COMMERCIAL SCALE PRODUCTION

[Million gallons]

	Low end of the range [a]	High end of the range [a]
CNG/LNG Producers (Currently generating RINs)	[b] X	88
Ensyn	[b] X	1
Quad County Corn Processors	[b] X	2
Total	[c] 49	91

[a] Rounded to the nearest million gallons.
[b] The low end of the range for each individual company is based on actual production volumes and is therefore withheld to protect information claimed to be confidential business information.
[c] This number includes all cellulosic biofuel and cellulosic diesel RINs generated in the previous 12 months, as well as all advanced biofuel RINs generated for CNG/LNG derived from biogas prior to August 18, 2014 and within the last 12 months.

Because the cellulosic biofuel industry is still in its infancy and it is therefore not possible to predict with any degree of certainty the precise production volume each individual company will achieve, we believe that it would not be appropriate to choose a specific value within the projected range for each individual company/source. We believe it is more appropriate to identify a specific value within the aggregated ranges from Tables IV.D–2 and IV.D–3 that best reflects the likely production volume for each group of companies. For companies that have not yet achieved consistent commercial-scale production (Table IV.D–2) we are proposing to use the 25th percentile of the projected production range. We believe this volume is appropriate as, in addition to the uncertainties listed above, there is also significant technology risk as these facilities attempt to operate their technologies at commercial scale. In the early years of the cellulosic biofuel industry several companies, including Cello Energy, Range Fuels, and KiOR experienced significant technical difficulties in scaling up their technologies and were able to produce little, if any, volumes of cellulosic biofuels. It is necessary to consider this history when projecting production volumes from companies who have not yet achieved consistent production at commercial scale.[121]

For the group of companies that have achieved consistent commercial-scale production (Table IV.D–3) we are proposing to use the mid-point (50th percentile) of the projected range. We believe that this point accounts for the uncertainty related to the scale-up of production from the volume produced in the previous 12 months (through March 2015) as well as other uncertainties related to the generation of RINs such as documenting that the fuel is used as transportation fuel, heating oil, or jet fuel. This is not to say that we anticipate that each of these facilities within each group will produce at the 25th or 50th percentile, but rather that as a group the 25th and 50th percentile, respectively, are realistic projections for each group of companies. We believe this methodology accounts for the fact that some individual company may be able to deliver the volume of cellulosic biofuel they expect and produce at or near the high end of the range, while others may experience difficulty transitioning to commercial production and produce closer to the low end of the range. The result of applying this methodology is shown in Table IV.D–4 below.

[121] While ''new'' CNG/LNG facilities may not face the same challenges related to start-up and scale-up there is still a significant amount of uncertainty related to RIN generation from facilities that have not yet begun generating RINs. RIN generation from these facilities may be delayed or reduced if they are unable to verify that all or a portion of the CNG/LNG they produce is used as transportation fuel, or if they decide to sell the CNG/LNG they produce into non-transportation markets. These uncertainties can significantly impact the number of RINs generated by a CNG/LNG producer, and we therefore believe that projecting projection from these ''new'' facilities at the 25th percentile of the range is appropriate.

TABLE IV.D–4—PROJECTED VOLUME OF CELLULOSIC BIOFUEL IN 2015 FOR MONTHS WITHOUT PRODUCTION DATA

[Million gallons] [a]

	Low end of the range [b]	High end of the range [b]	Percentile	Projected volume [b]
Companies without consistent commercial-scale production	0	63	25th	16
Companies with consistent commercial-scale production	49	91	50th	70
Total	N/A	N/A	N/A	86

[a] The projections in this table are for April 2015—December 2015. The low end of the range is equal to the number of RINs produced by the companies over the most recent 12 months for which data is available multiplied by a factor of 0.75 (since it is only a projection for 9 months of the year). The high end of the range is based on projected production for the final 9 months of 2015.

[b] Rounded to the nearest million gallons.

EPA anticipates that if the same methodology is used in future years that as cellulosic biofuel companies successfully achieve commercial scale production, application of this methodology will appropriately generate increasing volume projections, both for the individual companies and for the industry as a whole. This will happen in two ways. First, as companies successfully produce cellulosic biofuel the low end of the range (which is based on the most recent 12 months of production for which data is available) will increase. Second, we would use the 50th percentile value, rather than the 25th percentile, for all companies who have achieved consistent commercial-scale production. If merited by the available data, we will also consider using a higher (or lower) percentile for both new facilities and facilities that have already achieved consistent commercial-scale production. We will consider comments on this matter, and after establishing percentile values for use in this rulemaking we expect we will annually review the percentile values and adjust them as appropriate, taking into account the success of past projections, to ensure that our methodology produces a production projection that takes a neutral aim at accuracy. As new pathways for the production of cellulosic biofuel are approved, we will also consider volumes produced using these pathways in our projections.

The final step in projecting the potentially available volume of cellulosic biofuel in 2015 is to combine the volumes of cellulosic biofuel actually produced in months for which data is available with the projected production volumes for the remaining months of 2015. This is shown in Table IV.D–5 below. For 2015 we are proposing a cellulosic biofuel standard of 106 million gallons. We request comment on the methodology used to project cellulosic biofuel volumes in 2015, as well as the general methodology used to project future cellulosic biofuel production.

TABLE IV.D–5—PROJECTED AVAILABLE CELLULOSIC BIOFUEL IN 2015

	Million gallons
Cellulosic Biofuel Production (Jan. 2015–March 2015)	20
Projected Cellulosic Biofuel Production (April 2015–December 2015)	86
Projected Available Volume of Cellulosic Biofuel in 2015	106

E. Cellulosic Biofuel Volume for 2016

To project the volume of potentially available cellulosic biofuel in 2016 we are proposing to use a methodology very similar to the one proposed for projecting cellulosic biofuel production in 2015 for months in which actual production data was not available. For 2016 we separated the list of potential producers of cellulosic biofuel into two groups according to whether or not the facilities have already begun producing commercial-scale volumes of cellulosic biofuel or who are expected to do so by July 1, 2015 (See Table IV.E–1 and Table IV.E–2).[122] We next defined a range of likely production volumes for each group of potential cellulosic biofuel producers. The low end of the range for each group of producers is intended to reflect actual production data. Rather than simply use the most recent 12 months for which information is currently available for each company, however, we are proposing to project what that data will be at the time of our final rule. We used zero as the low end of the aggregated projected production range for 2016 for facilities expected to begin producing fuel after July 1, 2015 (Table IV.E–1). We used our projected production volume for 2015 (106 million gallons) as the low end of the aggregated range for facilities expected to be producing commercial-scale volumes of cellulosic biofuel on or before July 1, 2015 (Table IV.E–2). This is consistent with the approach we used to project volumes for 2015 where we set the low end of the range for each group of companies at the volume produced over the preceding 12 months, as we believe very little of the volume produced in 2015 will come from facilities starting up after July 1, 2015 and the vast majority of cellulosic biofuel production in 2016 will come from facilities that begin before this date. We also believe this will align our proposed rule more closely with the final rule than would be the case if we based our proposal only on the data from the most recent 12 months of data available to EPA at this time. For our final rule, we intend to update the low end of the projected production range for each company using data from the most recent 12 months for which data is available.

To calculate the high end of the projected production range for each group of companies we considered each company individually (with the exception of the CNG/LNG producers) and used the same methodology in 2016

[122] We are projecting that facilities that begin producing commercial-scale volumes by July 2015 will achieve consistent production by the end of 2015. This is consistent with the approach used to project volumes for 2015 where we separated companies into two groups based on whether or not they have achieved consistent commercial-scale production. For the final rule we intend to assess whether or not the facilities in our projected volumes have achieved consistent commercial-scale production and will re-categorize them as necessary.

as for the months in 2015 for which actual past production data was not available (this methodology is covered in further detail in Section IV.D above). The high end of the range for each company within each group was added together to calculate the high end of the projected production range for that group.

After defining likely production ranges for each group of companies we projected a likely production volume from each group of companies for 2016. We projected a total production volume from the companies that we do not anticipate will begin commercial-scale production by July 1, 2015 using the 25th percentile of the projected production range (Table IV.E–1). For the companies that have already achieved consistent commercial-scale production or anticipate starting commercial-scale production by July 1, 2015, we used the 50th percentile of the aggregate projected production range (Table IV.E–2). This is consistent with the approach we used for projecting volumes in 2015, which is discussed in more detail in the preceding section. We intend to re-evaluate our categorization of the companies for the final rule using the most up to date information available.

TABLE IV.E–1—2016 PRODUCTION RANGES FOR COMPANIES WITH START-UP DATES AFTER JULY 1, 2015

[Million gallons]

	Low end of the range [a]	High end of the range [a]
CNG/LNG Producers (New Facilities)	0	120
CoolPlanet	0	0
DuPont	0	29
Edeniq	0	14
Poet	0	20
Aggregate Range	0	183
Projected Production (25th Percentile of Range)	46	

[a] Rounded to the nearest million gallons.

TABLE IV.E–2—2016 PRODUCTION RANGES FOR COMPANIES WITH CONSISTENT COMMERCIAL SCALE PRODUCTION OR START-UP DATES BEFORE JULY 1, 2015

[Million gallons]

	Low end of the range [a]	High end of the range [a]
Abengoa	N/A	19
CNG/LNG Producers (Existing Facilities)	N/A	185
Ensyn	N/A	3
Ineos BIO	N/A	6
Quad County Corn Processors	N/A	2
Aggregate Range	106	215
Projected Production (50th Percentile of Range)	161	

[a] Rounded to the nearest million gallons

The final step in projecting the potentially available volume of cellulosic biofuel in 2016 is to combine the volumes of cellulosic biofuel projected to be produced from each of the two groups discussed above (shown in Table IV.E–3 below). For 2016 we are proposing a cellulosic biofuel volume requirement of 204 million gallons. For our final rule we will use the most recent production data and company information available to update our projections. We request comment on the methodology and data used to project cellulosic biofuel volumes in 2016.

TABLE IV.E–3—PROJECTED VOLUME OF CELLULOSIC BIOFUEL IN 2016

[Million gallons]

	Low end of the range [a]	High end of the range [a]	Percentile	Projected volume [a]
Companies beginning production after July 1, 2015	0	183	25th	46
Companies beginning production before July 1, 2015	106	215	50th	161
Total	N/A	N/A	N/A	206

[a] Volumes rounded to the nearest million gallons.

F. Rescission of the 2011 Cellulosic Biofuel Standards

On January 25, 2013, the United States Court of Appeals for the District of Columbia Circuit issued its decision concerning a challenge to the 2012 cellulosic biofuel standard.[123] The Court found that in establishing the applicable volume of cellulosic biofuel for 2012, EPA had used a methodology in which ''the risk of overestimation [was] set deliberately to outweigh the risk of underestimation.'' The Court held EPA's

[123] *API* v. *EPA*, 706 F 3d 474 (D.C. Cir. January 25, 2013).

action to be inconsistent with the statute because EPA had failed to apply a ''neutral methodology'' aimed at providing a prediction of ''what will actually happen,'' as required by the statute. As a result of this ruling, the Court vacated the 2012 cellulosic biofuel standard, and we removed the 2012 requirement from the regulations in a previous action. Industry had also challenged the 2011 cellulosic biofuel standard by, first, filing a petition for reconsideration of that standard, and then seeking judicial review of our denial of the petition for reconsideration. This matter was still pending at the time of the DC Circuit's ruling on the 2012 cellulosic biofuel standard. Since we used essentially the same methodology to develop the 2011 cellulosic biofuel standard as we did to develop the 2012 standard, we requested, and the Court granted, a partial voluntary remand to enable us to reconsider our denial of the petition for reconsideration of the 2011 cellulosic biofuel standard. Given the Court's ruling that the methodology EPA used in developing the 2012 cellulosic biofuel standard was flawed, we are proposing to rescind the 2011 cellulosic biofuel applicable standard and refund the money paid by obligated parties to purchase cellulosic waiver credits to comply with the standard.

V. Percentage Standards

A. Background

The renewable fuel standards are expressed as volume percentages and are used by each obligated party to determine their Renewable Volume Obligations (RVO). Since there are four separate standards under the RFS program, there are likewise four separate RVOs applicable to each obligated party. Each standard applies to the sum of all gasoline and diesel produced or imported. The percentage standards are set so that if every obligated party meets the percentages, then the amount of renewable fuel, cellulosic biofuel, biomass-based diesel (BBD), and advanced biofuel used will meet the applicable volumes established in this rule on a nationwide basis.

Sections II, III, and IV provide our rationale and basis for the proposed volumes for advanced biofuel and total renewable fuel, BBD, and cellulosic biofuel, respectively. The volumes to be used to determine the four proposed percentage standards are shown in Table V.A–1.

TABLE V.A–1—PROPOSED VOLUMES FOR USE IN SETTING THE APPLICABLE PERCENTAGE STANDARDS

	2014	2015	2016
Cellulosic biofuel (million gallons)	33	106	206
Biomass-based diesel (billion gallons)[a]	1.63	1.70	1.80
Advanced biofuel (billion gallons)	2.68	2.90	3.40
Renewable fuel (billion gallons)	15.93	16.30	17.40

[a] Represents physical volume.

B. Calculation of Standards

1. How Are the Standards Calculated?

The following formulas are used to calculate the four percentage standards applicable to producers and importers of gasoline and diesel (see 40 CFR 80.1405):

$$\mathrm{Std}_{\mathrm{CB,\,i}} = 100\% \times \frac{\mathrm{RFV}_{\mathrm{CB,\,i}}}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

$$\mathrm{Std}_{\mathrm{BBD,\,i}} = 100\% \times \frac{\mathrm{RFV}_{\mathrm{BBD,\,i}} \times 1.5}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

$$\mathrm{Std}_{\mathrm{AB,\,i}} = 100\% \times \frac{\mathrm{RFV}_{\mathrm{AB,\,i}}}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

$$\mathrm{Std}_{\mathrm{RF,\,i}} = 100\% \times \frac{\mathrm{RFV}_{\mathrm{RF,\,i}}}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

Where:

$\mathrm{Std}_{\mathrm{CB,i}}$ = The cellulosic biofuel standard for year i, in percent.

$\mathrm{Std}_{\mathrm{BBD,i}}$ = The biomass-based diesel standard (ethanol-equivalent basis) for year i, in percent.

$\mathrm{Std}_{\mathrm{AB,i}}$ = The advanced biofuel standard for year i, in percent.

$Std_{RF,i}$ = The renewable fuel standard for year i, in percent.
$RFV_{CB,i}$ = Annual volume of cellulosic biofuel required by section 211(o) of the Clean Air Act for year i, in gallons.
$RFV_{BBD,i}$ = Annual volume of biomass-based diesel required by section 211(o) of the Clean Air Act for year i, in gallons.
$RFV_{AB,i}$ = Annual volume of advanced biofuel required by section 211(o) of the Clean Air Act for year i, in gallons.
$RFV_{RF,i}$ = Annual volume of renewable fuel required by section 211(o) of the Clean Air Act for year i, in gallons.
G_i = Amount of gasoline projected to be used in the 48 contiguous states and Hawaii, in year i, in gallons.
D_i = Amount of diesel projected to be used in the 48 contiguous states and Hawaii, in year i, in gallons. This value excludes diesel used in ocean-going vessels.
RG_i = Amount of renewable fuel blended into gasoline that is projected to be consumed in the 48 contiguous states and Hawaii, in year i, in gallons.
RD_i = Amount of renewable fuel blended into diesel that is projected to be consumed in the 48 contiguous states and Hawaii, in year i, in gallons.
GS_i = Amount of gasoline projected to be used in Alaska or a U.S. territory in year i if the state or territory opts-in, in gallons.
RGS_i = Amount of renewable fuel blended into gasoline that is projected to be consumed in Alaska or a U.S. territory in year i if the state or territory opts-in, in gallons.
DS_i = Amount of diesel projected to be used in Alaska or a U.S. territory in year i if the state or territory opts-in, in gallons.
RDS_i = Amount of renewable fuel blended into diesel that is projected to be consumed in Alaska or a U.S. territory in year i if the state or territory opts-in, in gallons.
GE_i = Amount of gasoline projected to be produced by exempt small refineries and small refiners in year i, in gallons, in any year they are exempt per §§ 80.1441 and 80.1442, respectively.
DE_i = Amount of diesel projected to be produced by exempt small refineries and small refiners in year i, in gallons, in any year they are exempt per §§ 80.1441 and 80.1442, respectively.

The formulas used in deriving the annual percentage standards rely on estimates of the volumes of gasoline and diesel fuel, for both highway and nonroad uses, that are projected to be used in the year in which the standards will apply.[124] The projected gasoline and diesel volumes obtained from EIA include ethanol and biodiesel used in transportation fuel, which are subtracted out as indicated in the equations above. Production of other transportation fuels, such as natural gas, propane, and electricity from fossil fuels, is not currently subject to the standards, and volumes of such fuels are not used in calculating the annual standards. Since under the regulations the standards apply only to producers and importers of gasoline and diesel, these are the transportation fuels used to set the standards, as well as to determine the annual volume obligations of an individual gasoline or diesel producer or importer.

2. Small Refineries and Small Refiners

In CAA section 211(o)(9), enacted as part of the Energy Policy Act of 2005, Congress provided a temporary exemption to small refineries [125] through December 31, 2010. Congress provided that small refineries could receive a temporary extension of the exemption beyond 2010 based on an EPA determination of disproportionate economic hardship on a case-by-case basis in response to refiner petitions. EPA has granted some exemptions pursuant to this process in the past, and has granted exemptions for three small refineries for 2014. The proposed applicable percentage standards for 2014 reflect the fact that the gasoline and diesel volumes associated with these three small refineries has been exempted. However, at this time, no exemptions have been approved for 2015 or 2016, and we have calculated the percentage standards for these years without a small refinery/small refiner adjustment. Any requests for exemptions for 2014, 2015 or 2016 that are approved prior to the final rule will be reflected in the relevant standards in the final rule, as provided in the formulas described in the preceding section. Any requests for exemption that are approved after the release of the final 2014, 2015, and 2016 standards will not affect those standards.

3. Proposed Standards

As specified in the RFS2 proposed rule,[126] the percentage standards are based on energy-equivalent gallons of renewable fuel, with the cellulosic biofuel, advanced biofuel, and total renewable fuel standards based on ethanol equivalence and the BBD standard based on biodiesel equivalence. However, all RIN generation is based on ethanol-equivalence. For example, the RFS regulations provide that production or import of a gallon of qualifying biodiesel will lead to the generation of 1.5 RINs. In order to ensure that demand for the required physical volume of BBD will be created in each year, the calculation of the BBD standard provides that the applicable physical volume be multiplied by 1.5. The net result is a BBD gallon being worth 1.0 gallon toward the BBD standard, but worth 1.5 gallons toward the other standards.

The levels of the percentage standards would be reduced if Alaska or a U.S. territory chooses to participate in the RFS program, as gasoline and diesel produced in or imported into that state or territory would then be subject to the standard. Neither Alaska nor any U.S. territory has chosen to participate in the RFS program at this time, and thus the value of the related terms in the calculation of the standards is zero.

Note that because the gasoline and diesel volumes estimated by EIA include renewable fuel use, we must subtract the total renewable fuel volumes from the total gasoline and diesel volumes to get total non-renewable gasoline and diesel volumes. The values of the variables described above are shown in Table V.B.3–1.[127]

TABLE V.B.3–1—VALUES FOR TERMS IN CALCULATION OF THE PROPOSED STANDARDS [128]

[Billion gallons]

Term	2014	2015	2016
RFV_{CB}	0.033	0.106	0.206
RFV_{BBD}	[a] 1.67	1.70	1.80
RFV_{AB}	2.68	2.90	3.40
RFV_{RF}	15.93	16.30	17.40
G	136.49	138.37	137.58
D	55.21	56.77	58.13

[124] Monthly values from EIA's May 2015 Short-Term Energy Outlook (STEO) were used to project gasoline and diesel volumes for this proposal.

[126] 75 FR 14716, March 26, 2010.

[127] To determine the 49-state values for gasoline and diesel, the amounts of these fuels used in Alaska is subtracted from the totals provided by DOE. The Alaska fractions are determined from the June 27, 2014 EIA State Energy Data System (SEDS), Energy Consumption Estimates.

TABLE V.B.3–1—VALUES FOR TERMS IN CALCULATION OF THE PROPOSED STANDARDS [128]—Continued

[Billion gallons]

Term	2014	2015	2016
RG	13.43	13.36	13.46
RD	1.54	1.44	1.53
GS	0	0	0
RGS	0	0	0
DS	0	0	0
RDS	0	0	0
GE	0.01	0.00	0.00
DE	0.04	0.00	0.00

[a] Represents the biodiesel-equivalent volume of actual 2014 supply, which was 2.50 bill D4 RINs. Actual physical volume was 1.63 billion physical gallons, composed of 1.35 bill gal of biodiesel and 0.28 bill gal renewable diesel.

Although the Act specifies that EIA provide EPA with gasoline and diesel demand for the following year ''no later than October 31'', we believe it is appropriate to use EIA demand projections that are more recent than October 31 for a given year when such projections are available.[129] For this proposed rule, we have used gasoline, diesel, and renewable fuel consumption estimates available in the most recent version of EIA's Short-Term Energy Outlook. For the final rule we will use projections provided by EIA as required by the statute.

Using the volumes shown in Table V.B.3–1, we have calculated the proposed percentage standards for 2014, 2015, and 2016 as shown in Table V.B.3–2.

TABLE V.B.3–2—PROPOSED PERCENTAGE STANDARDS

	2014 (%)	2015 (%)	2016 (%)
Cellulosic biofuel	0.019	0.059	0.114
Biomass-based diesel	1.42	[a] 1.41	1.49
Advanced biofuel	1.52	1.61	1.88
Renewable fuel	9.02	9.04	9.63

[a] Although the proposed BBD volume requirement for 2015 is higher than it is for 2014, projected volumes of gasoline and diesel are also higher in 2015 than they were for 2014. The result is that the percentage standard, rounded to two decimal places, is the same for both years.

VI. Proposed Amendments to Regulations

We are proposing several revisions to the RFS regulations, which are described below. The first proposed revision relates to the definition of terms in Table 1 to 40 CFR 80.1426, which describes approved biofuel production pathways. The second set of revisions would address annual compliance reporting and associated attest reporting deadlines. We request comment on all aspects of these proposed amendments.

A. Proposed Changes to the Algal Biofuel Pathways

In the March 2010 RFS rule (75 FR 14670), EPA established two pathways for biofuels derived from algae to generate D-Code 4 (Biomass-Based Diesel) or 5 (Advanced) RINs. The pathways approved in the March 2010 RFS rule assumed that algae would be grown photosynthetically (i.e., using predominantly sunlight and CO2 as inputs) and harvested for their oil.[130] Biofuel produced with algae grown through other means is likely to have different lifecycle GHG emissions impacts. The EPA has recently received an inquiry regarding production of biofuel from algae grown non-photosynthetically, and we believe it would be appropriate to clarify that the algal oil pathways adopted as part of the March 2010 RFS rule do not apply to such algae. Therefore, we are proposing to replace ''algal oil'' as a feedstock in Table 1 to 40 CFR 80.1426 with ''oil from algae grown photosynthetically.'' We are also proposing to add a new definition for ''algae grown photosynthetically'' to 40 CFR 80.1401. We do not anticipate this definition will impact current renewable fuel production under the existing pathway. Companies wishing to produce biofuels from algae grown with a non-photosynthetic stage of growth must apply to EPA for approval of their pathway pursuant to 40 CFR 80.1416. We invite comment on these proposed changes.[131]

We also note that any companies wishing to produce fuel using genetically modified algae must conform to all other appropriate EPA regulations. For example, EPA's Office of Pollution Prevention and Toxics (OPPT) Biotechnology Program regulates the use of new genetically-engineered microorganisms (including bacteria, fungi, algae, viruses, protozoa, etc.) that are used in the production of biofuels under Section 5 of the Toxic Substances Control Act (TSCA).[132]

B. Annual Compliance Reporting and Attest Engagement Deadlines Under the RFS Program

The RFS regulations establish deadlines for parties with renewable volume obligations (obligated parties and renewable fuel exporters) to submit

[128] Details of volumes and calculations are available in the docket.

[129] The use of post-October 31 data for previous years was addressed in our 2013 Cellulosic Biofuel Standard rulemaking.[129] As stated in that rulemaking, ''. . . we believe it is appropriate to rely on EIA's most recent reports of actual gasoline and diesel consumption . . . Doing so allows a more accurate assessment of a percentage standard that will help to ensure that the volume of cellulosic biofuel we have determined should be used for compliance . . . will in fact be required.''

[130] See 75 FR 14696 (March 26, 2010).

[131] EPA is not proposing a regulartory definition of ''algae.'' Any comments related to the definition of ''algae'' will be considered beyond the scope of this rulemaking.

[132] Microbial Products of Biotechnology; Final Regulation Under the Toxic Substance Control Act; Final Rule. 62 FR 17910 (April 11, 1997).

annual compliance demonstration reports to the EPA, and later deadlines for the same parties to submit associated attest engagement reports. A number of other regulated parties, including RIN-generating renewable fuel producers, RIN-generating renewable fuel importers, other parties owning RINs and 3rd party auditors, are also required to submit annual attest engagement reports according to a schedule specified in the regulations. As a result of the delay in issuing the RFS annual rules for 2014 and 2015, the EPA is proposing to amend certain reporting deadlines applicable to the 2013, 2014 and 2015 compliance years.

1. Obligated Parties and Renewable Fuel Exporters

a. Background.

Under existing RFS regulations (40 CFR 80.1451(a) and 80.1464(d)), obligated parties and renewable fuel exporters must submit compliance demonstration reports for each calendar year by March 31 of the following year, and associated attest engagements by June 1 of the following year. The EPA has recognized that it is important for obligated parties preparing a compliance demonstration report for a given calendar year to have an understanding of their RFS obligations for the next compliance year.[133] Therefore, in light of the delay in issuing the 2014 RFS annual standards, the EPA previously amended the regulations to provide that the annual compliance demonstration reports for obligated parties and exporters for the 2013 compliance year would not be due until 30 days after publication in the **Federal Register** of the 2014 RFS percentage standards. 40 CFR 80.1451(a)(1)(xiv). Similarly, the EPA extended the deadline for attest engagement reports for 2013 compliance demonstrations to 90 days after publication in the **Federal Register** of the 2014 RFS percentage standards. 40 CFR 80.1464(g). Because the EPA has not yet issued the 2014 RFS standards, 2013 compliance demonstration reports and associated attest engagement reports from obligated parties and renewable fuel exporters are not yet due.

Although the EPA has not yet issued a final 2014 RFS annual rule, and the generally-applicable March 31 deadline for compliance demonstration reports for the 2014 compliance year has now passed, the EPA has not adopted amendments to the regulations applicable to 2014 compliance demonstration and attest engagement reporting as it did with respect to the 2013 compliance year. Instead the EPA issued an Enviroflash on March 17, 2015 to clarify that obligated parties are not required to submit compliance demonstration reports or associated attest engagements for the 2014 compliance year until the EPA issues a final rule establishing the final 2014 RFS standards and sets (in that action) deadlines for 2014 compliance demonstrations and associated attest engagements for obligated parties. We noted in the Enviroflash our interpretation of the current regulatory deadlines as being inoperative for obligated parties for the 2014 compliance year because final 2014 RFS standards have not been established and it is therefore impossible for obligated parties to assess and demonstrate their compliance with the applicable standards. However, in that same Enviroflash we clarified that the situation is different for exporters of renewable fuel. Exporter renewable volume obligations are based on renewable fuel export volume, not on the RFS percentage standards. Therefore we stated in the Enviroflash that renewable fuel exporters must comply with the operative deadlines in the regulations for 2014 reporting, although precise obligations may differ depending on the portion of the year during which exports occurred, in light of regulatory amendments related to the deadline for exporter RIN retirements that were adopted in the July 18, 2014 RFS Quality Assurance Plan rule.[134] The details are explained in the March 17 Enviroflash.

b. Proposal.

The Agency now believes that setting a firm calendar date for 2013 compliance and attest engagement reports is preferable to the current approach of tying the deadlines for 2013 reporting to the date of publication of the 2014 annual rule in the **Federal Register**. The EPA seeks to establish reporting deadlines for three calendar years, and establishing firm deadlines for 2013 reporting will allow the EPA to sequence and time reports for subsequent years in a reasonable manner that reduces uncertainty.

i. Obligated Parties

We are proposing that compliance demonstration reports for obligated parties be submitted no later than January 31, 2016 for the 2013 compliance year, June 1, 2016 for the 2014 compliance year, and December 1, 2016 for the 2015 compliance year. Associated attest engagement reports would be due no later than June 1, 2016 for the 2013 compliance year, December 1, 2016 for the 2014 compliance year, and June 1, 2017 for the 2015 compliance year. We believe that this sequencing of reports, and the time allowed between them will allow obligated parties to proceed in a logical and orderly fashion to submit required reports, with sufficient intervening time so as not to pose an unreasonable burden.

ii. Exporters

For exporters of renewable fuel, we are proposing the same amendments to 2013 compliance year reporting deadlines as for obligated parties—annual compliance demonstration reports would be due no later than January 31, 2016, and associated attest engagement reports would be due no later than June 1, 2016. For 2014, the issue is more complex. For the 2014 compliance period from January 1, 2014 through September 16, 2014, partial annual compliance reports containing an exporter's name, registration number, and renewable volume obligation (ERVO) for that period were required to be submitted no later than March 31, 2015 as currently proscribed in the regulations under § 80.1451(a)(1).[135] For the 2014 compliance period from January 1, 2014 through September 16, 2014, we are proposing that full annual compliance reports containing an exporter's name, registration number, ERVO, as well as RINs retired to satisfy the ERVO and any cellulosic waiver credits used for that period be submitted no later than January 31, 2016, and that associated attest engagements be due no later than June 1, 2016. For the 2015 compliance year, full compliance reports will be due on March 31, 2016, as required by existing § 80.1451(a)(1), and associated attest engagements will be due by June 1, 2016 as required by § 80.1464(d).

2. Other Parties

a. Background

Following issuance of the March 17, 2015 Enviroflash to address reporting deadlines for obligated parties and renewable fuel exporters for the 2014 compliance year, the Agency received comments from attest engagement

[133] 78 FR 49823, August 15, 2013.

[134] 79 FR 42078.

[135] We are not amending the regulations as they pertain to exporters of renewable fuel for the 2014 compliance period from September 17, 2014 through December 31, 2014. We reiterate that under current regulations at § 80.145l(a)(1), reports containing an exporter's name, registration number, ERVO, as well as RINs retired to satisfy the ERVO and any cellulosic waiver credits used for that period were due March 31, 2015.

auditors concerning the June 1, 2015 attest engagement deadline for RIN-generating renewable fuel producers, RIN-generating renewable fuel importers, other parties holding RINs, and independent third-party auditors. The auditors stated that it is impractical for them to perform the 2014 compliance year attestations before completing the 2013 compliance year attestations. The auditors explained that they generally rely on the beginning balance of RINs based on attest procedures performed in the previous year. They asserted that if they have not attested to the ending balance of RINs for the 2013 compliance year, they cannot effectively attest to the beginning balance of RINs for the 2014 compliance year.

The auditors also cited other reasons for why the 2013 and 2014 compliance year attestations should be revised. The auditors stated that there is confusion and uncertainty in industry about whether the June 1, 2015 deadline still applies to RIN-generating renewable fuel producers, RIN-generating renewable fuel importers, other parties holding RINs, and independent third-party auditors because they were not explicitly mentioned in the March 17, 2015 Enviroflash and because the Agency previously issued a broader attest extension related to reporting deadlines for the 2013 compliance year and thus, any subsequent communication by the Agency would be expected to address all regulated parties. Since many parties have not yet completed their 2013 compliance year attestations because they are not required to do so, they do not have any expectation that the attestations for the 2014 compliance year are due June 1, 2015.

In 2014, the EPA changed the annual reporting deadline for all 40 CFR part 80 fuel programs from February 28 to March 31 and the attest deadline from May 31 to June 1. This is the first year that these new deadlines are in effect. The effects of the shorter time period between the annual reporting deadline and the deadline for attest engagement reports are exacerbated this year by the confusion surrounding the June 1, 2015 attest reporting deadline for RIN-generating renewable fuel producers, RIN-generating renewable fuel importers, other parties holding RINs, and independent third-party auditors. Auditors need a reasonable amount of time to plan and execute any type of assurance engagement. The planning phase involves the evaluation of independence, execution of engagement letters, and scheduling of resources.

In light of the confusion surrounding the reporting deadlines for the 2014 compliance year for RIN-generating renewable fuel producers, RIN-generating renewable fuel importers, other parties holding RINs, and independent third-party auditors, the EPA's Assistant Administrator for Air and Radiation sought a no action assurance from the Assistant Administrator for the Office of Enforcement and Compliance Assurance regarding enforcement of the 2014 reporting deadlines for these parties. In response, the Office of Enforcement and Compliance Assurance issued a conditional no action assurance on May 21, 2015 that provides, in part, as follows:

> the EPA will exercise its enforcement discretion not to pursue enforcement actions against a RIN-generating renewable fuel producer (domestic and foreign), a RIN-generating importer, any other party owning RINs, and an independent third-party auditor solely for violations of the 2014 attest engagement reporting deadline at 40 CFR §§ 80.1464(d). This No Action Assurance does not apply to the June 1, 2015 deadline for exporters of fuel to submit their reports for the 2014 compliance year, nor does it extend to any other RFS-related requirement.[136] Furthermore, as applied to an individual regulated party, this No Action Assurance is conditioned upon the regulated party complying with all other RFS requirements applicable to it. This No Action Assurance will remain in effect until either (1) 11:59 p.m. EST, January 30, 2016, or (2) the effective date of a final rule addressing the 2014 attest engagement deadlines, whichever occurs earlier.

b. Proposal

In this action, we are proposing a new attest engagement reporting deadline for the 2013 compliance period for RIN-generating renewable fuel producers, RIN-generating renewable fuel importers, and other parties owning RINs of no later than January 31, 2016. Additionally, we are proposing the same attest engagement reporting deadline of January 31, 2016 for these parties and for independent third-party auditors for the 2014 compliance year.[137] With respect to the 2015 compliance year, the EPA is not proposing to amend the current regulations; attest engagement reports for these parties for the 2015 compliance year are due on June 1, 2016.

Given the many different reporting schedules across the 2013, 2014, and 2015 compliance years that the Agency is proposing for obligated parties, exporters, RIN generating renewable fuel producers and importers, independent third-party auditors, and other parties owning RINs, and the multiple considerations the Agency is trying to balance across regulated parties, we seek comment on whether the proposed deadlines are appropriate and for whether there are other specific considerations that the Agency should evaluate when establishing the 2013, 2014, and 2015 annual compliance and attest engagement reporting deadlines.

VII. Public Participation

We request comment on all aspects of this proposal. This section describes how you can participate in this process.

A. How do I submit comments?

We are opening a formal comment period by publishing this document. We will accept comments during the period indicated under the **DATES** section. If you have an interest in the proposed standards, we encourage you to comment on any aspect of this rulemaking. We also request comment on specific topics identified throughout this proposal.

Your comments will be most useful if you include appropriate and detailed supporting rationale, data, and analysis. Commenters are especially encouraged to provide specific suggestions for any changes that they believe need to be made. You should send all comments, except those containing proprietary information, to our Air Docket (see **ADDRESSES** section) by the end of the comment period.

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments

[136] The EPA provided guidance regarding the 2014 attest engagement reporting deadlines for renewable fuel exporters in its March 17, 2015 Enviroflash.

[137] Regarding independent third-party auditors, we permitted some independent third-party auditors to begin compliance with the final RFS Quality Assurance Program requirements before the January 1, 2015 effective date for the Q–RIN program. These independent third-party auditors were allowed to participate in the Q–RIN program beginning September 16, 2014 and would have been required to report RIN verification activities to the EPA by March 31, 2015. Since the information collection request was not approved prior to the March 31, 2015 deadline, the EPA has allowed independent third-party auditors that adopted the Q–RIN program early to report RIN verification activities to the EPA with the first quarter 2015 reports due June 1, 2015. Therefore, since independent third-party auditor annual attest requirements are dependent upon the submission of the RIN verification reports to the EPA, the EPA is proposing that for independent third-party auditors, for the 2014 compliance year, the attest engagement reporting deadline be no later than January 31, 2016.

received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit Confidential Business Information (CBI) or information that is otherwise protected by statute, please follow the instructions in Section VII.B below.

B. How should I submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through the electronic public docket, *www.regulations.gov,* or by email. Send or deliver information identified as CBI only to the following address: U.S. Environmental Protection Agency, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, MI, 48105, Attention Docket ID EPA–HQ–OAR–2013–0479. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, 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 CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comments that include any information claimed as CBI, a copy of the comments that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. This non-CBI version of your comments may be submitted electronically, by mail, or through hand delivery/courier. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

VIII. Statutory and Executive Order Reviews

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

This action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. The EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis is presented in Sections II.G and III.E of this preamble.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control numbers 2060–0637 and 2060–0640. The proposed standards would not impose new or different reporting requirements on regulated parties than already exist for the RFS program.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden, or otherwise has a positive economic effect on the small entities subject to the rule. The small entities directly regulated by the RFS program are small refiners, which are defined at 13 CFR 121.201 as refiners with 1,500 employees or less company-wide.

EPA has conducted a screening analysis to assess whether it should make a finding that there would be no significant economic impact on a substantial number of small entities. We discuss this analysis below. The impacts of the RFS program on small entities were already addressed in the March 26, 2010 RFS2 rulemaking (75 FR 14670), which was a rule that implemented the entire program required by the Energy Independence and Security Act of 2007 (EISA 2007). As such, the Small Business Regulatory Enforcement Fairness Act (SBREFA) panel process that took place prior to the 2010 rule was also for the entire RFS program and looked at impacts on small refiners through 2022.

For the SBREFA process for the March 26, 2010 RFS2 rulemaking, EPA conducted outreach, fact-finding, and analysis of the potential impacts of the program on small refiners which are all described in the Final Regulatory Flexibility Analysis, located in the rulemaking docket (EPA–HQ–OAR–2005–0161). This analysis looked at impacts to all refiners, including small refiners, through the year 2022 and found that the program would not have a significant economic impact on a substantial number of small entities, and that this impact was expected to decrease over time, even as the standards increased. The analysis included a cost-to-sales ratio test, a ratio of the estimated annualized compliance costs to the value of sales per company, for gasoline and/or diesel small refiners subject to the standards. From this test, it was estimated that all small entities would have compliance costs that are less than one percent of their sales over the life of the program (75 FR 14862).

This proposed rule would not impose any additional requirements on small entities beyond those already analyzed, since the impacts of this proposed rule are not greater or fundamentally different than those already considered in the analysis for the March 26, 2010 rule assuming full implementation of the RFS program. As shown above in Tables I.A–1 and I.A–3 (and discussed further in Sections II and IV), this rule proposes to establish the 2014, 2015, and 2016 volume requirements for cellulosic biofuel, advanced biofuel, and total renewable fuel at levels significantly below the statutory volume targets. This exercise of EPA's waiver authorities reduces burdens on small entities, as compared to the burdens that would be imposed under the volumes specified in the Clean Air Act in the absence of waivers. Regarding the biomass-based diesel standard, we are proposing to increase the volume requirements for 2014–2016 over the statutory minimum value of 1 billion gallons. However, this is a nested standard within the advanced biofuel category, for which we are proposing significant reductions from the statutory volume targets. As discussed in Section III, we are setting the biomass-based diesel volume requirement at a level below what is anticipated will be produced and used to satisfy the reduced advanced biofuel requirement. The net result of our proposed actions are a reduction in burden as compared to implementation of the statutory volume targets, as was assumed in the March 26, 2010 analysis. Furthermore, available information shows that the impact on small entities from implementation of this rule will not be significant. Using the maximum values of the illustrative costs discussed in Section II.F., the gasoline and diesel fuel volume projections in Table V.B.3–1, and current wholesale fuel prices, a simple cost-to-sales ratio test shows that the costs to small entities of the RFS standards remain less than 1% of the value of their sales.

The program also includes compliance flexibilities that can reduce impacts on small entities. These flexibilities include RIN trading, 20%

RIN rollover allowance (up to 20% of an obligated party's RVO can be met using previous-year RINs), and deficit carryforward (the ability to carry over a deficit from a given year into the following year, providing that the deficit is satisfied together with the next year's RVO). In the March 26, 2010 final rule, we discussed other potential small entity flexibilities that had been suggested by the SBREFA panel or through comments, but we did not adopt them since they are inconsistent with EPA's authority under the CAA (see 75 FR 14737). Our statutory authority to issue relief to small entities has not changed since that time. Additionally, as specified by the statute, the RFS regulations (at 40 CFR 80.1441(e)(2)) allow for a small refinery [138] to petition for case-by-case hardship relief.

Given that this proposed rule would not impose additional requirements on small entities, would decrease burden via a reduction in required volumes as compared to statutory volume targets, and would not change the compliance flexibilities currently offered to small entities under the RFS program, we have therefore concluded that this action would not have a significant impact on a substantial number of directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action implements mandates specifically and explicitly set forth in CAA section 211(o) without the exercise of any policy discretion by the EPA.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

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

This action does not have tribal implications as specified in Executive Order 13175. This proposed rule will be implemented at the Federal level and affects transportation fuel refiners, blenders, marketers, distributors, importers, exporters, and renewable fuel producers and importers. Tribal governments would be affected only to the extent they produce, purchase, and use regulated fuels. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it implements specific standards established by Congress in statutes (CAA section 211(o)).

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action simply proposes the annual standards for renewable fuel under the RFS program for 2014, 2015, and 2016.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. This proposed rule does not affect the level of protection provided to human health or the environment by applicable air quality standards. This action does not relax the control measures on sources regulated by the RFS regulations and therefore will not cause emissions increases from these sources.

IX. Statutory Authority

Statutory authority for this action comes from section 211 of the Clean Air Act, 42 U.S.C. 7545. Additional support for the procedural and compliance related aspects of this proposed rule come from sections 114, 208, and 301(a) of the Clean Air Act, 42 U.S.C. 7414, 7542, and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Oil imports, Petroleum, Renewable fuel.

Dated: May 29, 2015.

Gina McCarthy,

Administrator.

For the reasons set forth in the preamble, EPA proposed to amend 40 CFR part 80 as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

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

Authority: 42 U.S.C. 7414, 7521, 7542, 7545, and 7601(a).

Subpart M—Renewable Fuel Standard

■ 2. Section 80.1401 is amended by adding in alphabetical order the definition for ''Algae grown photosynthetically'' to read as follows:

§ 80.1401 Definitions.

* * * * *

Algae grown photosynthetically are algae that are grown such that their energy and carbon are predominantly derived from photosynthesis.

* * * * *

■ 3. Section 80.1405 is amended by:

■ a. Removing and reserving paragraph (a)(2)(i); and

■ b. Adding paragraphs (a)(5), (6), and (7).

The additions read as follows:

§ 80.1405 What are the Renewable Fuel Standards?

(a) * * *

(5) Renewable Fuel Standards for 2014.

(i) The value of the cellulosic biofuel standard for 2014 shall be 0.019 percent.

(ii) The value of the biomass-based diesel standard for 2014 shall be 1.42 percent.

(iii) The value of the advanced biofuel standard for 2014 shall be 1.52 percent.

(iv) The value of the renewable fuel standard for 2014 shall be 9.02 percent.

(6) Renewable Fuel Standards for 2015.

(i) The value of the cellulosic biofuel standard for 2015 shall be 0.059 percent.

(ii) The value of the biomass-based diesel standard for 2015 shall be 1.41 percent.

[138] A small refinery, as defined by the statute, is a refinery with an average daily crude throughput of 75,000 barrels or less. As this is a facility-based definition, not company-based as SBA's small refiner definition is, it follows that not all small refiners' facilities meet the definition of a small refinery.

(iii) The value of the advanced biofuel standard for 2015 shall be 1.61 percent.

(iv) The value of the renewable fuel standard for 2015 shall be 9.04 percent.

(7) Renewable Fuel Standards for 2016.

(i) The value of the cellulosic biofuel standard for 2016 shall be 0.114 percent.

(ii) The value of the biomass-based diesel standard for 2016 shall be 1.49 percent.

(iii) The value of the advanced biofuel standard for 2016 shall be 1.88 percent.

(iv) The value of the renewable fuel standard for 2016 shall be 9.63 percent.

* * * * *

■ 4. Section 80.1426, paragraph (f)(1) is amended by revising ''Table 1 to § 80.1426'', entries F and H to read as follows:

§ 80.1426 How are RINs generated and assigned to batches of renewable fuel by renewable fuel producers or importers?

* * * * *

(f) * * *

(1) * * *

TABLE 1 TO § 80.1426—APPLICABLE D CODES FOR EACH FUEL PATHWAY FOR USE IN GENERATING RINS

Fuel type		Feedstock	Production process requirements	D-code
*	*	*	*	*
F	Biodiesel, renewable diesel, jet fuel and heating oil.	Soy bean oil; Oil from annual covercrops; Oil from algae grown photosynthetically; Biogenic waste oils/fats/greases; Non-food grade corn oil; Camelina sativa oil;	One of the following: Trans-Esterification. Hydrotreating. Excluding processes that co-process renewable biomass and petroleum.	4
*	*	*	*	*
H	Biodiesel, renewable diesel, jet fuel and heating oil.	Soy bean oil; Oil from annual covercrops; Oil from algae grown photosynthetically; Biogenic waste oils/fats/greases; Non-food grade corn oil; Camelina sativa oil;	One of the following: Trans-Esterification. Hydrotreating. Includes only processes that co-process renewable biomass and petroleum.	5
*	*	*	*	*

* * * * *

■ 5. Section 80.1451 is amended by revising paragraph (a)(1)(xiv) to read as follows:

§ 80.1451 What are the reporting requirements under the RFS program?

(a) * * *

(1) * * *

(xiv)(A) For the 2013 compliance year, annual compliance reports shall be submitted no later than January 31, 2016.

(B) For obligated parties, for the 2014 compliance year, annual compliance reports shall be submitted no later June 1, 2016.

(C) For exporters of renewable fuel, for the 2014 compliance period from January 1, 2014, through September 16, 2014, full annual compliance reports (containing the information specified in paragraphs (a)(1)(i), (ii), (vi), (viii), and (x) of this section) for that period shall be submitted no later than January 31, 2016.

(D) For obligated parties, for the 2015 compliance year, annual compliance reports shall be submitted no later than December 1, 2016.

* * * * *

■ 6. Section 80.1464 is amended by revising paragraph (g) and adding paragraph (i)(3) to read as follows.

§ 80.1464 What are the attest engagement requirements under the RFS program?

* * * * *

(g)(1) For obligated parties and exporters of renewable fuel, for the 2013 compliance year, reports required under this section shall be submitted to the EPA no later than June 1, 2016.

(2) For RIN-generating renewable fuel producers, RIN-generating importers of renewable fuel, and other parties owning RINs, for the 2013 compliance year, reports required under this section shall be submitted to the EPA no later than January 31, 2016.

(3) For obligated parties, for the 2014 compliance year, reports required under this section shall be submitted to the EPA no later than December 1, 2016.

(4) For exporters of renewable fuel, for the 2014 compliance period from January 1, 2014, through September 16, 2014, full reports for that period required under this section shall be submitted no later than June 1, 2016.

(5) For RIN-generating renewable fuel producers, RIN-generating importers of renewable fuel, and other parties owning RINs, for the 2014 compliance year, reports required under this section shall be submitted to the EPA no later than January 31, 2016.

(6) For obligated parties, for the 2015 compliance year, reports required under this section shall be submitted to the EPA no later than June 1, 2017.

* * * * *

(i) * * *

(3) Reporting requirements. For the 2014 compliance year, reports required under paragraph (i) of this section shall be submitted to the EPA no later than January 31, 2016. For the 2015 compliance year and each subsequent year, reports required under paragraph (i) of this section shall be submitted pursuant to paragraph (d) of this section.

[FR Doc. 2015–13956 Filed 6–9–15; 8:45 am]

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